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## ARTICLE I -TITLE AND PURPOSE

### SECTION 9-101: TITLE

This ordinance may be known and may be cited and referred to as the Zoning Ordinance of the City of Albion, Nebraska.

### SECTION 9-102: PURPOSES

This ordinance has been made in accordance with a comprehensive plan and to promote the health and general welfare of the community; to lessen congestion in streets; to secure safety from fire and other dangers; to provide adequate light and air; to promote the distribution of population, land classifications and (and development to support provisions for adequate transportation, water flows, water supply, drainage, sanitation, recreation, and other public requirements; to protect property against blight and depreciation; and to secure economy in governmental expenditures.

## ARTICLE II -DEFINITIONS

### SECTION 9-201: RULES

For the purpose of this ordinance the following rules shall apply:

- A. Words and numbers used singularly shall include the plural. Words and numbers used plurally shall include the singular. Words used in the present tense shall include the future.
- B. The word "persons" includes a corporation, members of a partnership or other business organization, a committee, board, trustee, receiver, agent or other representative.
- C. The word "shall" is mandatory.
- D. The words "use", "used", "occupy" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged" or "designed" to be used or occupied.
- E. The word "commission" shall refer to the Planning and Zoning Commission of Albion, Nebraska.
- F. Undefined words or terms not herein defined shall have their ordinary meaning in relation to the context.

### SECTION 9-202: DEFINITIONS

Accessory Use of Building shall mean subordinate building or use which customarily is incidental to that of the main or principal building or use of the premises. Customary accessory uses include, but are not limited to, tennis courts, swimming pools, detached garages, garden houses, antenna/satellite dishes, amateur radio or land mobile communication towers of less than one hundred (100) feet, and residential, agricultural and recreational storage sheds. Garages or other accessory uses attached to the principal structure shall be considered a part thereof and meet the requirements of the principal structure.

Accessory Building, Small is an accessory building 120 square feet or less.

Adult Companionship Establishment shall mean an establishment which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities or "specified anatomical areas."

Adult Establishment shall mean any business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to

"specified sexual activities" or "specified anatomical areas," including, but without limitation, adult bookstores, adult motion picture theaters, saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, and adult body painting studios.

Adult Hotel or Motel shall mean a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

Adult Massage Parlor, Health Club shall mean a massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas,"

Adult Mini-motion Picture Theater shall mean a business premises within an enclosed building with a capacity for less than 50 persons used for presenting visual-media material if such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

Adult Motion Picture Arcade shall mean any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motor picture machines, projectors or other image producing devices are maintained to show images to five or fewer persons per machine at anyone time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."

Adult Novelty Business shall mean a business which has as a principal activity the sale of devices which simulate human genitals or devices which are designed for sexual stimulation.

Adult Sauna shall mean a sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

Agriculture is the use of land for the purpose of obtaining a profit by raising, harvesting, and selling crops or by the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and any other agricultural or horticultural use.

Agricultural Farm Or Operation shall mean a tract of land or a combination of tracts of land utilized primarily for agricultural purposes which either singularly or jointly consist of at least twenty (20) acres and which produces one thousand dollars (\$1,000) or more of farm products each year.

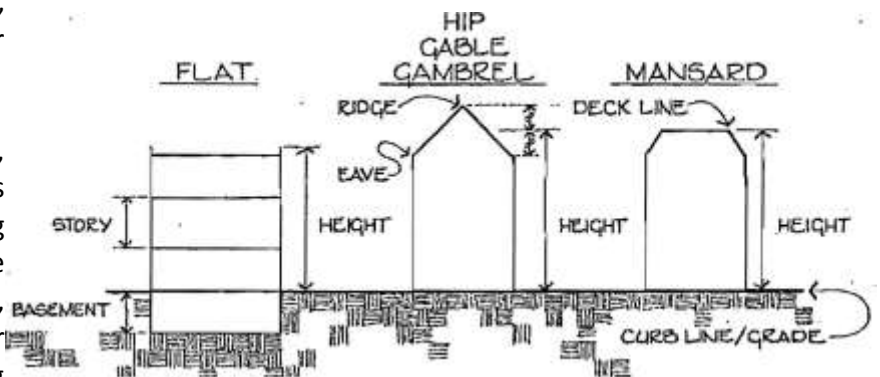
Alley is any public or private thoroughfare which affords only a secondary means of access to the property abutting thereon.

Americans with Disability Act (ADA) is a 1990 federal law designed to provide disabled Americans equal access to jobs, transportation, public facilities, and services.

Assisted Living Facilities are residences for the elderly that provide rooms, meals, personal care, and supervision of self-administered medication. These facilities may also provide other services such as recreational activities, financial services, and transportation.

Automatic Car Wash is a structure containing the equipment for washing automobiles and automatic or semiautomatic application of cleaner, brushes, rinse water, and heat for drying.

Automobile Wash Facility is a building, or portion thereof, containing facilities for the primary purpose of washing automobiles, using production line methods with a chain conveyor, blower, steam cleaning device, or other mechanical devices; or providing space, water, equipment, or soap for the complete or partial hand washing of such automobiles, whether by operator or by customer.



Basement is a story of a building having part but not more than one-half (1/2) of its lowest story below grade. A basement is counted as a story for the purpose of height regulations if subdivided and used for dwelling purposes other than by a domestic employee on the premises.

Boarding House/Bed and Breakfast is a building other than a hotel or a motel, where, for compensation and by prearrangement for definite periods, meals, lodging, or lodging and meals, are provided. This includes bed and breakfast facilities and tourist homes accommodating not more than twenty (20) persons.

Buildable Area is the portion of a lot remaining after required yards have been provided.

Building is an enclosed structure, anchored to permanent foundation, and having exterior or party walls



and a roof, designed for the shelter of persons, animals or property. When divided by other than common or contiguous walls, each portion or section of such building shall be regarded as a separate building, except that two buildings connected by a breezeway shall be deemed one building. The term "Building" includes "structure", Building, Principal is a building, including covered porches and paved patios, in which is conducted the principal use of the lot on which it is situated. In any residence district any dwelling shall be deemed to be the principal building on the lot on which the same is located.

Building Height is the vertical distance to the highest point of the roofs; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip, and gambrel roofs, measured from the curb level if the building is not more than 10 feet from the front lot line or from the grade in all other cases.

Source: A Survey of Zoning Definitions, (American Planning Association, 1989).

Building Setback Line is a line measured from the front property line toward the public right-of-way beyond which no building or structure may be erected. On an irregular shaped lot such line shall be set at a point where the lot meets the minimum lot width or zoning district setback, whichever is greater.

Campsite is a parcel of land occupied or intended for occupancy by only one of the following: tent, tent trailer, pickup camper or camping trailer.

Cellar is that portion of a building having more than one-half (1/2) of its height below grade. A cellar is not included in computing the number of stories for purpose of height measurement. A cellar is not necessarily a part of the primary structure but may be indirectly connected.

Clinic, Medical or Dental is an organization of specializing physicians and/or dentists who have their offices in a common building. A clinic shall not include inpatient care.

Club, Private consists of buildings and facilities owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit which inures to any individual and not primarily to render a service which is customarily carried on as a business.

Commission is the Planning Commission of the City of Albion unless the context clearly indicates otherwise.

Conditional Use is a use which is allowed in a zone when specified conditions have been complied with as identified for each district as a conditional use. A conditional use permit is reviewed and issued by the zoning administrator.

Coverage is the percentage of the lot covered by buildings and structures.

Day Care Center is a building or place where care, supervision, custody or control is provided for more

than seven (7) unrelated children or adults for any part of a 24-hour day. In addition to these regulations, Day Care Centers shall meet all requirements of the State of Nebraska.

Day Care Home is a residence or building in which care, supervision, custody or control is provided for seven (7) or less unrelated children or adults for any part of a 24-hour day. Babysitting service for seven (7) or fewer infants shall be considered a Day Care Home. In addition to these regulations, Day Care Homes shall meet all requirements of the State of Nebraska.

District or Zone is a section(s) of the zoning area for which this ordinance governing the use of the land, the height of buildings, the size of yards and the intensity of use are uniform.

Drive-in Establishment is a place of business being operated for the retail sale of food and other goods, services, or entertainment. It is designed to allow its patrons to be served or accommodated while remaining in their automobiles or allows the consumption of any food or non-alcoholic beverage outside any completely enclosed structures. If, in addition to the consumption of food or nonalcoholic beverages in automobiles or elsewhere on the premises outside any completely enclosed structure, an establishment also allows for the consumption of such products within a completely enclosed structure, it shall be considered a drive-in establishment. The term "drive-in establishment" shall include, but is not limited to, automobile service stations, auto laundries, drive-in restaurants, diners, grills, luncheonettes, sandwich stands, snack shops, soda fountains or short order cafes, banks, and drive-in theaters.

Dwelling, Attached is one which is joined to another dwelling unit at one or more sides by a party wall or walls. Generally, such units are intended for individual ownership.

Dwelling, Detached is one which is entirely surrounded by open space on the same lot.

Dwelling, Manufactured Home A factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with standards promulgated by the United States Department of Housing and Urban Development.

Dwelling, Mobile Home Any prefabricated structure, composed of one or more parts, used for living and sleeping purposes, shipped or moved in essentially a complete condition and mounted on wheels, skids or rollers, jacks blocks, horses, skirting or a permanent or temporary foundation or any prefabricated structure which has been or reasonably can be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term mobile home shall include trailer home and camp car, but the definition shall not apply to any vehicle lawfully operated upon fixed rails.

1 Permanently Attached: Attached to real estate in such a way as to require dismantling, cutting

away, unbolting from permanent continuous foundation or structural change in such mobile home in order to relocate it on another site.

2 Permanent Foundation: Base on which building rests to be constructed from either poured concrete or laid masonry block or brick on a footing to be placed a minimum of 42" below the final ground level.

Dwelling. Modular Is considered a conventional type single-family dwelling). Any prefabricated structure used for dwelling purposes. moved on to a site essentially complete constructed condition, in one or more parts and when completed is a single family unit on a permanent foundation, attached to the foundation with permanent connections, To be a modular home, it shall meet or be equivalent to the construction criteria as defined by the Nebraska State Department of Health and Human Services under the authority granted by Section 71-1555 through 711567 Revised Statutes of Nebraska 1943, and any amendments thereto, that do not meet the above criteria shall be considered a mobile home.

Dwelling. Multiple Family is a building or portion thereof containing three (3) or more dwelling units.

Dwelling. Single Family a building having accommodations for or occupied exclusively by one family, excluding mobile homes but including manufactured homes which meet all of the following standards:

- 1) The home shall have no less than nine hundred (900) square feet of floor area;
- 2) The home shall have no less than an eighteen (18) foot exterior width;
- 3) The roof shall be pitched with a minimum vertical rise of two and one-half (2%) inches for each twelve (12) inches of horizontal run;
- 4) The exterior material shall be of a color, material and scale comparable with those existing in residential site-built, single-family construction;
- 5) The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock;
- 6) The home shall be placed on a permanent continuous foundation and have wheels, axles, transporting lights, and removable towing apparatus removed; and,
- 7) The home shall meet and maintain the same standards that are uniformly applied to all single-family dwellings in the zoning district.

Dwelling. Two-Family is a building containing two (2) dwelling units. Each unit is totally separated by an unpierced wall from ground to roof.

Dwelling. Town-House is one of a group or row of not less than three nor more than twelve attached, single-family dwellings designed and built as a single structure facing upon a street or place and in which the individual town-houses mayor may not be owned separately. For the purpose of the side yard regulations, the structure containing the townhouse or group of townhouses shall be considered as one building occupying a single lot.

Dwelling Unit consists of one or more rooms which are arranged, designed or used as separate living quarters by a single family, or other group of persons living together as a household or a person living alone. Individual bathrooms and complete kitchen facilities, permanently installed shall always be included for each "dwelling unit",

Easement is a grant by the property owner to the public, a corporation or persons for the use of a tract of land for a specific purpose or purposes.

Farm The use of a tract of land of twenty (20) acres or more for the growing of crops, pasturage, nursery, or the raising of poultry and livestock, including the structures necessary for carrying out farming operations and the residence or residences of those owning or operating premises, or persons employed thereon.

Feedlot/Feed Yard/Confinement. Commercial shall mean a place where the principal business is the feeding of twelve or more head of livestock and such feeding is not done as a subordinate activity to the production of crops on the premises of which the feedlot is a part. All such operations shall be conducted in conformance with all applicable state and federal regulations.

Floodplain is that area of land adjoining a watercourse or other body of water which has been or may be hereafter covered by floodwater and which has been designated by the Nebraska Natural Resources Commission, Nebraska Department of Water Resources, or the Federal Emergency Management Agency.

Flood Proofing is a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, intended primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures, and contents of buildings in a flood hazard area.

Floodway is the channel of the stream or body of water and those portions of the adjoining floodplains designated by the Nebraska Natural Resources Commission, Nebraska Department of Water Resources or the Federal Emergency Management Agency as necessary to carry and discharge the floodwater flow of any such river, stream, or other body of water.

Floor Area is the total number of square feet of floor space within the exterior walls of a building, not including storage space *in* cellar or basements and not including space "used for the parking of automobiles.

Frontage is all the property on one side of a street between two intersecting streets (crossing or terminating) measured along the property line of the street, or if the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

Funeral Home/Funeral Chapel is a building used for the preparation of the deceased for burial and the

display of the deceased and rituals connected therewith before burial and cremation.

Garage. Private is a detached accessory building or a portion of the main building, used for the storage of no more than three motor driven vehicles per family occupying the residence.

Gasoline Service Station is a service station that shall consist of a building or group of buildings and surfaced area where automotive vehicles may be refueled and serviced, self-service pumps without a building shall also be included. Such service shall not include *tire* recapping, or repairs, or major overhaul.

Grade (a) For buildings having walls adjoining one street only, the elevation of the sidewalks at the center of the wall adjoining the street. (b) For buildings having walls adjoining more than one street, the average of the elevation of the sidewalk at the center of all walls adjoining the streets. (c) For buildings having no wall adjoining the street the average level of the finished surface of the ground adjacent to the exterior walls of the building. Any wall approximately parallel to and not more than five feet from a street line is to be considered as adjoining the street and where no sidewalk exists the sidewalk grade shall be established by the department of public works and utilities.

Group Home shall mean a home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home, and which is designed to provide twenty-four (24) hour care for children and youth in a residential setting, as per Chapter 71, Article 19 of the Code of Nebraska.

Home Business is any business or activity carried on by a member of the family residing on the premises, in connection with which (1) there is no sign other than a non-lighted and non-reflecting name plate not more than two (2) square foot in area, which may designate the home business carried on within, in letters not to exceed two inches in height, and must be attached to the building wherein the home business is conducted; (2) there is no commodity sold upon the premises, except that which is prepared on the premises in connection with such business or activity; (3) employed individuals from outside the immediate family are limited to two; (4) there is no mechanical equipment used except of a type that is similar in character to that customarily found in the home and (5) no traffic shall be generated by such home business in greater volumes than would be normally generated in the neighborhood.

The home business shall be incidental and secondary to the Primary Use (residential). The home business may be in an accessory building (building must meet definitions and criteria for accessory buildings); however, no portion of any yard shall be used for storage and/or display of product and/or supplies.

Home Occupation is any occupation or activity carried on by a member of the family residing on the premises, in connection with which (1) there is no sign other than a non lighted and non-reflecting name plate not more than two (2) square foot in area, which may designate the home occupation

carried on within, in letters not to exceed two inches in height, and must be attached to the building wherein the home occupation is conducted; (2) there is no commodity sold upon the premises, except that which is prepared on the premises in connection with such occupation or activity; (3) there is no person employed other than a member of the family residing on the premises; (4) there is no mechanical equipment used except of a type that is similar in character to that customarily found in the home; and (5) no traffic shall be generated by such home occupation in greater volumes than would be normally generated in the neighborhood.

The home occupation shall be incidental and secondary to the Primary Use (residential). The home occupation may be in an accessory building (must meet definitions and criteria for accessory buildings); however, no portion of any yard shall be used for storage and/or display of product and/or supplies.

Hotel is a building in which lodging or boarding and lodging are provided for more than 20 persons, primarily transient, and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. A hotel may include restaurants, taverns, or club rooms, public banquet halls, ballrooms, and meeting rooms.

Inoperable Motor Vehicle is a motor vehicle that is wrecked, dismantled, or unable to move under its own power; is impounded by the City; or is not currently licensed.

Institution is a non-profit corporation or a non-profit establishment for public use.

Juice Bar (See Adult Establishment).

Junk or (Salvage) Yard is an area where waste or scrap materials (including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles) are brought, sold, exchanged, stored, baled J packed, disassembled, or handled. A "junk" or "salvage" yard includes an auto wrecking yard, but does not include uses established and operated entirely within enclosed buildings.

Kennel. Commercial is any place where more than two adult pets are kept for breeding, boarding or other fee, or any place where more than two over 6 months old are kept for any purpose.

Landfill is a disposal site employing an engineering method of disposing solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day and in conformance with the requirements of the Nebraska Department of Health and Human Service System.

Lawful Not in conflict with any laws, ordinances, or statutes existing at the time of the enactment of this Ordinance.

Livestock shall mean livestock associated with agricultural operation, commonly kept or raised as a part of an agricultural operation including but not limited to horses, cattle, sheep, swine, goats, chickens and turkeys.

Livestock. Confinement Facilities/Operations shall mean any building(s), lot(s), pen(s), pool(s) or pond(s) or other confined spaces, which normally are not used for raising crops or grazing animals, which are designed and/or used for on-going confined raising, feeding or management of animals for more than 180 consecutive days.

Loading Space or Loading Berth is a space within the main building or on the same lot which provides for the standing, loading, or unloading of trucks and which has a minimum dimension of 2 by 45 feet and a vertical clearance of at least 15 feet.

Lodging Room is a room rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as one "lodging room" for the purposes of this Ordinance.

Lot A parcel, lot or portions of lots of record occupied by or intended to be occupied by a use permitted by this ordinance and its accessory buildings and including the open spaces and parking required under this Ordinance.

Lot Area Gross is the area of a horizontal plane bounded by the front, side, and rear lot lines, but not including any area occupied by the waters of a lake or river.

Lot, Corner is a lot situated at the intersection of two (2) or more streets, the interior angle of such intersection not exceeding 135 degrees. For the purpose of determining setbacks and to provide uniformity in existing developed areas, the front of such lot shall be the shorter of the two sides fronting on streets. The other yard shall be referred to as the Street Side Yard. 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.

Lot Coverage is the total lot area covered by buildings or structures.

Lot Depth is the average horizontal distance between the front line and the rear lot of a lot, measured within the lot boundaries.

Lot. Double Frontage is a lot having a/pair of opposite lot lines along two (2) or more or less parallel public streets, and which is not a corner lot. On a "double frontage lot", both street lines shall be

deemed front lot lines.

Lot Frontage is the front of a lot shall be construed to be the portion nearest the street or road.

Lot Line, Front shall be that boundary of a lot which is along an existing or dedicated public street or, where no public street exists, is along a public or private way as designated.

Lot Line, Rear shall be any boundary of a lot which is not a front lot or a side lot line.

Lot Line, Side shall be any boundary of a lot which is not a front lot or a rear lot line.

Lot Of Record is a lot of which is part of a subdivision recorded in the Office of the Register of Deeds, or a lot or parcel described by metes and bounds the description of which has been so recorded.

Lot Width is the distance on a horizontal plane between the side lot lines of a lot, measured at right angles to the line establishing the lot depth at the established building setback line.

Major Recreational Equipment includes boats and boat trailers, travel trailers, pickup campers or coaches, designed to be mounted on automotive vehicles, motorized dwellings, tent trailers and the like and recreational vehicles.

Manufactured Home is a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built to compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or a modular housing unit as defined in Section 71-1557 of the Nebraska Revised Statutes bearing the seal of the Department of Health and Human Service System.

Massage Parlor (See Adult Uses.)

Mobile Home is a year-round, transportable structures which is a single family dwelling unit suitable for permanent, more than thirty (30) days of living quarters, more than eight (8) feet wide and forty (40) feet in length and built to be towed on its own chassis with or without a permanent foundation when connected to the required utilities. This portable dwelling may consist of one (1) or more units that can be telescoped when towed and expanded later for additional capacity, or two (2) or more units, separately towable but designed to be joined as one (1) integral unit. Nothing in this definition shall be construed so as to include prefabricated, modular, precut dwelling units or these manufactured in sections or parts away from the site and transported thereto for assembly.



Mobile Home Park is any area of land which two (2) or more mobile homes are parked, connected to utilities and used by one (1) or more persons for living or sleeping purposes. A mobile home parked in this area can either be placed on permanent foundation or supported only by its wheels, jacks, blocks, or skirting's or a combination of these devices. A mobile home park includes any premises set apart for supplying to the public parking space, either free of charge or for revenue purposes for one (1) or more mobile homes, connected to utilities and used by one (1) or more persons living, or sleeping purposes and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park.

Modular Home is any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units not fabricated on the final site for the dwelling units, which units are movable or portable until placed on a permanent foundation and connected to utilities. All modular homes shall bear a label certifying that it was built to compliance with the Nebraska Department of Health and Human Services System as established in Section 711557 of the Nebraska revised Statutes.

Mortuary is a place for the storage of human bodies prior to their burial or cremation.

Motel. Motor Court. Motor Hotel. Lodge. or Inn is the same as Hotel except it is designed to accommodate any number of guests, the building or buildings are designed primarily to serve tourists traveling by automobile, and ingress or egress to rooms need not be through a lobby or office.

Non-conforming Building or Structure is any building or structure which, when constructed, was lawful, but currently:

- 1 Either does not comply with all of the regulations of this Ordinance or with any amendment hereto governing bulk for the zoning district in which such building or structure is located.
- 2 Or is designed or intended for a non-conforming use.

Non-conforming Lot is a recorded lot, lawful at the time of the enactment of this Ordinance which does not conform to the minimum area, yard or frontage requirements of the district in which it is located.

Non-conforming Use is an existing use of a structure or land which does not comply in some respect with the use regulations applicable to new uses in the zoning district in which it is located.

Open Space is any [and developed as yards, parks, landscaped green area, and recreational areas including community centers. and is exclusive of areas developed for off-street parking.

Parking Lot is an area consisting of one or more parking spaces for motor vehicles together with a driveway connecting the parking area with a street or alley and permitting ingress and egress for motor vehicles.

Parking Space is an area, enclosed or unenclosed sufficient in size to store one automobile as defined in

Article VII hereof, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

Premises is a lot, together with all buildings and structures thereon.

Professional Services are services provided by physicians, surgeons, chiropractors, osteopaths, physical therapists, dentists, architects, engineers, lawyers, and accountants.

Public Way is any sidewalk, street, alley, highway, easement, or other public thoroughfare.

Recycling Center is a facility which accepts salvage material limited to paper, aluminum foil, containers made of glass, plastic, metal, aluminum, and paper; and similar household wastes; no hazardous material as defined by state and federal law is accepted; there is no wrecking or dismantling of salvage material and no salvage material is held outside a building.

Recycling Collection Point is a collection point for small refuse items, such as bottles and newspapers, located either in a container or small structure.

Remodeling is any change in a structure (other than incidental repairs and normal maintenance) which may prolong its useful life; or the construction of any addition to, or enlargement of a structure; or removal of any portion of a structure.

Rest Home, Nursing Home, or Convalescent Home is a facility for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders. Such facility does not contain equipment for surgical care or for the treatment of disease or injury, and is subject to applicable state requirements.

Roadside Stand is a structure for the display and sale of products on a temporary or seasonal basis.

Sanitary Landfill is a lot or parcel of land used primarily for the disposal, abandonment, dumping, burial or burning of garbage, sewage, trash, refuse, junk, discarded machinery or motor vehicles, or parts thereof, or other waste, and which is in conformance with the requirements of the Nebraska Department of Health and Human Service System.

Sanitary Transfer Station is a collection point for temporary storage of refuse. No processing of refuse would be allowed. The transfer station must be in conformance with the requirements of the Nebraska Department of Health and Human Service System.

Salvage Or Junk Yard is a place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, abandoned or inoperable motor vehicles or parts thereof, and other used materials are bought, sold, exchanged, stored, baled or cleaned; and places or yards for the

storage of salvaged metal, materials and equipment; but not including pawn shops and establishments for the sale, purchase or storage of used cars or trucks presently in operable condition, boats or trailers presently in operable condition, and used furniture and household equipment in usable condition and not including the processing of used, discarded or salvaged material as part of manufacturing operations.

Service Station is any building, structure, or land used for the dispensing, sale, or offering for sale at retail of any automobile fuels, oils, or accessories, including lubricating or washing of automobiles and replacement or installation of minor parts and accessories, but not including major repair work such as motor rebuilding, body and fender repair or spray painting, but including temporary storage of wrecked, inoperable, or unlicensed vehicles outside a screened and enclosed area for more than ten days.

Sign, Any device designed to inform or attract the attention of persons not on the premises on which the sign is located; provided, however; that the following shall not be included in the application of the regulations herein:

- 1 Signs not exceeding one (1) square foot in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;
- 2 Flags and insignia of any government except when displayed in connection with commercial promotion;
- 3 Legal notices: Identification, informational, or directional signs erected or required by governmental bodies;
- 4 Integral decorative or architectural features of buildings, except letters, service marks, trademarks, moving parts, or moving lights;
- 5 Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

Sign, Awnings, Canopy and Marquee A sign that is mounted or painted on, or attached to, an awning, canopy or marquee that is otherwise permitted by this ordinance. No such ,sign shall project below a vertical height of 80 'inches above finished grade.

Sign, Business is a sign which directs attention to a business or profession conducted, or to a commodity, service, or entertainment sold or offered, upon the premises where such sign is located or to which it is affixed.

Sign, Flashing is any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this Ordinance, any

moving, illuminated sign shall be considered a “flashing sign”,

Sign, Gross Area of shall be the entire area within a single continuous perimeter enclosing the extreme limits of such sign and in no case passing through or between any adjacent elements of same.

Site Triangle is an area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 3 feet and 10 feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets, 60 feet in each direction along the centerline of the streets. At the intersection of major or arterial streets, the 60 foot distance shall be increased to 90 feet for each arterial leg of the intersection.

Special Use Permit is a written permit issued with authorization of the applicable governing body. The special permit provides permission under specific conditions to make certain special uses of land in certain zoning districts as stipulated under permitted special uses in each of the district zoning regulations.

Specified Anatomical Areas shall mean anatomical areas consisting of:

- A. Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and,
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities shall mean activities consisting of the following:

- A. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually oriented acts of conduct: Anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zoocrasty; or
- B. Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence; or
- C. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
- D. Fondling or touching of nude human genitals, pubic region, buttocks, or female breast(s); or
- E. Situation involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding, or other physical restraint or any such persons; or
- F. Erotic or lewd touching, fondling, or other sexually-oriented contact with an animal by a human being; or
- G. Human excretion, urination, menstruation, vaginal, or anal irrigation.

Story is that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building

included between the' upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar is more than six feet above grade and more than fifty percent (50%) of that total perimeter, or is more than 121 above grade at any point, then such basement or cellar shall be considered a story.

Street is a public or private way set aside for public travel that is more than twenty (20) feet in width. The word "street" shall include the words "road", "highway", and "thoroughfare,"

Street Center Line The center line of the surveyed street right-at-way.

Street Line is the dividing line' between a lot,' tract or parcel of land and a contiguous street.

Structure is anything constructed or erected, other than a fence or retaining wall, which requires location on or in the ground or is attached to something having a location on the ground, including but not limited to, advertising signs, billboards, posterboards, patios, swimming pools, and mobile homes.

Structural Alterations consist of any change in the supporting members of a building, including, but not limited to bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls.

Subdivision means the division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale or of building development. It includes re-subdivision and, when appropriate to the context, relates to' the process of re-subdividing or to the land or territory subdivided.

Swimming Pool shall mean any permanent structure containing a body of water intended for recreation uses, and shall include wading pools

Temporary Housing Units Include travel trailers, campers or self contained motor homes not exceeding eight (8) feet in width, nor thirty-two (32) feet in length.

Townhouse shall mean one of a group or row of not less than two (2) nor more than twelve (12) attached, single family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately. For the purpose of the side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

Total Floor Area is the area of all floors including finished attics, basements, and other areas where floor to ceiling height is not less than six (6) feet.

Tract is any parcel, lot area or piece of property in or within one mile of the corporate limits of Albion, Nebraska.

Trailer Camp is any site, lot, parcel or tract of land which is improved, used, or intended to provide a location for the servicing or temporary accommodation of one or more trailers which are used for travel, camping, or recreational purposes.

Use of property is the purpose or activity for which the land or building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

Use, Accessory is a structure detached from the principle building, located on the same lot and incidental and subordinate in use and size to the principle building or use.

Use, Permitted is a use which may be lawfully established in a particular district or districts provided it conforms with all requirements, regulations, and standards of such district.

Use, Principal is the main use of land or buildings as distinguished from a subordinate or accessory use. A "principal use" may be "permitted" or "special".

Variance, A variance is a relaxation of the terms of the Zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the-property and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship. As used in this Ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

(Commercial) Wind Energy Conversion System is a wind energy conversion system under common or aggregated ownership or operating control that includes substations, MET towers, cables/wires and other building accessories, whose main purpose is to supply electricity to off-site customers.

(Small) Wind Energy Conversion System (Swecs) is a wind energy conversion system which has a rated capacity of up to one hundred (100) kilowatts and which is incidental and subordinate to another use on the same parcel. A system is considered a small wind energy system only if it supplies electrical power for on site use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be sold back to the utility company. (LB 436 limits SWECS to 25 kilowatts or less -scheduled to be reviewed next session)

Yard, Front is a yard extending across the front of the lot between the side lot lines, said depth being the minimum required horizontal setback distance between the front lot line and the principal building.

Yard, Rear is a yard extending across the rear of a lot measured between the side lot lines, said depth being the minimum horizontal distance between the rear lot line and the rear of the principal building.

Yard, Side is a yard between the main building and the side line of the lot being the minimum horizontal distance between the building and side lot line, and extending from the front yard line to the rear yard line.

Yard, Street Side is a yard that occurs at a corner lot. The Street Side Yard is adjacent to the Public Right-of-Way and perpendicular to the established Front Yard. Special setback requirements maybe present in this yard condition as to conform to existing setbacks of existing structures along the same street or public Right-of-Way.

Zoning Administrator is the person appointed by the City Council and designated as the Official responsible for enforcing and administering all requirements of the City of Albion Zoning Ordinance.

Zoning Board Of Adjustment is the legally appointed board empowered to hear and decide appeals from, and to provide interpretations of, the terms of the zoning Regulations and official maps as defined within this ordinance and in accordance with the laws of the State of Nebraska.

Zoning Map the term "Zoning Map" means a map or maps officially enacted by the governing body as part of this ordinance showing the boundaries of a zoning district or districts, a copy or copies of which, certified to have been enacted as provided by law, is filed in the office of the City Clerk as an official record of the City.

Zoning Permit is a written statement issued by the zoning administrator authorizing buildings, structures, or uses in accordance with the provisions of this Ordinance.

{Section 9-202 Amended by Ordinance 107(11) – October 11, 2011}

{Section 9-202, Lot, Corner Definition Amended by Ordinance 224(13) – September 10, 2013}

### ARTICLE III -DISTRICTS AND OFFICIAL MAP

#### SECTION 9-301: DISTRICTS

In order to regulate and restrict the height, location, size and type of buildings, structures and uses allowed on land in the city and the area within one mile of the corporate boundaries, the city is hereby divided into districts.

#### SECTION 9-302: PROVISIONS FOR OFFICIAL ZONING MAP

- A. The City is hereby divided into districts, as shown on the Official Zoning Map, 'which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 9-302 of Ordinance No. 200(10) of the City of Albion, Nebraska, together with the date of the adoption of this Ordinance.

If, in accordance with the provisions of this' Ordinance, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council.

- B. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by resolution adopt a new Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk and bearing the seal of the City under the following words: This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted by Ordinance No. 200(10) of the City of Albion, Nebraska."

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved, together with all available records pertaining to its adoption or amendment.



## ARTICLE IV -GENERAL PROVISIONS

### SECTION 9-401: PLANNING COMMISSION RECOMMENDATIONS

Pursuant to Section 19-901 et. seq., (Nebraska Reissue Rev. Stat. 1943), it shall be the purpose of the Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein.

The Commission shall make a preliminary report and hold public hearings thereon before submitting its final report; and the City Council Shall not hold its public hearings or take action until it has received the final report of the Commission.

### SECTION 9-402: DISTRICT REGULATIONS, RESTRICTIONS, BOUNDARY CREATION

No such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearings shall be given by publication thereof in a paper of general circulation in the City at least one (1) time ten (10) days prior to such hearing.

### SECTION 9-403: JURISDICTION

The provisions of this Ordinance shall apply within the corporate limits of the City of Albion, Nebraska, and within the territory beyond said corporate limits as now or . hereafter fixed, for a distance of one (1) mile in all directions, as established on the map entitled "The Official Zoning Map of the City of Albion, Nebraska", and as may be amended by subsequent annexation.

### SECTION 9-404: PROVISIONS OF ORDINANCE DECLARED TO BE MINIMUM REQUIREMENTS

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions of this Ordinance require a lower height of building or lesser size of yards, courts or other spaces, or require a lower height of building or lesser number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other ordinance, the provisions of this Ordinance shall govern. Wherever the provisions of any other ordinance requires a greater width or size of yards, courts, or other open spaces, or requires a lower height of building or a lesser number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the provisions of this Ordinance, the provisions of such ordinance shall govern.

#### SECTION 9-405: ZONING AFFECTS EVERY BUILDING AND USE

No building or land shall hereafter be reused and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, except that any structure damaged or destroyed may be restored if such structure does not involve a non-conforming use.

#### SECTION 9-406: LOT

- A. Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a lot or lot of record and in no case shall there be more than one (1) principal building on a lot unless otherwise provided.
- B. More than one principal building of a single permitted use may be located upon a lot or tract in the following instances if recommended by the Planning Commission and approved by the City Council.
  - 1. Institutional buildings
  - 2. Public or semi-public buildings
  - 3. Multiple-family dwellings
  - 4. Commercial or industrial buildings
  - 5. Home for the aged
  - 6. Agricultural buildings

#### SECTION 9-407: REDUCTIONS IN LOT AREA PROHIBITED

No lot, even though it may consist of one (1) or more adjacent lots of record, shall be reduced in area so that yards, lot area per family, lot width, building area, or other requirements of this Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

#### SECTION 9-408: OBSTRUCTIONS TO VISION AT STREET INTERSECTIONS PROHIBITED

In all districts except Central Business, on a corner lot, within the area formed by the center line of streets at a distance of sixty (60) feet from their intersections, there shall be no obstruction to vision between a height of three (3) feet and a height of ten (10) feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets. At the intersection of major or arterial streets the 60-foot distance shall be increased to 90 feet for each arterial leg of the intersection. The requirements of this section shall not be deemed to prohibit any necessary retaining wall.

## SECTION 9-409: YARD REQUIREMENTS

- A. Yard requirements shall be set forth under the Schedule of Lot, Yard, and Bulk Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.
- B. All accessory buildings which are attached to principal buildings (e.g., attached garages) shall comply with the yard requirements of the principal building, unless otherwise specified.
- C. The Zoning Administrator and/or Building Inspector may permit a variation in front yard setbacks to allow new or relocated structures to conform to the average existing setback of the existing building frontage on the same side of the street between intersecting streets; however, such variation is not required to be allowed if the Zoning Administrator and/or Building Inspector believes such variation would not conform to the general intent of the Albion comprehensive plan. {Ordinance 224(13) – Sept 10, 2013}
- D. Any side or rear yard in a residential district which is adjacent to any existing industrial or commercial use shall be no less than twenty-five (25) feet and shall contain landscaping and planting suitable to provide effective screening.
- E. Any yard for a commercial or industrial use which is adjacent to any residential use or district shall be increased to forty (40) feet and shall contain landscaping and planting suitable to provide effective screening. Included in the increased yard, a solid or semi-solid fence or wall at least six (6) feet, but not more than eight (8) feet high shall be provided adjacent to an adjoining residential district unless the adjacent residential district and industrial district are separated by a street right-of-way. Said fence or wall shall be maintained in good condition by the owner or owners of the property in the Industrial District. Said fencing shall be constructed of commercially available fencing.

## SECTION 9-410: DRAINAGE

No building, structure, or use shall be erected on any land, and no change shall be made in the existing contours of any land, including any change in the course, width, or elevation of any natural or other drainage channel, that will obstruct, interfere with, or substantially change the drainage from such land to the detriment of neighboring lands. Anyone desiring to build or otherwise change the existing drainage situation shall be responsible for providing to the City or their designated agent that such changes will not be a detriment to the neighboring lands.

#### SECTION 9-411: PERMITTED OBSTRUCTIONS IN REQUIRED YARDS

The following shall not be considered to be obstructions when located in the required yards:

- A. All Yards. Steps and accessibility ramps used for wheelchair and other assisting devices which are four (4) feet or less above grade which are necessary for access to a permitted building or for access to a lot from a street or alley; chimneys projecting twenty four (24) inches or less into the yard; recreational and laundry-drying equipment; approved freestanding signs; arbors and trellises; flag poles; window unit air conditioners projecting not more than eighteen (18) inches into the required yard; egress windows projecting no more than thirty-six (36) inches into the yard and meeting the requirements of the Building Code for the construction of egress windows; and fences or walls subject to building permit requirements listed elsewhere.
- B. Front Yards. Bay windows projecting three (3) feet or less into the yard are permitted.
- C. Rear and Side Yards. Open off-street parking spaces or outside elements of central air conditioning systems.
- D. Building Groupings. For the purpose of the side yard regulation a group of business or industrial buildings separated by a common party wall shall be considered as one (1) building occupying one (1) lot. (Amended by Ordinance 193-09)

#### SECTION 9-412: ACCESSORY BUILDING AND USES

- A. No accessory building shall be constructed upon a lot for more than six (6) months prior to beginning construction of the principal building. No accessory building shall be used for more than six (6) months unless the main building on the lot is also being used or unless the main building is under construction; however, in no event shall such building be used as a dwelling unless a certificate of occupancy shall have been issued for such use.
- B. No detached accessory building or structure shall exceed the maximum permitted height of the principal building or structure.
- C. No accessory building shall be erected in or encroach upon the required side yard on a corner lot or the front yard of a double frontage lot.

- D. Detached accessory buildings or structures shall be located no closer to any other accessory or principal building than nine (9) feet.
- E. Garages and outbuildings in Residential Districts for storage uses and other structures customary and appurtenant to the permitted uses and detached accessory garages shall be constructed of materials customarily used in residential construction. The sidewalls of said building shall not exceed fifteen (15') feet in height.
- F. Regulation of accessory uses shall be used as follows:
  - 1 Except as herein provided, no accessory building shall project beyond a required yard line along any street.
  - 2 Service station pumps and pump island may occupy the required yards, provided, however, that they are no less than fifteen (15') feet from street lines.
  - 3 Storage of an unlicensed boat, boat trailer, camp trailer, or other vehicle shall not be permitted in any required yard. (Amended by Ordinance 189-09)

**SECTION 9-413: BULK REGULATIONS**

The maintenance of yards and other open space and minimum lot area legally required for a building shall be a continuing obligation of the owner of such building or of the property on which it is located, as long as the building is in existence. Furthermore, no legally required yards, other open space, or minimum-lot area allocated to any building shall by virtue or change of ownership or for any other reason, be used to 'satisfy yard, other open space, or minimum lot area requirements for any other building.

**SECTION 9-414: PERMITTED MODIFICATIONS OF HEIGHT REGULATIONS**

- A. The height limitations of this Ordinance shall not apply to:
 

Belfries	Public Monuments
Chimneys	Ornamental Towers and Spires
Church Spires	Radio and Television
Conveyors	Towers less than 125' in height
Cooling Towers	Silos
Elevator Bulkheads	Smoke Stacks
Fire Towers	Stage Towers or Scenery Lots
Water Towers and Standpipes	Tanks
Flag Poles	Air-Pollution Prevention Devices

- B. When permitted in a district, public or semi-public service buildings, hospitals, institutions, or schools may be erected to a height not exceeding seventy-five (75) feet when each required yard line is increased by at least one (1), foot for each one (1) foot of additional building height above the height regulations for the district in which the building is located,

SECTION 9-415: REGULATIONS FOR UNIQUE USES - FENCES, WALLS AND HEDGES:

Except as provided in Section 9-411 of this article, fences, walls and hedges or shrubbery may be erected, placed, maintained, or grown along a lot line to a height not exceeding six (6) feet in height along a side yard in back of the front building line or rear yard. Front yards in a Residential District shall not have fences, walls and hedges or shrubbery greater in height than three and one-half (3.5) feet. Additionally, on a corner lot in a Residential District, a sight triangle shall be provided such that nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of three (3) feet and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines fifty (50) feet from the point of the intersections, unless otherwise required by this Ordinance.

The following regulations shall apply to the construction of fences.

1. Generally within all Zoning Districts:

- A. No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals by intent of its construction or by inadequate maintenance.
- B. Good side of fence shall face to the outside of the property.
- C. No solid fence shall be constructed closer to the street than the property line.
- D. All fences shall conform to the construction standards of the building code and other applicable ordinances and resolutions.
- E. All fences constructed in the City of Albion shall comply with the provisions of this Section and obtain a Building / Zoning Permit.

2. Residential Districts:

- A. Allowed Materials: Fences and walls shall be made of high quality, durable materials that require low maintenance. Acceptable materials for a fence include: chain link, wood, brick, masonry block, stone, tubular steel, wrought iron, vinyl, composite/recycled materials (hardy board), or other manufactured material or combination of materials commonly used for fencing.
- B. Prohibited Materials:  
Fences and walls shall not be made of or contain:

- 1 Scrap materials such as scrap lumber and scrap metal.
  - 2 Materials not typically used or designated/manufactured for fencing such as metal roofing panels, corrugated or sheet metal, traps, plywood or livestock fencing materials.
- C. No fence shall be constructed which will constitute a traffic hazard as identified in the site triangle of a corner lot.
- D. No fence within Residential Districts, except fences erected upon public or parochial school grounds or in public parks and in public playgrounds, shall be constructed of a height greater than six (6) feet, except for the provisions of item E, below.
- E. All outdoor swimming pools shall be enclosed by a fence or wall at least six (6) feet, but not more than eight (8) feet in height with a gate or gates which can be securely locked.

3. Commercial or Industrial Districts:

- A. Allowed Materials: Fences and walls shall be made of high quality, durable materials that require low maintenance. Acceptable materials for fencing in commercial or industrial districts include, but are not limited to chain link, prewoven chain link with slats, wood, brick, tilt-up concrete, masonry block, stone, metal, composite/recycled materials, or other manufactured materials or combination of materials commonly used for fencing.
- B Prohibited Materials: Fences or walls in commercial or industrial districts shall not be constructed of or contain:
- 1 Scrap materials such as scrap lumber and scrap metal.
  - 2 Materials not typically used or designated/manufactured for fencing such as metal roofing panels, corrugated or sheet metal, traps, plywood or livestock fencing materials.

- B. In commercial and industrial districts, maximum height of fences shall be eight (8) feet. When industry standards for certain types of businesses require fences of greater heights, the Zoning Administrator at his direction, may allow greater heights.

{Section 9-415 – Ordinance 204(11) – May 10, 2011}

**SECTION 9-416: OCCUPANCY OF BASEMENTS AND CELLARS**

No basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed.

#### SECTION 9-417: NONCONFORMING GENERAL INTENT

It is the intent of this ordinance to permit lawful non-conformities to continue until they are removed, but not encourage their survival. Such uses are declared by this ordinance to be incompatible with permitted uses in the districts involved, it is further the intent of this ordinance that non-conformities shall not be enlarged upon, expanded or extended nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district except as may be authorized in this title.

#### SECTION 9-418: NONCONFORMING LOTS OF RECORD

In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provision of this ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district provided that the yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district 'in which such lot is located; that such lot has been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would have been lawful; and has remained in separate and individual ownership from adjoining lots or tracts of land continuously during the entire period in which this or previous ordinance would have prohibited creation of such lot. Variance of area, width and yard requirements shall be obtained only through action of the board of adjustment.

#### SECTION 9-419: NONCONFORMING STRUCTURES

- 1 Authority to continue: Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which *is* located on a lot which does not comply with the applicable lot size requirements and/or the applicable-bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions of this section.
- 2 Enlargement, Repair; Alterations: Any such structure described in Section 9-419(1) may be enlarged, maintained, repaired or remodeled; provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure, except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be in conformance with this section, and unless otherwise permitted by special permit unless otherwise approved or as specified in the Residential District.
- 3 Damage or Destruction: In the event that any structure described in Section 9-419(1) is damaged or destroyed by any means, to the extent of more than fifty percent (50%») of its



structural value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided that structures located on a lot that does not comply with the applicable lot size requirements in Section 9-418, shall not have a side yard of less than five (5) feet. When a structure is damaged to the extent of fifty percent (50%) or less, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.

- 4 Moving: No structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

#### SECTION 9-420: NONCONFORMING USES

1. Non-conforming Uses of Land: Where at the effective date of adoption or amendment of this ordinance, lawful use of land exists that is made no longer permissible under the terms of this ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:
  - a. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance;
  - b. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this ordinance.
  - c. If any such non-conforming use of land ceases for any reason for a period of more than twelve (12) months, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.
2. Non-conforming Uses of Structures: If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this ordinance, that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful subject to the following provisions:
  - a. No existing structure devoted to a use no permitted by this ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to use permitted in the district in which it is located;
  - b. Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance but no such use shall be extended to

- occupy any land outside such building;
- c. If no structural alterations are made, any non-conforming use of a structure or structures and premises may be changed to another non-conforming use provided that the board of adjustment either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the board of adjustment may require appropriate conditions and safeguard in accord with the provisions of this ordinance;
- d. Any structure, or structure and land in combination, in any or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located and the nonconforming use may not thereafter be resumed;
- e. When a non-conforming use of a structure or structure and premises in combination is discontinued or abandoned for twelve (12) months, the structure or structure and premises in combination shall not thereafter be used except in conformance with the regulations of the district in which it is located;
- f. Where non-conforming use status is applied to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land.

#### SECTION 9-421: REPAIRS AND MAINTENANCE

- 1 On any building devoted in whole or in part to any non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing provided that the cubic content of the building as it existed at the time of passage of amendment of this ordinance shall not be increased.
- 2 Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

#### SECTION 9-422: USES UNDER SPECIAL PERMIT NOT NONCONFORMING USES

Any use for which a special permit is issued as provided in this ordinance shall not be deemed a non-conforming use, but shall without further action be deemed a conforming use in such district.

#### SECTION 9-423: RECREATIONAL VEHICLES

Major recreational equipment such as boats, boat trailers, travel trailers, pick-up campers or coaches, motor homes, camping buses or converted trucks, tent trailers and other similar vehicles shall not be stored in a residential district except within an enclosed building, behind the front yard setback, or in the side yard. In no case shall the Recreational Vehicle encroach onto any existing sidewalk or within an area where a future sidewalk would be constructed.

#### SECTION 9-424: FUTURE STREET RESERVATION PLANS

**Intent and Purpose:** The purpose of future street reservation plans in accordance with the Comprehensive Plan of the City of Albion is to prepare for continued, orderly economic and physical development of the City of Albion while providing necessary guidelines for the safe movement of people and vehicles throughout the planning area.

**Identification:** The Albion Planning Commission shall make recommendations of future street reservation plans to the City Council of the City of Albion. The City Council shall have final approval of such future street reservation plans by way of amendment to the Albion Comprehensive plan; and, future street reservation plans shall be identified by formal amendment to the Official Zoning Map of the City of Albion.

**Regulation:** The future street reservation plans shall apply to the enforcement of zoning regulations of the City of Albion as follows:

Any obstruction within the areas identified for future street reservation plans are hereby considered non-conforming to the Albion Comprehensive Plan and Zoning Regulations.

New obstructions shall not be built, constructed, erected, or developed within the areas identified for future street reservation plans.

Any existing obstruction shall be allowed to continue as a non-conforming use as defined by the Albion Zoning Regulations until such time as the non-conforming use ceases to exist.

Future street reservations shall be used as guidelines throughout the process of land development and may be amended by recommendation of the Planning Commission. The City Council shall have final approval of amendments to future street reservation plans by way of amendment to the Albion Comprehensive plan; and, such amendments to the future street reservation plans shall be identified by amendment to the Official Zoning Map of the City of Albion. {Section 9-424 – Ordinance 220(13) – May 14, 2013}

## 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 9-505 amended by Ordinance 206(11) – August 9, 2011}

## 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.

{Section 9-506 amended by Ordinance 201(11) – January 11, 2011}

{Section 9-506 amended by Ordinance 207(11) – October 11, 2011}

{Section 9-506, subsection 5, amended by Ordinance 224(13) – September 10, 2013}

## 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 9-507 amended by Ordinance 207(11) – October 11, 2011}

{Section 9-507, subsection 5, amended by Ordinance 224(13) – September 10, 2013}

## 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.

{Section 9-508 amended by Ordinance 207(11) – October 11, 2011}  
 {Section 9-508, subsection 5, amended by Ordinance 224(13) – September 10, 2013}

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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 (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	3,500	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 9-509 amended by Ordinance 256(17) – February 14, 2017}

## 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 9-510 amended by Ordinance 212(12) – June 12, 2012}  
 {Section 9-510 amended by Ordinance 256(17) – February 14, 2017}

## 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 may be amended in the same manner prescribed in this division for approval of a preliminary or final plan. Application for 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"<sup>u</sup> 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.



## ARTICLE VI - CONDITIONAL USE PERMITS

### SECTION 9-601: GENERAL PROVISIONS

The City Council may, by conditional permit after a public hearing and referral to and recommendation from the Planning Commission, authorize and permit conditional uses as designated in the district use regulations. Approval shall be based on findings that the location and characteristics of the use will not be detrimental to the health, safety, morals, and general welfare of the area.

Allowable uses may be permitted, enlarged, or altered upon application for a conditional use permit in accordance with the rules and procedures of this ordinance. The Council may grant or deny a conditional use permit in accordance with the intent and purpose of this ordinance in granting a conditional use permit, the Council will authorize the issuance of a conditional use permit and shall prescribe and impose appropriate conditions, safeguards, and a specified time limit for the performance of the conditional use permit.

### SECTION 9-602: APPLICATION FOR CONDITIONAL USE PERMITS

A request for a conditional use permit or modification of a conditional use permit may be initiated by a property owner or his or her authorized agent by filing an application with the City upon forms prescribed for the purpose. The application shall be accompanied by a drawing or site plan and other such plans and data showing the dimensions, arrangements, descriptions data, and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in relation to the provisions set forth herein. A plan as to the operation and maintenance of the proposed use shall also be submitted. The application shall be accompanied with a non refundable fee.

### SECTION 9-603: PUBLIC HEARING"

Before issuance of any conditional use permit, the Council will consider the application for the conditional use permit together with the recommendations of the Planning Commission at a public hearing after prior notice of the time, place, and purpose of the bearing has been given by publication in a legal paper of general circulation in the City of Albion, one time at least 10 days prior to such hearing.

### SECTION 9-604: DECISIONS

The concurring vote of two-thirds of the voting members of the Council shall be necessary to grant a conditional use permit. No order of the Council granting a conditional use permit shall be valid for a period of longer than twelve months from the date of such order, unless the Council specifically grants a longer period of time upon the recommendation of the City Planning Commission.

## SECTION 9-605: STANDARDS

No conditional use permit shall be granted unless the Planning Commission or City Council has found:

- A. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the community.
- B. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
- C. That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.
- D. That adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.
- E. That adequate measures *have* been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- F. The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
- G. The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.
- H. The use shall not involve any malodorous gas or matter which is discernible on any adjoining lot or property.
- I. The use shall not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road, or highway.
- J. The use shall not involve any activity substantially increasing the *movement* of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
- K. The use shall not involve any activity substantially increasing the burden on any Public utilities or facilities unless provisions are made for any necessary adjustments.

ARTICLE VII -PARKING AND SIGNS

SECTION 9-701: OFF-STREET AUTOMOBILE STORAGE

- A. Off-street automobile storage or standing space shall be provided on any lot on which any of the following uses are hereafter established; such space shall be provided with vehicular access to a street or an alley. For purposes of computing the number of parking spaces available in a given area, the ratio of two hundred fifty (250) square feet per parking space shall be used. The following are the minimum requirements for specific uses:
1. Dwellings -Two (2) spaces for each dwelling unit.
  2. Tourist Accommodations -One (1) space for each room offered for tourist accommodations.
  3. Theater, Auditorium, Church, Stadium, or Other Place of Public Assembly -One (1) space for each five (5) seats available at maximum capacity.
  4. Industrial Plant - .75 times the maximum number of employees on the premises at anyone time.
  5. Apartments, Townhouses, and two or more unit multi-family dwellings -1.0 per each sleeping unit.
- B. If vehicle storage space or standing space required above cannot be reasonably provided on the same lot on which the principal use is conducted in the opinion of the Board of Adjustment, the Board of Adjustment may permit such space to be provided on other off-street property, provided such space lies within four hundred (400) feet of an entrance to such principal use. Such vehicle standing space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.
- C. All parking spaces for Single-family, Rooming houses, convalescent homes, Apartments, Townhouses, and two or more unit multi-family dwellings, and Mobile Homes shall be paved with asphalt or concrete.
- D. Where calculations in accordance with" the foregoing list results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.
- E. In Districts R-1, R-2, and R-3, required off-street parking shall be provided on the lot on which is located the use to which the parking pertains. In other districts, such parking may be provided either on the same lot or an adjacent or other lot, provided the lot on which the use requiring them is located are' not separated by more than 300 feet at closest points, measured along a street or streets.

- F. Where off-street parking is located on a lot other than the lot occupied by the use which requires it, site plan approval for both Jots is required.
- G. In the C-2 Downtown Commercial District, on-street parking within 400 feet of the use may be computed so as to be included in the total required off-street parking, except apartments.

For Public Uses within a Residential District, on-street parking within 400 feet of the use may be computed so as to be included in the total required off-street parking, except apartments.

SECTION 9-702: REQUIRED PARKING

SCHEDULE OF MINIMUM OFF-STREET PARKING AND LOADING REQUIREMENTS

<b>STRUCTURES AND USES</b>	<b>PARKING REQUIREMENTS</b>	<b>LOADING REQUIREMENTS</b>
Bowling Alleys	4 Spaces per alley	1 space per establishment
Churches, Synagogues and Temples	1 Space per 4 seats in main unit of Worship	None Required
Eating and Drinking Places	Parking Spaces equal to 30% of capacity in persons	2 spaces per establishment
Educational Uses, Nursery	Parking Spaces equal to 20% capacity in students	2 spaces per structure
Educational Uses, All Others	Parking Spaces equal to 20% capacity in students	2 spaces per structure
Funeral Homes and Chapels	8 Spaces per reposeing room	2 spaces per establishment
Hospitals	1 Space per 2 beds	3 spaces per structure
Hotel and Motels	1 space per rental unit	1 space per establishment
Industrial Uses	.75 times the maximum number of employees on the premises at any one time	2 spaces per establishment
Libraries	1 space per 500 square feet of floor area	1 space per structure
Lodging, Boarding Houses, and Bed and Breakfasts	1 space per rental unit	None Required
Medical Clinics	5 spaces per staff doctor or dentist	None Required
Mobile Home Parks	2 spaces per dwelling unit	None Required
Offices	1 space per 200 square feet of gross floor area	None Required
Other Commercial	.75 times the maximum number of employees on the premises at any one time	2 spaces per establishment
Private Clubs and Lodges	1 space per 500 square feet of floor area	1 space per establishment
Retail Sales Establishments	1 space per 200 square feet of gross floor area	1 space per establishment
Roadside Stands	4 spaces per establishment	None Required
Sanitariums, Convalescent and Rest Home Services	1 space per 3 beds plus 1 space per employee on the largest shift	1 space per establishment
Service Establishments and Offices	1 space per 200 square feet of gross floor area	1 space per establishment
Theatres, Auditoriums and Places of Assembly	1 space per 5 people in designed capacity	1 space per establishment
Veterinary Establishments	3 spaces per staff doctor	1 space per establishment
Wholesaling and Distribution Operations	1 space per 2 employees on largest shift	2 spaces per establishment

SECTION 9-703                    SIGNS: STANDARD OF MEASUREMENT

- A.     The total area of all signs permitted on a lot shall include:
  - 1.    The total area of the faces of all permanent exterior signs visible from a public way, plus
  - 2.    The area of permanent signs placed upon the surface of windows and doors, plus
  - 3.    The area within the outline enclosing the lettering, modeling or insignia of signs integral with the wall and not designed as a panel.
  
- B.     A building or use having frontage on a second street may include 20% of the length of the lot facing the second street.

SECTION 9-704:                SIGNS, TYPE

- A.     Real Estate. Not more than 2 signs per lot may be used as a temporary sign no larger than 6 square feet (except, TA may be up to 12 square feet) and set back 20 feet from the road right of way or road easement boundary.
  
- B.     Announcement. Small announcement, professional signs, or bulletin boards not over 18 square feet in area, set back at least 20 feet from any highway, street, road, or roadway easement may be erected in connection with any of the permitted principal uses of a nonresidential nature.
  
- C.     Wall. A sign or sign flat against a building appertaining to a conforming or non-conforming use on the premises, not exceeding in the aggregate 50 square feet in area except as may be authorized by the Board of Adjustment.
  
- D.     Name plate. One nameplate not exceeding 6 square feet for each dwelling.
  
- E.     Billboard. Billboards, signboards, and other similar advertising signs subject to the same height and location requirements as other structures in the district and also subject to the following conditions and restrictions:
  - 1       No billboard, signboard, or similar advertising signs shall be located at intersections so as to obstruct vision, hearing, or interfere with pedestrian or vehicular safety.
  
  - 2       No billboard, signboard, or similar advertising signs shall be located within 50 feet of any lot in a residential district.
  
  - 3       No billboard, signboard, or similar advertising signs shall exceed 700 square feet in area.

- 4 No billboard, signboard, or similar advertising signs shall be so constructed or located where it will unreasonably interfere with the use and enjoyment of adjoining property.
- F. Ground. Ground signs at least 5 feet from any lot line with a maximum height of 10 feet.
- G. Projecting or Pole. One free standing or projecting sign for each enterprise on the premises of not more than 100 square feet per sign face, at no point closer to the front line or a side line than one-half of the required building setback distance, and not exceeding 50 feet in height from the established grade level. The lowest horizontal projecting feature of any post or pole mounted sign shall be eight feet above the established grade level.
- H. Signs hung from canopies and awnings shall be no closer than 80 inches from the bottom edge of the sign to grade below.
- I. Public Signs - official public signs owned and maintained by public offices or public agencies within their territorial jurisdiction are allowable in all districts and shall meet all State Department of Roads class ID sign requirements when located near State Highway Right of Way.

\*All signs must conform to regulations regarding prohibited obstructions to vision at street intersections contained in Section 9-408 of these regulations.

{Sections 9-704 & 9-705 amended by Ordinance 201(11) – January 11, 2011}

#### SECTION 9-705: SIGN SCHEDULE

Signs shall be permitted in the various districts according to the following schedule:

Zoning District	FW	TA	R-1	R-2	R-3	C-1	C-2	C-3	1-1	PUD	PUB
<b>Sign Type</b>											
-Real Estate	-	+	+	+	+	+	+	+	+	+	+
-Announcement	-	+	C	C	C	+	+	+	+	C	+
-Wall	-	+	-	-	-	+	+	+	+	C	-
-Name Plate	-	+	+	+	+	+	+	+	+	+	+
-Billboard	-	C	-	-	-	C	C	+	+	-	-
-Public	+	+	+	+	+	+	+	+	+	+	+
-Ground	-	C	C	C	C	+	C	+	+	C	C
-Projecting or Pole	-	C	-	-	-	+	C	+	+	C	-
+: Permitted											
-: Not Permitted											
C: Conditional Use											

## ARTICLE VIII-BOARD OF ADJUSTMENT

### SECTION 9-801: MEMBERS, TERMS AND MEETINGS

Pursuant to Section 19-908, Reissue Revised Statutes of 1943 (in full): The Board of Adjustment shall consist of five regular members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three years and removable for cause by the appointing authority upon written charges and after public hearings. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. One member only of the Board of Adjustment shall be appointed from the membership of the Planning Commission, and the loss of membership on the Planning Commission by such member shall also result in his or her immediate loss of membership on the Board of Adjustment and the appointment of another Planning Commissioner to the Board of Adjustment. After September 9, 1995, the first vacancy occurring on the Board of Adjustment shall be filled by the appointment of a person who resides in the extraterritorial zoning jurisdiction of the city or village at such time as more than two hundred persons reside within such area. Thereafter, at all times, at least one member of the Board of Adjustment shall reside outside of the corporate boundaries of the city or village but within its extraterritorial zoning jurisdiction. The Board of Adjustment shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to Sections 19-901 to 19-914. Meetings of the board shall be held at the call of the chairperson and at such other times as the board may determine. Such chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

### SECTION 9-802: APPEALS TO BOARD, RECORD OF APPEAL, HEARINGS AND STAYS.

As provided in Section 19-909, Reissue Revised Statutes of 1943 (in full): Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment. after the notice of the appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the



Board of Adjustment or by a court of record in application on notice to the officer from whom the appeal is taken and on due cause shown. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof; as well as due notice to the parties, in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or attorney.

#### SECTION 9-803: POWERS AND JURISDICTION ON APPEAL

The Board of Adjustment shall have the following powers: (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation or any regulation relating to the location or soundness of structures; (2) to hear and decide, in accordance with the provisions of this Ordinance, requests for interpretation of any map, or for decisions upon other special questions upon which the Board is authorized by this Ordinance to pass; and (3) to grant variances, where by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of enactment of this Ordinance, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, the strict application of any regulation under this Ordinance would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property, to authorize, upon an appeal relating to the property, a variance from such strict application so as to relieve such difficulties or hardship, if such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this Ordinance,

No such variance shall be authorized by the Board unless it finds that:

- a. The strict application of the Ordinance would produce undue hardship;
- b. such hardship is not shared generally by other properties in the same zoning district and the same vicinity;
- c. the authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance; and
- d. the granting of such variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit or caprice. No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this Ordinance.

In exercising the above mentioned powers, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to effect any variation in this Ordinance.

#### SECTION 9-804: APPEALS TO DISTRICT COURT

Any person or persons jointly or severally, aggrieved by any decision of the Board of Adjustment may appeal as provided by Section 19-912, Reissue Revised Statutes of 1943 (in full).

## ARTICLE IX -AMENDMENT

### SECTION 9-901: AMENDMENTS

Pursuant to Section 19-905, Reissue Revised Statutes of 1943 (in full): This Ordinance may, from time to time, be amended, supplemented, changed, modified, or repealed. In case of a protest against such change, signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent on the sides and in the rear thereof extending three hundred (300) feet therefrom, and of those directly opposite thereto extending three hundred (300) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of two-thirds (2/3) of all members of the City Council. The provisions of this section of the Ordinance relative to public hearings and official notice shall apply equally to all changes or amendments. In addition to the publication of the notice therein prescribed, a notice shall be posted in a conspicuous place on or near the property on which action is pending. Such notice shall not be less than eighteen (18) inches in height and twenty-four (24) inches in width with a white or, yellow background and black letters not less than one and one-half (1 1/2) inches in height. Such posted notice shall be so placed upon such premises that it is easily visible from the street nearest the same and shall be so posted at least ten (10) days prior to the date of such hearing. It shall be unlawful for anyone to remove, mutilate, destroy, or change such posted notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars (\$50) or more than one hundred dollars (\$100). The provisions of this section in reference to notice shall not apply: (1) in the event of a proposed change in such regulations, restrictions, or boundaries throughout the entire area of an existing zoning district or of such municipality, or (2) in the event additional or different districts are made applicable to areas, or parts of areas, already within a zoning district of the City.

### SECTION 9-902: PLANNING COMMISSION REVIEW

No amendment, supplement, change or modification of this Ordinance, including the boundaries of any zoning district, shall be made by the City Council without first the consideration by the City Planning Commission, the Commission shall submit in writing its recommendations on each amendment, supplement, change or modification to the City Council within forty-five (45) days after receipt thereof. Said recommendations shall include approval, disapproval, or other suggestions and the reasons thereof and a discussion of the effect of each amendment, supplement change or modification on the Comprehensive Plan. Said recommendations shall be of an advisory nature only.

In addition, any person or persons seeking such an amendment, supplement, change, or modification of any zoning district, shall comply with the following:

- a. At the time that application for a change of zoning district or amendment to the zoning is filed with the Planning Commission, there shall be deposited the sum of fifty dollars (\$50) as a fee to cover investigation, legal notices, or other expenses incidental to the determination of such matter.

- b. An application for a change of district to Highway Commercial shall contain a minimum area of five (5) acres. The area, if more than one (1) parcel of land is involved, shall be contiguous, exclusive of any streets or easements.
- c. An application for a change of district to a Light Industrial District shall contain a minimum area of five (5) acres. The area, if more than one (1) parcel of land is involved, shall be contiguous, exclusive of any streets or easements.
- d. The foregoing requirements in Subsections b and c shall not apply in the case of an extension of a Highway Commercial or Light Industrial District.

SECTION 9-903: ZONING ADMINISTRATOR

The provisions of this Ordinance shall be administered and enforced by a Zoning Enforcement Officer appointed by the City Council, who shall have the power to make inspection of buildings or premises necessary to carry out his or her duties in the enforcement of this Ordinance.

SECTION 9-904: BUILDING PERMITS

The following shall apply to all new construction and all applicable renovations and remodels within Albion's Zoning Jurisdiction:

- a. It shall be unlawful to commence the excavation for the construction of any building, or any accessory buildings, or to commence the moving or alteration of any buildings, including accessory buildings, until the Zoning Administrator has issued a building permit for such work.
- b. Issuance of a building permit. In applying to the Zoning Administrator for a building permit, the applicant shall submit a dimensioned sketch or a scale plan indicating the shape, size and height and location of all buildings to be erected, altered or moved and of any building already on the lot. He shall also state the existing and intended use of all such buildings, and supply such other information as may be required by the Zoning Administrator for determining whether the provisions of this Ordinance are being observed. If the proposed excavation or construction as set forth in the application are in conformity with the provisions of this Ordinance, and other Ordinances of the City then in force, the Zoning Administrator shall issue a building permit for such excavation or construction. If a building permit is refused, the Zoning Administrator shall state such refusal in writing, with the cause, and shall immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application. The Zoning Administrator shall grant or deny the permit within a reasonable time from the date the application is submitted. The issuance of a permit shall in no case be construed as waiving any provisions of this Ordinance. A building or zoning Permit shall become void

twelve (12) months from the date of issuance unless substantial progress has been made by that date on the project described therein.

#### SECTION 9-905: CERTIFICATE OF OCCUPANCY

No land or building or part thereof hereafter erected or altered in its use or structure shall be used until the Zoning Administrator shall have issued a certificate of occupancy stating that such land, building or part thereof and the proposed use thereof; are found to be in conformity with the provisions of this Ordinance. Within three (3) days after notification that a building or premises is ready for occupancy or use, it shall be the duty of the Zoning Administrator to make a final inspection thereof and to issue a certificate of occupancy if the land, building, or part thereof and the proposed use thereof are found to conform with the provisions of this Ordinance, or, if such certification is refused, to state refusal in writing, with the cause, and immediately thereupon mail notice of such refusal to the applicant at the address indicated upon the application.

#### SECTION 9-906: PENALTIES

Pursuant to Section 19-913, Reissue Revised Statutes of 1943 (in full), the owner or agent of a building or premises in or upon which a violation of any provisions of this Ordinance has been committed or shall exist or lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed one hundred dollars (\$100) for anyone (1) offense. Each day of non-compliance with the terms of this Ordinance shall constitute a separate offense.

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. However, nothing shall deprive the citizen of his or her rights under the U.S. Constitution of a jury trial.

#### SECTION 9-907: REMEDIES

In case any building or structure is erected, constructed, reconstructed, altered, repaired) converted or maintained, or any building, structure, or land is used in violation of Sections 19-901 to 19-914, Reissue Revised Statutes of 1943 (in full), or this Ordinance, or any regulation made pursuant to said sections, the appropriate authorities of the City may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

## ARTICLE X -LEGAL STATUS PROVISIONS

### SECTION 9-1001: SEPARABILITY

Should any article, section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid,

### SECTION 9-1002: PURPOSE OF CATCH HEADS

The catch heads appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of any index and they shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this Ordinance.