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SECTION 1:
GENERAL PROVISIONS





SECTION 1 GENERAL PROVISIONS

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1.1 Title

These regulations shall hereafter be referred to as the “Albion Zoning Ordinance”.

1.2 Authority

This Zoning Ordinance is adopted by the Town Council pursuant to its authority under Indiana Code, 36-7-4-600, et seq., and other state and federal statutes as applicable.



1.3 Intent and Purpose

The purpose of this Zoning Ordinance is to regulate the use and development of land within the jurisdiction of the Town of Albion. It is intended to promote the public health, safety and general welfare, and more specifically to:

- A. Support the goals, objectives and policies of the Albion Comprehensive Plan and other plans adopted by the Town;
- B. Guide future growth and development in accordance with the Albion Comprehensive Plan;
- C. Promote the public health, safety, comfort, morals, convenience, and general welfare;
- D. Reduce traffic congestion in public streets;
- E. Secure safety from fire, flood and other dangers;
- F. Provide adequate light and air;
- G. Prevent the overcrowding of land and avoid undue concentration of population;
- H. Provide for the efficient development of natural resource, agricultural, business, and industry;
- I. Facilitate the adequate provision of transportation, water, sewage, schools, parks, and other public requirements;
- J. Avoid scattered and uncontrolled development of land that would result in excessive expenditure of public funds for the supply of community services;
- K. Protect the historic and architectural heritage of the town;
- L. Provide for performance standards for the emission of pollutants into the air, water, and ground;
- M. Protect the natural resources of the Town of Albion;
- N. Identify the approximate boundaries of zoning district, by reference to the official zoning map;
- O. Prohibit uses, buildings, or structures incompatible with the stated purpose of such districts, respectively;
- P. Create and establish standards to which the uses, buildings or structure within each district shall regulate their location, construction, reconstruction or alteration;
- Q. Regulate the intensity of the use of each lot by requiring open space areas around buildings and structures and to provide adequate safety lighting and ventilation;
- R. Designate and define the powers and duties of the bodies and/or officials administering and enforcing this Zoning Ordinance and the procedures by which this Zoning Ordinance is administered; and
- S. Prescribed penalties for the violation of this Zoning Ordinance.



1.4 Interpretations

A. Minimum Requirements

The provisions of this Ordinance are designed to encourage the establishment and maintenance of reasonable community standards for the physical environment. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare of the people at large.

B. Public Provisions

These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule, or regulation, or other provision of law, those provisions which are more restrictive or impose higher standards shall govern.

C. Private Provisions

These regulations are not intended to abrogate any easement, covenant, or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than any easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant, or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations or the determinations of the Commission in enforcing these regulations, and the private provisions are not inconsistent with these regulations or determinations thereunder, then the private provisions shall be operative and supplemental to these regulations, or the determinations made thereunder. Unless the Town has accepted responsibilities pursuant to, private provisions can only be enforced privately.



1.5 Zoning Jurisdiction

This Zoning Ordinance applies to all land within the corporate boundaries of the Town of Albion, Indiana and its 2-mile jurisdiction.



1.6 Regulations

All buildings erected hereafter, all uses of land or buildings established hereafter, all structural alterations or relocation of existing buildings occurring hereafter, and all enlargements of or additions to existing uses occurring hereafter shall be subject to all the regulations of this Zoning Ordinance as they apply to the zoning districts in which such buildings or use of land shall be located.

- A. This Zoning Ordinance shall not be construed as abating any action now pending under, or by virtue of, the prior existing zoning ordinance; or as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue; or as affecting the liability of any person, firm, or corporation; or as waiving any right of the Town of Albion under any section or provision existing at the time of the effective date of this Zoning Ordinance; or as vacating or annulling any rights obtained by any person, firm, or corporation, by lawful action of the Town of Albion, except as shall be expressly provided for in this Zoning Ordinance.
- B. All previously existing uses, lots and structures which do not comply with the regulations in this Zoning Ordinance and its amendments, shall be deemed legal nonconforming uses, lots, and structures and shall be subject to the regulations of *Section 10, Non Conforming Situations*.

1.7 Severability Clause

Should any section or provision of this Zoning Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Zoning Ordinance as a whole, or any portion thereof, other than the portion declared to be invalid.



1.8 Exclusion

Nothing in this Zoning Ordinance or in any rules, regulations or orders issued pursuant to this Zoning Ordinance shall be deemed to restrict or regulate or to authorize any unit of government, legislative body, Plan Commission or Board of Zoning Appeals now or hereafter established, to restrict or regulate the exercise of the power of eminent domain by the state or by any state agency, or the use of property owned or occupied by the state or any state agency.

1.9 Amendments

For the purpose of providing for the public health, safety, and general welfare, the Town Council, on recommendation of the Plan Commission, may from time to time amend the text of this Zoning Ordinance and/or the zoning map(s) incorporated by reference in this Section. Public hearings on all proposed amendments shall be held in the manner prescribed by law.



1.10 Repeal of Pre-existing Zoning Ordinances

All previously enacted zoning ordinances are hereby repealed.

1.11 Transition Rules

A. Permits

Any application for a permit that has been filed with the Plan Commission or its designees and is full and complete prior to the effective date of the Zoning Ordinance, shall be regulated by the terms and conditions of the Zoning Ordinance that was in place at the time of filing. However, all administrative procedures and fees shall follow those set forth by the Zoning Ordinance.

B. Zoning Map Amendments

Any application for a zoning map amendment that was filed with the Plan Commission or its designees, and is full and complete prior to the effective date of the Zoning Ordinance, shall continue through the process to completion pursuant to the terms and conditions of the Zoning Ordinance that was in place at the time of filing. However, if the proposed use would no longer be permitted in the proposed zoning district, or the proposed zoning district no longer exists in the new Zoning Ordinance, the Zoning Administrator shall amend the application such that the request for rezoning would accomplish the same end goal for the applicant.

C. Board of Zoning Appeals Applications

Any application before the Board of Zoning Appeals (i.e. Special Exception Use, Use Variance, Development Standards Variance, and Administrative Appeal) that has been filed with the Board of Zoning Appeals or its designees, and is full and complete prior to the effective date of the Zoning Ordinance, shall continue the process pursuant to the terms and conditions of the Zoning Ordinance that was in place at the time of filing, provided that:

- (1) The application is still required by the terms of the Zoning Ordinance; or
- (2) If the proposed use or development requires additional approvals from the Board of Zoning Appeals pursuant to the terms of the Zoning Ordinance that were not required under the previous ordinances, the application will be amended to include only those additional approvals that are now required and within the jurisdiction of the Board of Zoning Appeals.

D. New Building Sites

All new building sites shall meet the requirements of the Zoning Ordinance unless:

- (1) A Building Permit was properly issued and is still valid; or
- (2) A parcel was approved as a buildable lot by the Plan Commission or the Board of Zoning Appeals prior to the effective date of the Zoning Ordinance.



1.12 Administrative Officer

The Plan Administrator will have the primary responsibility for administration and enforcement (or coordination of enforcement) of the Zoning Ordinance within the Plan Commission's planning jurisdiction. Together their duties shall include, but not be limited to, the following:

A. Improvement Location Permits

Reviewing, approving, or disapproving all Improvement Location Permits and keeping permanent records of applications made and actions taken.

B. Inspections

Conducting inspections of structures and properties to determine compliance with the requirements of this Ordinance and all approvals granted by the Plan Commission, Plat Committee, Board of Zoning Appeals, Town Council, or other body in the execution of its duties as established by this Ordinance and Indiana State Code.

C. Record Keeping

Maintaining permanent and current records documenting the application of this Ordinance including, but not limited to, all maps, amendments, special exception uses, variances, and appeals.

D. Plan Commission Applications

Receiving, processing, docketing, and referring to the Plan Commission all appropriate applications.

E. Board of Zoning Appeals Applications

Receiving, processing, docketing, and referring to Board of Zoning Appeals all appeals, variances, special exception uses, and other matters upon which it is authorized to act under this Ordinance and Indiana State Code.

F. Committee Applications

Receiving, processing, docketing, and referring to the Technical Review Committee all appropriate applications.

G. Clerical & Technical Assistance

Providing all such clerical and technical assistance as may be required by the Board of Zoning Appeals, Plan Commission, Technical Review Committee, Town Council, or other body in the execution of its duties as established by this Ordinance and Indiana State Code.



1.13 Summary of Authority

The Town bodies and officials listed below, without limitation upon such authority as each may possess by law, have responsibility for implementing and administering this Zoning Ordinance in the manner described herein.

A. Summary of Powers and Duties of the Town Council

The powers and duties of the Albion Town Council as they relate to planning and zoning are described below. Duties should be interpreted as activities that are obligations. Powers should be interpreted as activities that are optional.

(1) Albion Town Council Duties

- a) Adopt, reject, or amend the Comprehensive Plan, Strategic Plan, Zoning Ordinance, or Subdivision Control Ordinance that have been certified and submitted by the Plan Commission.
- b) Adopt, reject, or amend proposals to amend or partially repeal the text of the Comprehensive Plan, Strategic Plan, Zoning Ordinance, or Subdivision Control Ordinance that have been certified and submitted by the Plan Commission.
- c) Adopt, reject, or amend proposals to amend the Official Zoning Map certified and submitted by the Plan Commission.
- d) Adopt, reject, or amend Planned Developments that have been certified and submitted by the Plan Commission.
- e) Adopt, reject, or amend a fee schedule for each permit required in the Zoning Ordinance.
- f) Enforce regulations and procedures of the Comprehensive Plan, Zoning Ordinance, and Subdivision Control Ordinance to the extent allowed by local resolutions, ordinances, and Indiana Code.
- g) Appoint seven (7) voting members to the Plan Commission, consisting of:
 - 1. Three (3) members appointed by the Albion Town Council. These members shall be elected or appointed Town officials or employees of the Town.
 - 2. Four (4) members appointed by the Albion Town Council President. No more than two (2) of these members may be of the same political party.
- h) Appoint five (5) voting members to the Board of zoning Appeals, consisting of:
 - 1. Three (3) citizen members appointed by the Albion Town Council President. One (1) shall be a Plan Commission member and the other two (2) shall not be from the Plan Commission.
 - 2. One (1) citizen member appointed by the Albion Town Council.
 - 3. One (1) member appointed by the Plan Commission. This member shall be a Plan Commission member.

(2) Albion Town Council Powers

- a) Initiate amendments to the text of the Comprehensive Plan, Strategic Plan, Zoning Ordinance, or Subdivision Control Ordinance by making said proposal to the Plan Commission.
- b) Initiate amendments to the Official Zoning Map by making said proposal to the Plan Commission.
- c) Hire, remove, and determine job descriptions for support staff as necessary.
- d) Other powers as permitted by Indiana code.



B. Summary of Powers and Duties of the Plan Commission

The powers and duties of the Plan Commission are described below. Duties should be interpreted as activities that are obligations. Powers should be interpreted as activities that are optional. All of these powers and duties are pursuant to IC 36-7-4-400.

(1) Plan Commission Duties

- a) Adopt and maintain a Comprehensive Plan, Zoning Ordinance, and Subdivision Control Ordinance approved by the Albion Town Council as authorized under Indiana Code.
- b) Adopt and maintain rules and procedures for holding meetings, holding public hearings, and administering and enforcing the Comprehensive Plan, Zoning Ordinance, and Subdivision Control Ordinance.
- c) Maintain complete records of all meetings, hearings, correspondence, and affairs of the Plan Commission.
- d) Record and file bonds and contracts for development and land use functions.
- e) Make available to the public all plans, ordinances, and other related material that are the responsibility of the Plan Commission.
- f) Adopt and maintain a permitting process and seal used to certify official or approved documents.
- g) Certify and submit recommendations to the Albion Town Council including new versions and revisions to the Comprehensive Plan, Zoning Ordinance, and Subdivision Control Ordinance, and Official Zoning Map.
- h) Approve or deny plats or replats of subdivisions.
- i) Approve or deny development plans and amendments to development plans.
- j) Assign street numbers to new lots and structures, renumber lots and structures, assign street names, and approve or deny proposed street names in new developments.
- k) Establish and maintain a fee schedule approved by the Albion Town Council that assigns a fee to permits, processes, and official actions of the Plan Commission in order to defray the administrative costs of such duties and powers.
- l) Enforce regulations and procedures of the Comprehensive Plan, Zoning Ordinance, and Subdivision Control Ordinance to the extent allowed by local resolutions, ordinances, and Indiana Code.
- m) Appoint one (1) citizen member to the Board of Zoning Appeals who shall be a Plan Commission member.
- n) Other duties as permitted required by Indiana Code.

(2) Plan Commission Powers

- a) Delegate to a committee or person the role of Plan Administrator.
- b) Establish area committees as necessary, made up of town officials and the general public.
- c) Establish an executive committee.
- d) Distribute copies or summaries of the Comprehensive Plan, Zoning Ordinance, and Subdivision Control Ordinance to the general public and development community.
- e) If necessary, work with the Albion Town Council to determine the compensation for support staff and Plan Commission members as provided.
- f) Other powers as permitted by Indiana code.

(3) Conflict of Interest

Pursuant to IC 36-7-4-223, neither a member of the Plan Commission nor the Town Council may participate as a member Plan Commission or Town Council in a hearing or decision of that commission or body concerning a zoning matter (excluding the preparation or adoption of a comprehensive plan) in which the member has a direct or indirect financial interest. The commission or body shall enter in its record the fact that its member has such as is qualification.



(4) Communication with Members of the Area Plan Commission

No person (including applicants, remonstrators, and other interested parties) may communicate with any member of the Plan Commission before a hearing with the intent to influence the member's action on a matter pending before the Plan Commission.

C. Summary of Powers and Duties of the Board of Zoning Appeals

The powers and duties of the Board of Zoning Appeals are described below. Duties should be interpreted as activities that are obligations. Powers should be interpreted as activities that are optional. All of these powers and duties are pursuant to IC 36-7-4-900.

(1) Board of Zoning Appeals Duties:

- a) Review and hear appeals of decisions made under the Zoning Ordinance by the Plan Administrator, building commissioner, committees, administrative boards, or other body except Plan Commission and/or the Albion Town Council.
- b) Review, hear, and approve with conditions or deny all petitions for Special Exception Uses based on the provisions of the Zoning Ordinance and Indiana Code.
- c) Review, hear, and approve with conditions or deny all petitions for Development Standards Variances (e.g. height, bulk, or area) of the Zoning Ordinance.
- d) Review, hear, and approve with conditions or deny all petitions for Use Variances in the Zoning Ordinance.
- e) Other duties as permitted by Indiana code.

(2) Board of Zoning Appeals powers:

- a) If necessary, work with the Albion Town Council to determine the compensation for support staff and Board of Zoning Appeals members as provided.
- b) Other powers as permitted or required by Indiana code.

(3) Communication with Members of the Board of Zoning Appeals

No person (including applicants, remonstrators, and other interested parties) may communicate with any member of the Board before a hearing with the intent to influence the member's action on a matter pending before the Board.

D. Summary of Powers and Duties of the Plan Administrator

The powers and duties of the Plan Administrator are described below. Duties should be interpreted as activities that are obligations. Powers should be interpreted as activities that are optional.

(1) Plan Administrator Duties:

- a) Review applications for processes as outlined and warranted by the Zoning Ordinance.
- b) Answer questions and provide guidance to the public as necessary about the contents and processes related to the Zoning Ordinance and Subdivision Control Ordinance.
- c) Provide information and preliminary reviews of development proposals.
- d) Provide the initial interpretations of the Zoning Ordinance and Subdivision Control Ordinance for petitioners.
- e) Reactively investigate reports of violations and enforce the Zoning Ordinance as necessary to remedy the situation. Also, proactively enforce the regulations within the Zoning Ordinance to the degree possible using limited resources.
- f) Make decisions as permitted and delegated within the Zoning Ordinance and Subdivision Control Ordinance that are necessary for their administration.
- g) Provide information to the Albion Town Council, Plan Commission, and Board of Zoning Appeals prior to their meetings in regards to community planning, zoning or subdivision



control. This may also include specific recommendations to the Albion Town Council or the Plan Commission, but not the Board of Zoning Appeals.

(2) Plan Administrator Powers

- a)** Initiate amendments to the text of the Comprehensive Plan, Zoning Ordinance, and Subdivision Control Ordinance by making said proposal to the Plan Commission.
- b)** Initiate amendments to the Official Zoning Map by making said proposal to the Plan Commission.
- c)** Other powers as permitted by Indiana code.
- d)** Other powers as required by Indiana code.



1.14 Plan Commission Certification

This Zoning Ordinance was certified for adoption on December 4, 2019 by the Albion Plan Commission after holding a legally announced public hearing.



1.15 Effective Date

This Zoning Ordinance was approved by the Town Council of Albion, Indiana on December 10, 2019.
This Ordinance was adopted and became effective on January 1, 2020.

SECTION 2:
OFFICIAL ZONING MAP





SECTION 2: OFFICIAL ZONING MAP

- 2.1 Official Zoning Map Title
- 2.2 Official Zoning Map
- 2.3 Location of the Official Zoning Map
- 2.4 Official Zoning Map Copies
- 2.5 Regular Revisions
- 2.6 Damaged, Destroyed or Lost Official Zoning Map
- 2.7 Official Zoning Map Standards

2.1 Official Zoning Map Title

The Official Zoning Map, formally known as the "Albion Zoning Map," may be cited and referred to as the "Official Zoning Map" or the "Zoning Map."

2.2 Official Zoning Map

The "Albion Zoning Map" is hereby included as part of the Zoning Ordinance.



2.3 Location of the Official Zoning Map

The Official Zoning Map will be located in the Town Hall.

2.4 Official Zoning Map Copies

Copies of the Official Zoning Map may be made and distributed to interested persons. The Official Zoning Map copies shall be labeled as an Official Zoning Map Copy and have the date which they were last modified printed on them.



2.5 Regular Revisions

The Official Zoning Map should be formally revised annually, or as the Plan Commission determines necessary. During interim periods of time, hand drawn lines and text on the Official Zoning Map will be appropriate to note zoning changes. Copies may be made after the amendments are noted, and each copy shall be noted as an update with the "date last changed" noted on the map. Other revisions may be made to correct drafting or other errors and omission in the prior map, but shall not have the effect of amending the Official Zoning Map except as adopted by the Town Council.

2.6 Damaged, Destroyed or Lost Official Zoning Map

In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret due to the nature or number of changes, the Town Council may, by resolution, adopt a new Official Zoning Map which shall, to the extent possible, duplicate the accuracy of the damaged, destroyed, or lost map.



2.7 Official Zoning Map Standards

District boundaries on the Official Zoning Map shall be interpreted as follows:

A. **Roadways**

District boundaries shown within or parallel to the lines of roads, easements, and transportation rights-of-way shall be deemed to follow the center line of the affected road, easement, or right-of-way.

B. **Section Lines**

(1) District boundaries that follow section or fractional sectional lines, platted lot lines, or Town corporation lines shall be construed as following such lines.

(2) District boundaries indicated as parallel to section or fractional sectional lines, platted lot lines, Town lines, or Town corporation lines shall be construed as parallel to the subject line.

C. **Waterways**

District boundaries indicated as approximately following the center line of streams, rivers, or other bodies of water shall be construed to follow such center lines.

D. **Lots**

Where a district boundary line divides a lot at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than twenty-five (25) feet into the more restricted portion, provided the lot has frontage on a street in the less restricted district. Further, the exact location of where the line crosses the property shall be determined by the Plan Administrator.

E. **Vacations**

Whenever any street, alley, public way, railroad right-of-way, or other similar area is vacated by the proper authority, the adjoining zoning districts shall be extended automatically to the center of the vacated area. All areas included in the vacation shall then be subject to all applicable regulations of the extended zoning district. In the event of a partial vacation, the adjoining zoning district, or the zoning district nearest the portion vacated, shall be extended automatically to include all of the vacated area. The vacation of streets shall not affect the location of the district boundaries.

F. **Interpretation**

When the Plan Administrator shall not definitely determine the location of a district boundary by the center lines, by scale, or dimensions stated on the Official Zoning Map because the boundary does not clearly coincide with a property line, the Plan Administrator may refuse action and the Plan Commission may interpret the location of the district boundary with reference to the scale of the Official Zoning Map and the purposes set forth in all relevant provisions of the Zoning Ordinance.

SECTION 3:
GENERAL ZONING DISTRICTS





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- 3.1 Establishment of Districts**
- 3.2 Planned Unit Developments**
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- 3.9 Subdivision of Land**
- 3.10 Zoning of Annexed Areas**

3.1 Establishment of Districts

All of the zoning districts in the Zoning Ordinance stand alone and are not a part of a hierarchical system of zoning. Only those land uses and development standards which are expressly permitted and noted for each district apply. For the purpose of the Zoning Ordinance, the planning jurisdiction is divided into the following zoning districts for the general uses as stated:

- A Agriculture**
The A District is intended to be used as follows: General agricultural operations; Enact development standards to maximize protection of common agricultural practices; Use this zoning district for existing agricultural land; Protect the land and operations within the A District from the encroachment of residential and commercial development through the use of appropriate buffers and setbacks.
- R1 Residential; Low Density**
Established to include areas for low density single-family residences with a density of 2 dwelling units or less per gross acre. Connects to public utilities; Accessed with local streets/roads.
- R2 Residential; Medium Density**
Established to include areas for medium density single-family residences with a density of 4 dwelling units or less per gross acre. Connects to public utilities; Accessed with local streets/roads.
- R3 Residential; High Density**
Established to include areas for relatively high density single-family residences with a density of 6 dwelling units or less per gross acre. Connects to public utilities; Accessed with local streets/roads.
- R4 Residential; Multi-Family Low Density**
Established for low to medium density two-family, multi-family, boarding or lodging house dwellings or similar structures, nursing homes, other extended care facilities, and hospitals. Connects to public utilities; Accessed with local streets/roads.
- R5 Residential; Multi-Family High Density**
Established for high density multi-family, boarding or lodging house dwellings or similar structures, nursing homes, other extended care facilities, and hospitals. Connects to public utilities; Accessed with local streets/roads.
- CS Commercial; Courthouse Square**
This district is generally intended to meet the special issues and land use goals for the downtown area in Albion.
- CG Commercial; General**
This district is generally intended for a wide variety of retail, commercial, service, entertainment, and eating establishments that are small to medium in scale.



- CO Commercial; Office**
This district is established for small to moderate scale office uses with provisions for some complementary uses.
- CH Commercial; Highway**
This district provides sites for heavier types of business and commercial uses.
- IL Industrial; Light**
The IL District is intended to provide areas for light industrial and heavy commercial uses without creating adverse conditions on surrounding land uses.
- IH Industrial; Heavy**
The IH District is intended to establish areas for heavy industrial and related uses. This district shall contain those uses, which are compatible with other land uses in the area.
- MH Mobile Home**
This district is intended to establish areas to allow for the grouping of manufactured homes on single lots, whether public, private or leased in an area specifically designated for such development.



3.2 Planned Unit Developments

The provisions of this ordinance allow the R1, R2, R3, R4, R5, CO and CG districts to be rezoned for a planned development. No other districts can be rezoned into a planned development district. On the Official Zoning Map a planned development district, once rezoned, shall be labeled as PUD followed by the district it was created from.

The provisions that regulate Planned Developments can be found in *Section 9, Planned Unit Developments*.

3.3 Condominiums, Cluster Developments and Zero Lot Line Developments

Condominiums, as defined and regulated in IC 32-1-7 (the Horizontal Property Law), cluster developments, zero lot line developments and all developments of the minimum sizes specified in *Section 6.7* of this ordinance and larger shall be considered for zoning purposes to be Planned Developments as per *Section 9* of this ordinance.



3.4 Boundaries in General

A. The boundaries of the districts established by *Section 3.1* are as shown on the zone map, which is a part of, this Ordinance, and hereafter known as the Official Zoning Map for the Town of Albion. Said Official Zoning Map shall hereafter be kept in the custody of the Administrator of Albion, Indiana. Except as provided by *Section 3.3*, such boundaries and the Official Zoning Map shall be changed only by amendment to the Official Zoning Map. Upon such amendment the Town of Albion shall within (15) business days of passage of such amendment, certify a copy of such amendment to the Administrator, who shall immediately change the Official Zoning Map in accordance with such amendment. The Administrator shall cause the Official Zoning Map to show the ordinance number and date of adoption of all such amending ordinances.

B. When the exact boundaries of a district are uncertain, they shall be determined by use of the scale of the zoning map.

C. When the maps are caused to be changed by amendment the change shall be to the center of any and all abutting rights-of-way.

D. If the boundary line of a district divides a lot having frontage on a street so that the front part of the lot lies in one district and the rest of the lot lies in another, use requirements and restrictions that apply to the front part of the lot apply to the entire lot.

3.5 Standard Zoning District Land Uses

Standard Zoning District Land Uses Land uses that are permitted, non-permitted, or permitted by Special Exception Use and are labeled as such in each two-page layout for each zoning district. More specifically, Albion's Permitted Uses and Special Exception Uses for each district are listed in the columns labeled "Permitted Uses" and "Special Exception Uses" found in *Appendix A: Official Schedule of Uses*. This Section represents the following categories of zoning districts:

- **Agricultural District:** A
- **Residential Districts:** R1, R2, R3, R4, R5, MH
- **Commercial Districts:** CS, CG, CO, CH
- **Industrial Districts:** IL, IH
- **Mixed Use District:** PUD



3.6 Unlisted Land Uses

Any land use not specifically listed as a Permitted Use or Special Exception Use in *Appendix A: Official Schedule of Uses* the columns labeled "Permitted Uses" or "Special Exception Uses" is considered prohibited.

3.7 Questionable Land Uses

Any land use not specifically listed as a Permitted Use or Special Exception Use, but that is similar to a use which is a Permitted Use or a Special Exception Use may be considered a questionable land use. Through a "Questionable Land Use Appeal Process" (See *Section 11 Processes, Permits, Fees*) the desired use may be determined to be a Permitted Use, Special Exception Use, or remain a non-permitted use.



3.8 Application of District Regulations

- A. No building, structure, or land shall after the effective date of this Zoning Ordinance be used or occupied, erected, constructed, moved, or structurally altered except in conformity with all of the regulations specified for the district in which it is located, and any other regulations required by this Zoning Ordinance.
- B. No building shall be erected, reconstructed or structurally altered in any manner which will encroach upon, or reduce in any manner, the yards, lot area, ground floor area of dwellings, or lot coverage provisions established and specified for the use and the district in which such building is located; or in any other manner contrary to the provisions of this Zoning Ordinance.
- C. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Zoning Ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
- D. No yard or lot existing at the time of passage of the Zoning Ordinance shall be reduced in dimension or area below the minimum requirements set forth in this Zoning Ordinance. Yards or lots created after the effective date of this Zoning Ordinance shall meet at least the minimum requirements established by this Zoning Ordinance.

3.9 Subdivision of Property

The subdivision of property shall be permitted in all districts subject to the requirements of the Albion Subdivision Control Ordinance.

3.10 Zoning Annexed Areas

All territory which may be annexed to the Town of Albion, shall be classified into one or more of the Districts set forth in *Section 3.1*. Before the Town Council shall adopt the Ordinance for annexation, the Albion Plan Commission shall conduct a public hearing in the manner prescribed in *Section 11.13, Annexation*, and make a recommendation on the new zoning classification to the Town Council.

SECTION 4:
ZONING DISTRICT REGULATIONS





SECTION 4: ZONING DISTRICT REGULATIONS

- 4.1 A - Agricultural District
- 4.2 R1 - Residential; Low Density
- 4.3 R2 - Residential; Medium Density
- 4.4 R3 - Residential; High Density
- 4.5 R4 - Residential; Multi-Family Low/Medium Density
- 4.6 R5 - Residential; Multi-Family High Density
- 4.7 CS – Commercial; Courthouse Square
- 4.8 CG - Commercial; General
- 4.9 CO - Commercial; Office
- 4.10 CH - Commercial; Highway
- 4.11 IL - Industrial; Light
- 4.12 IH - Industrial; Heavy
- 4.13 MH – Manufactured Home

4.1 A - Agricultural District

A. District Intent

The A District is intended to be used as follows: General agricultural operations; Enact development standards to maximize protection of common agricultural practices; Use this zoning district for existing agricultural land; Protect the land and operations within the A District from the encroachment of residential and commercial development through the use of appropriate buffers and setbacks. The Plan Commission and Board of Zoning Appeals should strive to protect this district from conflicting land uses, and non-family oriented businesses.

B. Development Standards

Minimum Lot Area:

- 2 acres

Minimum Lot Width:

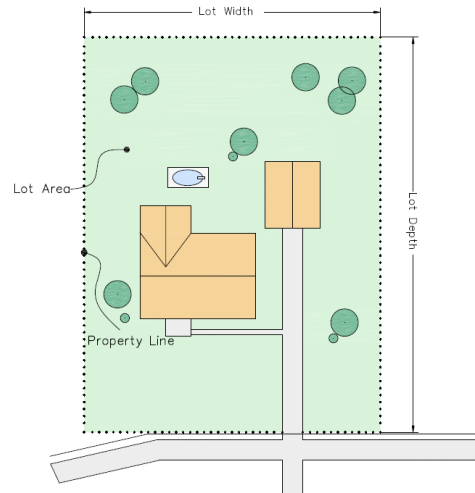
- 150 feet

Maximum Lot Depth:

- NA

Sewer and Water:

- Requires municipal water and sewer hookup if within town limits.



Minimum Front Yard Setback:

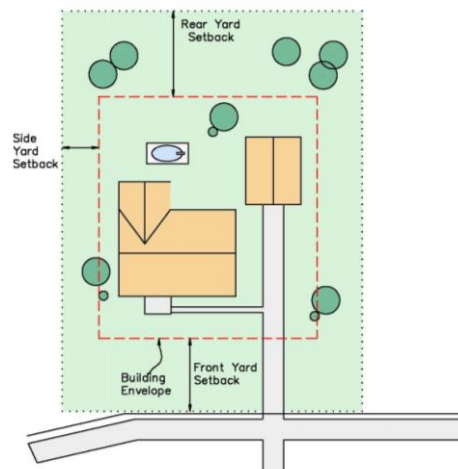
- 60 feet when adjacent to an Arterial Road
- 30 feet when adjacent to a Collector Road
- 30 feet when adjacent to a Local Road

Minimum Side Yard Setback:

- 25 feet for Primary structure
- 15 feet for Accessory structures

Minimum Rear Yard Setback:

- 25 feet for the Primary structure
- 15 feet for Accessory structures

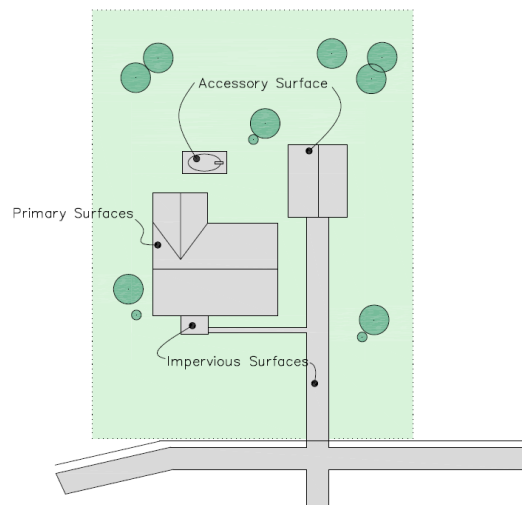


Maximum Lot Coverage:

- Square feet of all Primary and Accessory structures and impervious surface cannot exceed 25% of the Lot Area.

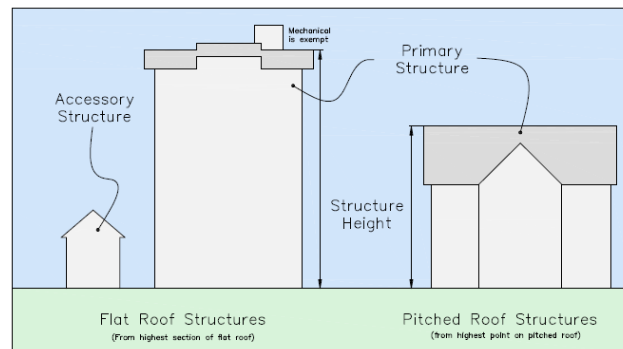
Minimum Main Floor Area:

- 1,200 square feet for one story Primary structures; or
- 700 square feet for multiple story Primary structures, provided that the total Finished Floor Area is 1,600 square feet or more.



Maximum Structure Height:

- 35 feet for the Primary structure
- 30 feet for Accessory structures
- Agriculture related accessory structures are exempt.



C. Uses

- (1) Permitted Uses: See Appendix A, Official Schedule of Uses.
- (2) Special Exception Uses: See Appendix A, Official Schedule of Uses.
- (3) Accessory Uses: See Section 6.4
- (4) Temporary Uses: See Section 6.5
- (5) Home Occupation Uses: See Section 6.12

4.2 R1 - Residential District; Low Density

A. District Intent

The R1 district is established to include areas for low density single-family residences with a density of 2 dwelling units or less per gross acre. Connects to public utilities; Accessed with local streets/roads. The Plan Commission and Board of Zoning Appeals should strive to protect this district from conflicting land uses, and non-family oriented businesses.

B. Development Standards

Minimum Lot Area:

- 20,000 square feet

Minimum Lot Width:

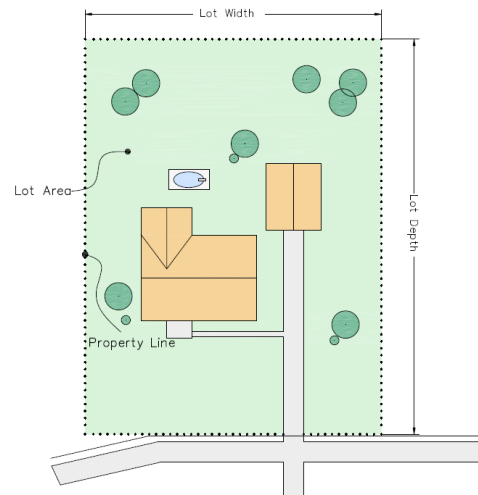
- 100 feet

Maximum Lot Depth:

- NA

Sewer and Water:

- Requires municipal water and sewer hookup



Minimum Front Yard Setback:

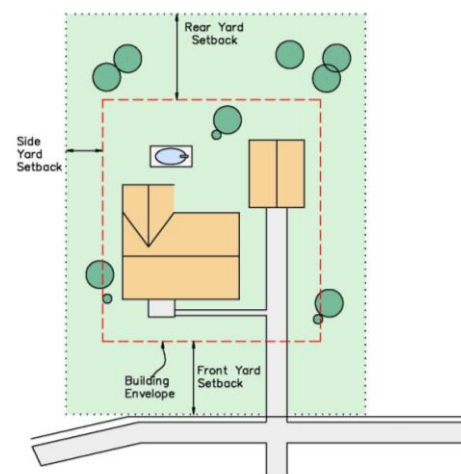
- 60 feet when adjacent to an Arterial Road
- 30 feet when adjacent to a Collector Road
- 30 feet when adjacent to a Local Road

Minimum Side Yard Setback:

- 15 feet for the Primary structure
- 6 feet for Accessory structures

Minimum Rear Yard Setback:

- 25 feet for the Primary structure
- 10 feet for Accessory structures

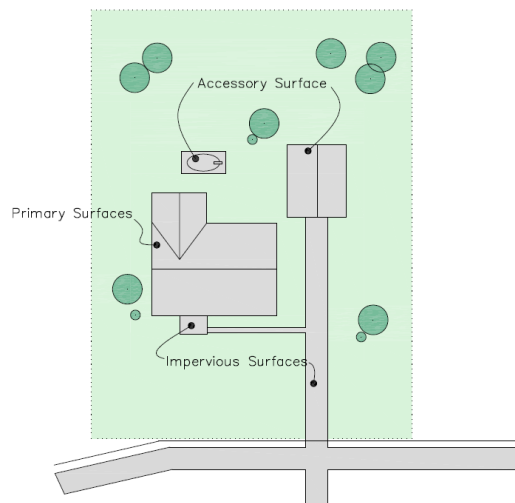


Maximum Lot Coverage:

- Square feet of all Primary and Accessory structures and impervious surface cannot exceed 25% of the Lot Area.

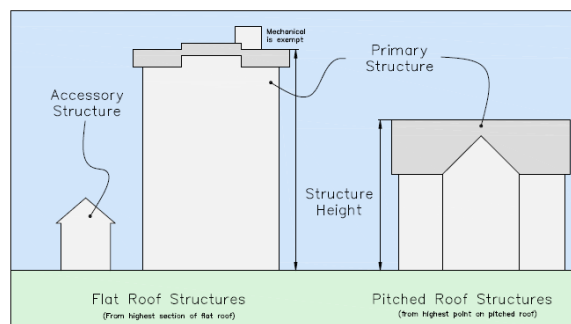
Minimum Main Floor Area:

- 1,200 square feet for one story Primary structures; or
- 700 square feet for multiple story Primary structures



Maximum Structure Height:

- 35 feet for the Primary structure
- 20 feet for Accessory structures



C. Uses

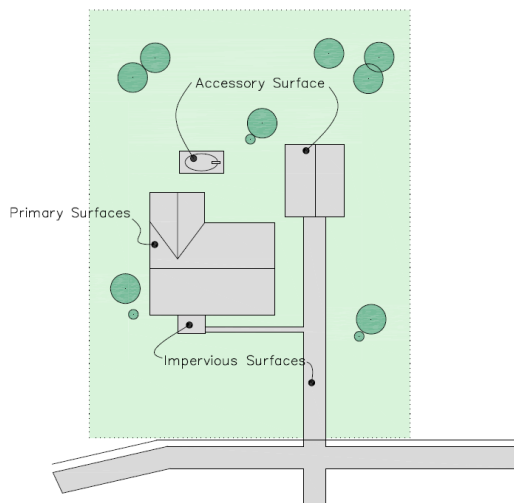
- (1) Permitted Uses: See Appendix A, Official Schedule of Uses.
- (2) Special Exception Uses: See Appendix A, Official Schedule of Uses.
- (3) Accessory Uses: See Section 6.4
- (4) Temporary Uses: See Section 6.5
- (5) Home Occupation Uses: See Section 6.12

Maximum Lot Coverage:

- Square feet of all Primary and Accessory structures and impervious surface cannot exceed 30% of the Lot Area.

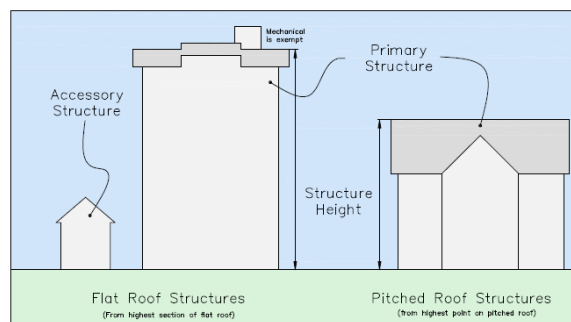
Minimum Main Floor Area:

- 1,200 square feet for one story Primary structures; or
- 700 square feet for multiple story Primary structures.



Maximum Structure Height:

- 35 feet for the Primary structure
- 20 feet for Accessory structures



C. Uses

1. Permitted Uses: See Appendix A, Official Schedule of Uses.
2. Special Exception Uses: See Appendix A, Official Schedule of Uses.
3. Accessory Uses: See Section 6.4
4. Temporary Uses: See Section 6.5
5. Home Occupation Uses: See Section 6.12

4.4 R3 - Residential District; High Density

A. District Intent

The R3 District is established to include areas for relatively high density single-family residences with a density of 6 dwelling units or less per gross acre. Connects to public utilities; Accessed with local streets/roads. The Plan Commission and Board of Zoning Appeals should strive to protect this district from conflicting land uses, and non-family oriented businesses.

B. Development Standards

Minimum Lot Area:

- 6,000 square feet

Minimum Lot Width:

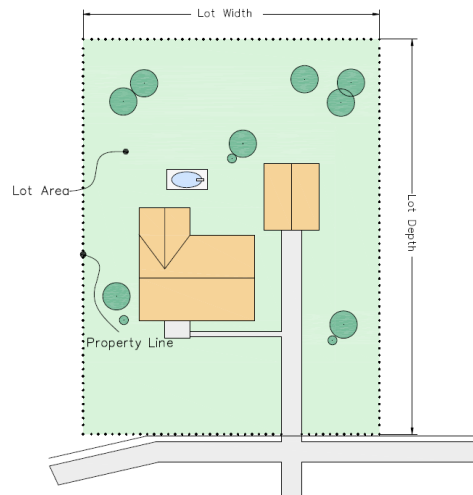
- 60 feet

Maximum Lot Depth:

- NA

Sewer and Water:

- Requires municipal water and sewer hookup



Minimum Front Yard Setback:

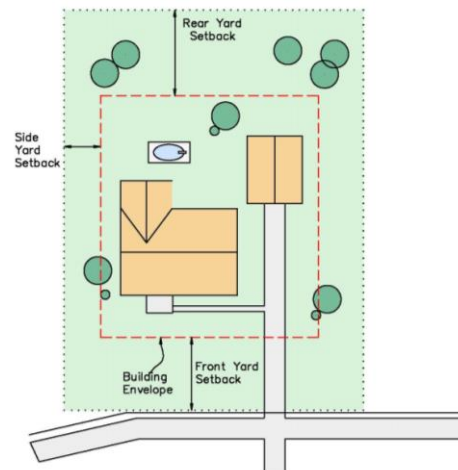
- 40 feet when adjacent to an Arterial Road
- 30 feet when adjacent to a Collector Road
- 25 feet when adjacent to a Local Road

Minimum Side Yard Setback:

- 6 feet for the Primary structure
- 6 feet for the Accessory structures

Minimum Rear Yard Setback:

- 20 feet for the Primary structure
- 6 feet for Accessory structures

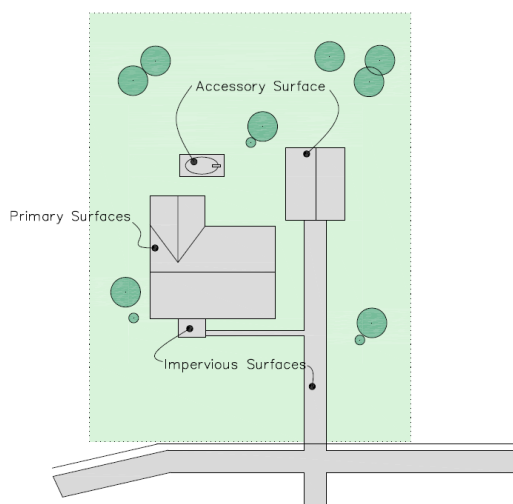


Maximum Lot Coverage:

- Square feet of all Primary and Accessory structures and impervious surface cannot exceed 40% of the Lot Area.

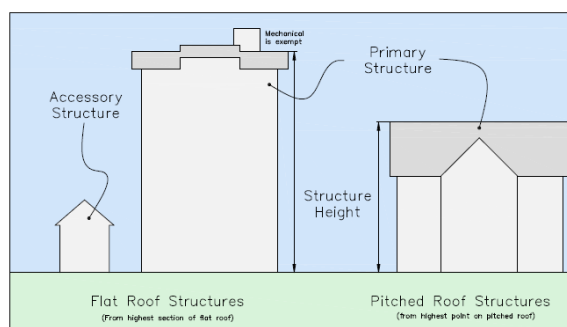
Minimum Main Floor Area:

- 960 square feet for one story Primary structures; or
- 700 square feet for multiple story Primary structures.



Maximum Structure Height:

- 35 feet for the Primary structure
- 20 feet for Accessory structures



C. Uses

1. Permitted Uses: See Appendix A, Official Schedule of Uses.
2. Special Exception Uses: See Appendix A, Official Schedule of Uses.
3. Accessory Uses: See Section 6.4
4. Temporary Uses: See Section 6.5
5. Home Occupation Uses: See Section 6.12

4.5 R4 - Residential District; Multi-Family, Low/Medium Density

A. District Intent

The R4 District is established for low to medium density two-family, multi-family, boarding or lodging house dwellings or similar structures, nursing homes, other extended care facilities, and hospitals. Connects to public utilities; Accessed with local streets/roads. The Plan Commission and Board of Zoning Appeals should strive to sensitively integrate this district into other residential districts.

B. Development Standards

Minimum Lot Area:

- 10,000 square feet

Minimum Lot Width:

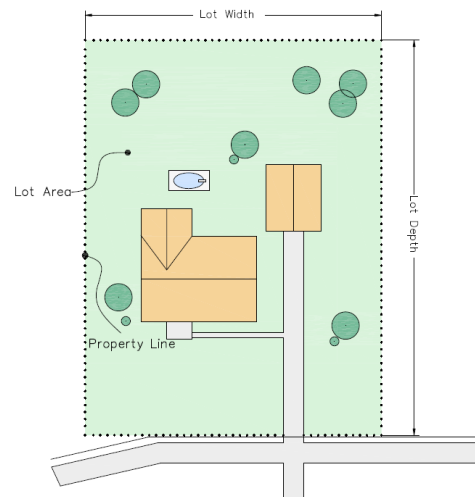
- 60 feet

Maximum Lot Depth:

- NA

Sewer and Water:

- Requires municipal water and sewer hookup



Minimum Front Yard Setback:

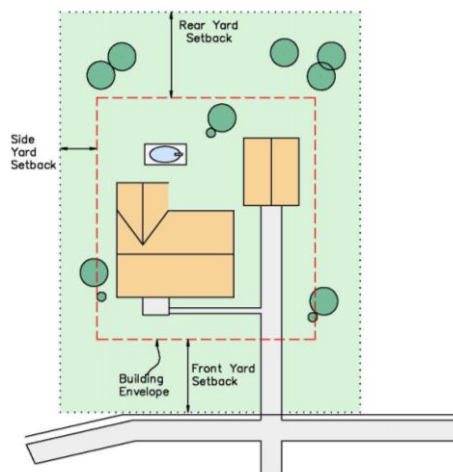
- 30 feet when adjacent to an Arterial Road
- 30 feet when adjacent to a Collector Road
- 25 feet when adjacent to a Local Road

Minimum Side Yard Setback:

- 8 feet for Primary structure
- 6 feet for Accessory structures

Minimum Rear Yard Setback:

- 20 feet for the Primary structure
- 6 feet for Accessory structures

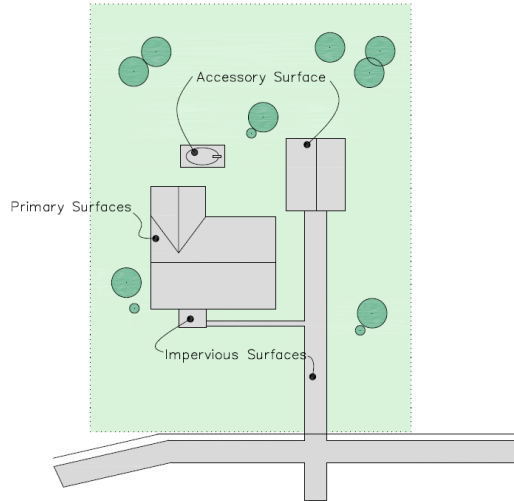


Maximum Lot Coverage:

- Square feet of all Primary and Accessory structures and impervious surface cannot exceed 50% of the Lot Area.

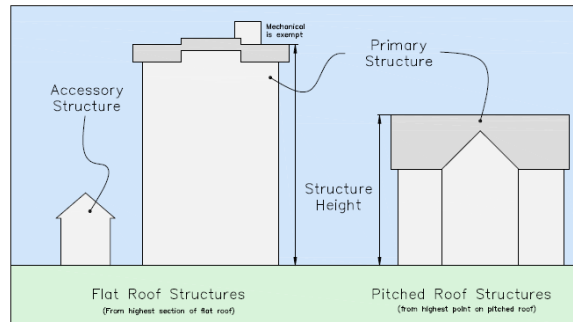
Minimum Main Floor Area:

- 1,000 square feet for one story Primary structures



Maximum Structure Height:

- 35 feet for the Primary structure
- 20 feet for Accessory structures



C. Uses

1. Permitted Uses: See Appendix A, Official Schedule of Uses.
2. Special Exception Uses: See Appendix A, Official Schedule of Uses.
3. Accessory Uses: See Section 6.7
4. Temporary Uses: See Section 6.7
5. Development: See Section 6.8

4.6 R5 - Residential District; Multi-Family, High Density

A. District Intent

The R5 District is established for high density multi-family, boarding or lodging house dwellings or similar structures, nursing homes, other extended care facilities, and hospitals. Connects to public utilities; Accessed with local streets/roads. The Plan Commission and Board of Zoning Appeals should strive to sensitively integrate this district into other residential districts.

B. Development Standards

Minimum Lot Area:

- 1 acre

Minimum Lot Width:

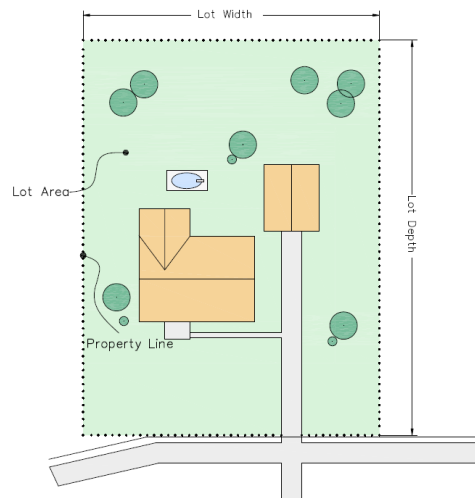
- 100 feet

Maximum Lot Depth:

- NA

Sewer and Water:

- Requires municipal water and sewer hookup



Minimum Front Yard Setback:

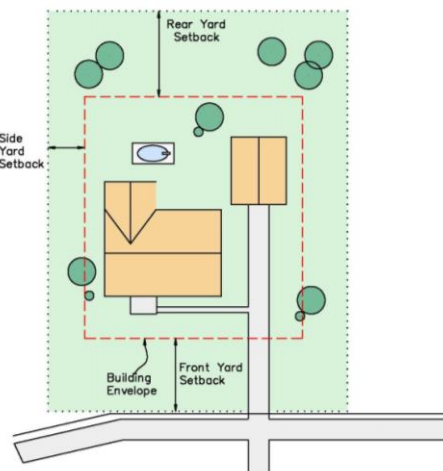
- 40 feet when adjacent to an Arterial Road
- 30 feet when adjacent to a Collector Road
- 25 feet when adjacent to a Local Road

Minimum Side Yard Setback:

- 8 feet for Primary structure
- 6 feet for Accessory structures

Minimum Rear Yard Setback:

- 20 feet for the Primary structure
- 6 feet for Accessory structures

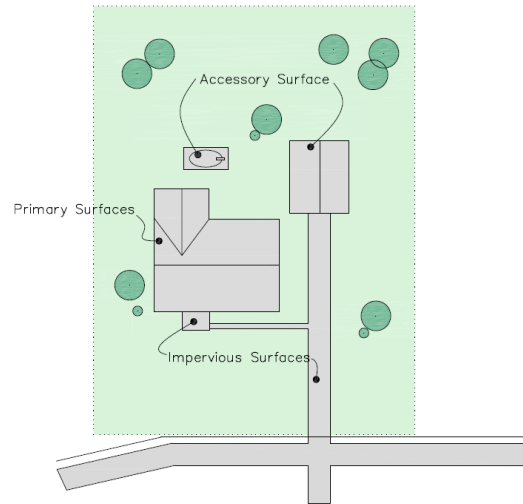


Maximum Lot Coverage:

- Square feet of all Primary and Accessory structures and impervious surface cannot exceed 50% of the Lot Area.

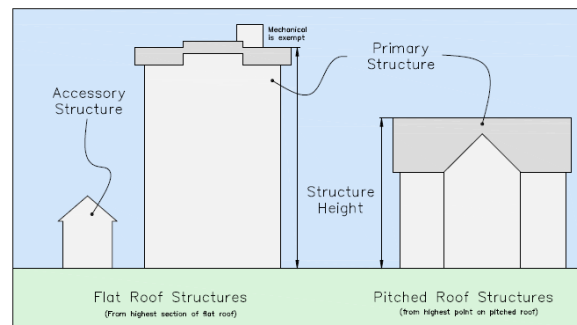
Minimum Main Floor Area:

- 660 square feet for one story Primary structures



Maximum Structure Height:

- 60 feet for the Primary structure
- 20 feet for Accessory structures



C. Uses

1. Permitted Uses: See Appendix A, Official Schedule of Uses.
2. Special Exception Uses: See Appendix A, Official Schedule of Uses.
3. Accessory Uses: See Section 6.7
4. Temporary Uses: See Section 6.7
5. Development: See Section 6.8

4.7 CS - Commercial District; Courthouse Square

A. District Intent

The CS District is intended to provide a land use category for commercial uses in areas of special character. The provisions that regulate this land use district should promote appropriate commercial uses that are clearly non-conflicting with neighborhoods and present a positive image. This district should be used in Courthouse Square Overlay District. The Plan Commission and Board of Zoning appeals should strive to use this district to promote the character and aesthetic goals of the community as determined in the Comprehensive Plan and Historic Preservation Ordinance. This district may also be used sparingly and appropriately as a “spot zone” in the community for areas of special character. The Plan Commission and Board of Zoning Appeals should also strive to exclude businesses from this district that are not family oriented, that have an adverse effect on the existing or future adjacent neighborhoods and do not meet the character and aesthetic goals of the community.

B. Development Standards

Maximum Lot Area:

- 3,000 square feet

Minimum Lot Width:

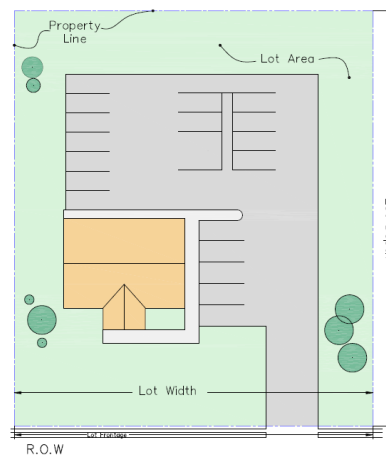
- 25 feet

Maximum Lot Depth:

- 3 times the lot width

Sewer and Water:

- Requires municipal water and sewer hookup



Minimum Front Yard Setback:

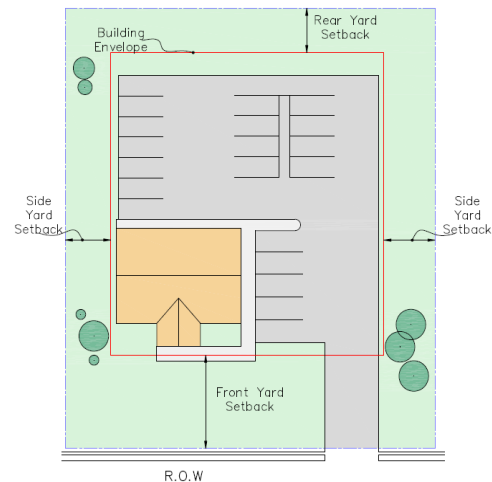
- 0 feet when adjacent to an Arterial Road
- 10 feet when adjacent to a Collector Road
- 10 feet when adjacent to a Local Road

Minimum Side Yard Setback:

- 0 feet for Primary structure, Arterial
- 6 feet for Primary structure, Collector/Local
- 6 feet for Accessory structures

Minimum Rear Yard Setback:

- 0 feet for Primary structure, Arterial
- 6 feet for Primary structure, Collector/Local
- 6 feet for Accessory structures

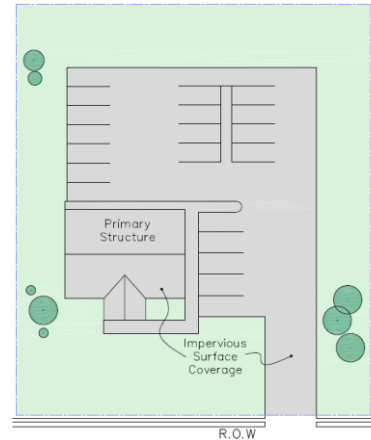


Maximum Lot Coverage:

- Square feet of all Primary and Accessory structures and impervious surface cannot exceed 75% of the Lot Area.

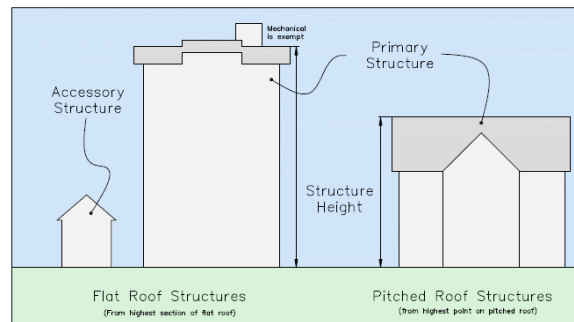
Minimum Main Floor Area:

- 1,000 square feet for one story Primary structures; or
- 850 square feet for multiple story Primary structures, provided that the total Finished Floor Area is 1,000 square feet or more.



Maximum Structure Height:

- 40 feet for the Primary structure, Arterial Road
- 35 feet for the Primary structure, Collector/Local Road
- 20 feet for Accessory structures



C. Uses

1. Permitted Uses: See Appendix A, Official Schedule of Uses.
2. Special Exception Uses: See Appendix A, Official Schedule of Uses.
3. Accessory Uses: See Section 6.4
4. Temporary Uses: See Section 6.5
5. Other Uses: See Section 6

4.8 CG - Commercial District; General

A. District Intent

The CG District is intended to provide a land use category for most general businesses uses. This district can be used adjacent to all other commercial districts and the R4 and R5 residential districts. The Plan Commission and Board of Zoning Appeals should strive to use this district to encourage a strong and stable area for commerce. The Plan Commission and Board of Zoning Appeals should not encourage “strip development”, rather development in clusters which share resources and minimize the cost of public utilities and services. The Plan Commission and Board of Zoning Appeals should also strive to minimize lighting, un-landscaped large parking lots, parking lots fronting the major streets and traffic conflicts in the CG District.

B. Development Standards

Maximum Lot Area:

- 12,000 square feet

Minimum Lot Width:

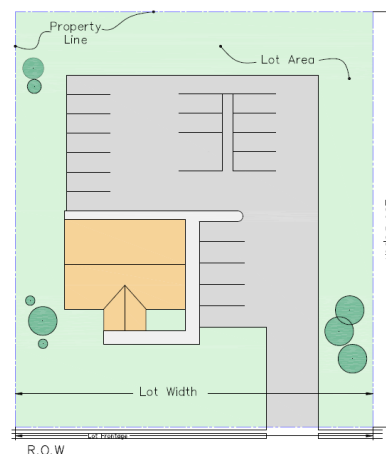
- 70 feet

Maximum Lot Depth:

- 3 times the lot width

Sewer and Water:

- Requires municipal water and sewer hookup



Minimum Front Yard Setback:

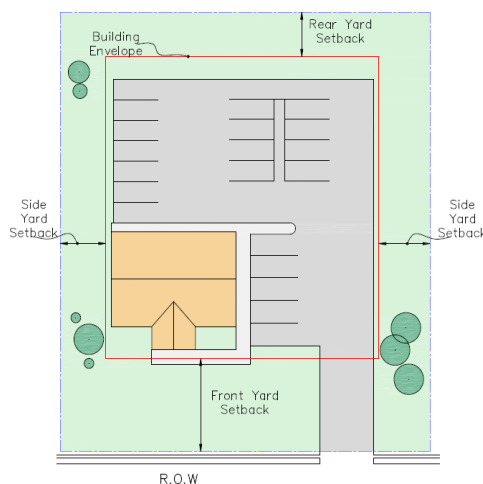
- 35 feet when adjacent to an Arterial Road
- 25 feet when adjacent to a Collector Road
- 25 feet when adjacent to a Local Road

Minimum Side Yard Setback:

- 20 feet for Primary structure
- 20 feet for Accessory structures

Minimum Rear Yard Setback:

- 20 feet for the Primary structure
- 20 feet for Accessory structures



Maximum Lot Coverage:

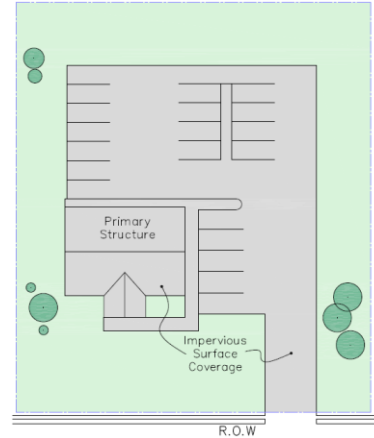
- Square feet of all Primary and Accessory structures and impervious surface cannot exceed 65% of the Lot Area.

Minimum Main Floor Area:

- 3,000 square feet for one story Primary structures.

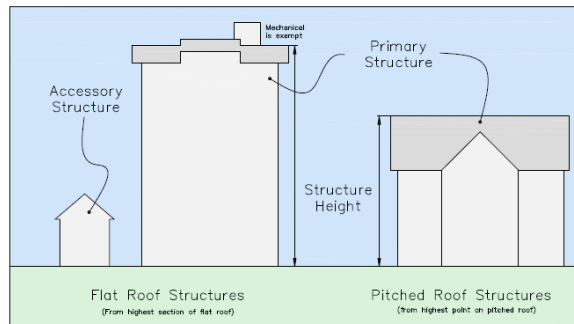
Maximum Main Floor Area:

- 25,000 square feet for one story Primary structures.



Maximum Structure Height:

- 40 feet for the Primary structure
- 20 feet for Accessory structures



C. Uses

1. Permitted Uses: See Appendix A, Official Schedule of Uses.
2. Special Exception Uses: See Appendix A, Official Schedule of Uses.
3. Accessory Uses: See Section 6.4
4. Temporary Uses: See Section 6.5
5. Other Uses: See Section 6

4.9 CO - Commercial District; Office

A. District Intent

The CO District is intended to provide a land use category for low impact office commercial uses. The provisions that regulate this land use district should make the district compatible with all residential uses. This district can be used as a buffer between any residential district and high impact or conflicting land uses. The Plan Commission and Board of Zoning Appeals should strive to use this district sparingly. The Plan Commission and Board of Zoning Appeals should also strive to minimize lighting, large parking lots, traffic generation, traffic conflicts and noise generation in the CO District.

B. Development Standards

Maximum Lot Area:

- 7,000 square feet

Minimum Lot Width:

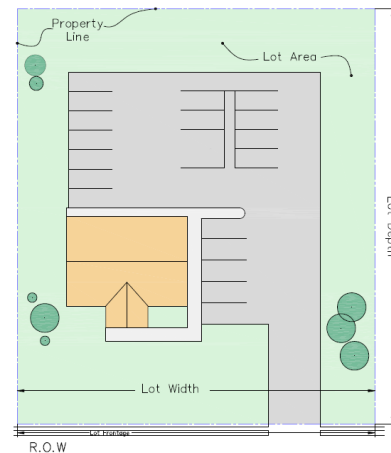
- 70 feet

Maximum Lot Depth:

- 3 times the lot width

Sewer and Water:

- Requires municipal water and sewer hookup



Minimum Front Yard Setback:

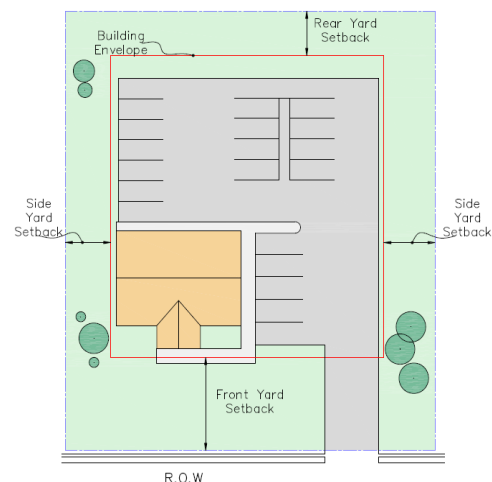
- 25 feet when adjacent to an Arterial Road
- 20 feet when adjacent to a Collector Road
- 20 feet when adjacent to a Local Road

Minimum Side Yard Setback:

- 12 feet for Primary structure
- 12 feet for Accessory structures

Minimum Rear Yard Setback:

- 12 feet for the Primary structure
- 12 feet for Accessory structures

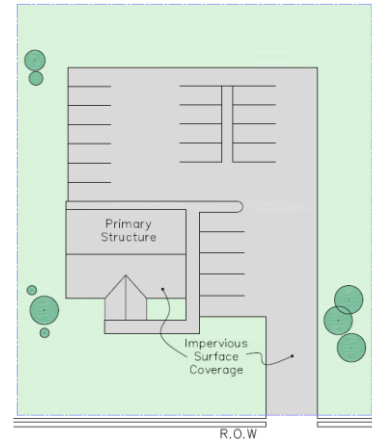


Maximum Lot Coverage:

- Square feet of all Primary and Accessory structures and impervious surface cannot exceed 65% of the Lot Area.

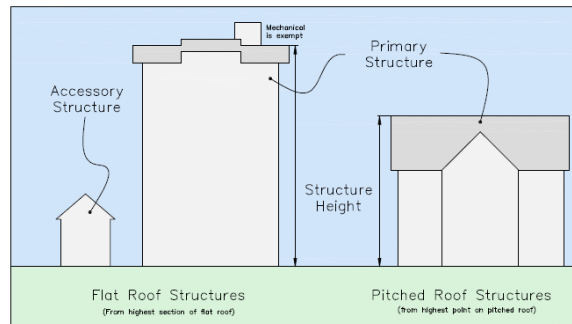
Minimum Main Floor Area:

- 1,000 square feet for one story Primary structures.



Maximum Structure Height:

- 35 feet for the Primary structure
- 20 feet for Accessory structures



C. Uses

1. Permitted Uses: See Appendix A, Official Schedule of Uses.
2. Special Exception Uses: See Appendix A, Official Schedule of Uses.
3. Accessory Uses: See Section 6.4
4. Temporary Uses: See Section 6.5
5. Other Uses: See Section 6

4.10 CH - Commercial District; Highway

A. District Intent

The CH District is intended to provide a land use category for both small and larger scale retail sales and service establishments which are characterized by outdoor display or sales of merchandise (automobile sales or rental), outdoor activities (commercial recreational enterprises), or those uses requiring extensive land areas. This district should be located on a Primary arterial street or similar heavy commercial thoroughfare and should avoid being located adjacent to residential districts. This district can be used adjacent to all other commercial districts and the R4 and R5 residential districts. The Plan Commission and Board of Zoning Appeals should strive to use this district to encourage a strong and stable area for commerce. The Plan Commission and Board of Zoning Appeals should not encourage “strip development”, rather development in clusters which share resources and minimize the cost of public utilities and services. The Plan Commission and Board of Zoning Appeals should also strive to minimize lighting, un-landscaped large parking lots, parking lots fronting the major streets and traffic conflicts in the CH District.

B. Development Standards

Maximum Lot Area:

- 20,000 square feet

Minimum Lot Width:

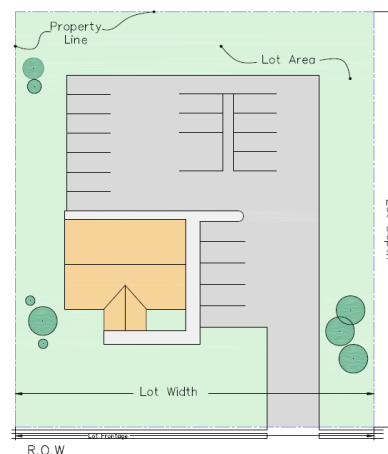
- 100 feet

Maximum Lot Depth:

- 3 times the lot width

Sewer and Water:

- Requires municipal water and sewer hookup



Minimum Front Yard Setback:

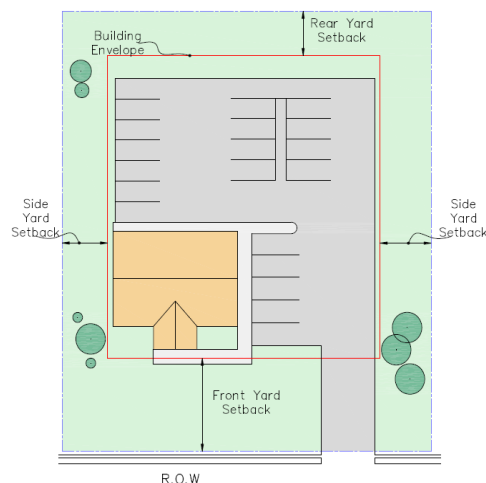
- 35 feet when adjacent to an Arterial Road
- 25 feet when adjacent to a Collector
- 25 feet when adjacent to a Local Road

Minimum Side Yard Setback:

- 20 feet for Primary structure
- 20 feet for Accessory structures

Minimum Rear Yard Setback:

- 20 feet for the Primary structure
- 20 feet for Accessory structures

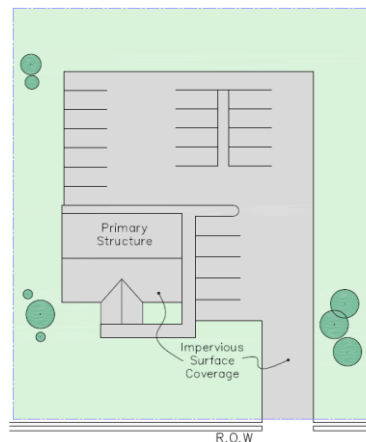


Maximum Lot Coverage:

- Square feet of all Primary and Accessory structures and impervious surface cannot exceed 65% of the Lot Area.

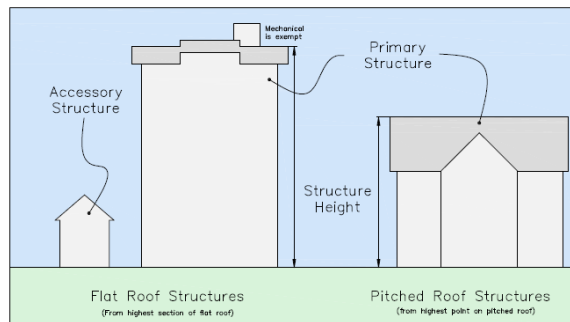
Minimum Main Floor Area:

- 3,000 square feet for one story Primary structures.



Maximum Structure Height:

- 60 feet for the Primary structure
- 35 feet for Accessory structures



C. Uses

1. Permitted Uses: See Appendix A, Official Schedule of Uses.
2. Special Exception Uses: See Appendix A, Official Schedule of Uses.
3. Accessory Uses: See Section 6.4
4. Temporary Uses: See Section 6.5
5. Other Uses: See Section 6

4.11 IL - Industrial District; Light

A. District Intent

The IL District is intended to provide areas for light industrial and heavy commercial uses without creating adverse conditions on surrounding land uses. All activities within this district shall be conducted wholly within a building, including the storage of raw and manufactured goods. Residential uses are not allowed in an IL District. This district does not allow the outside storage, manufacturing, processing, or fabrication of goods. The IL District may serve as a buffer between heavier industrial districts and business or residential districts. Uses must conform with all federal, state and local environmental laws and regulations, including but not limited to air emissions, water discharge, and solid and hazardous waste generation and disposal.

B. Development Standards

Maximum Lot Area:

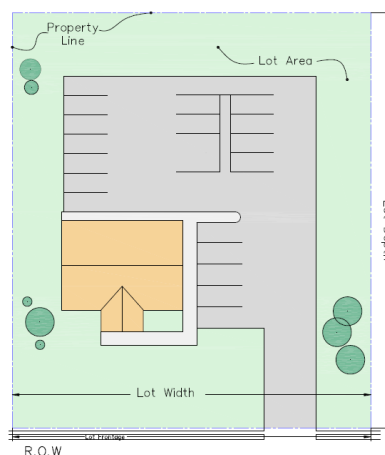
- NA

Minimum Lot Width:

- 100 feet

Sewer and Water:

- Requires municipal water and sewer hookup



Minimum Front Yard Setback:

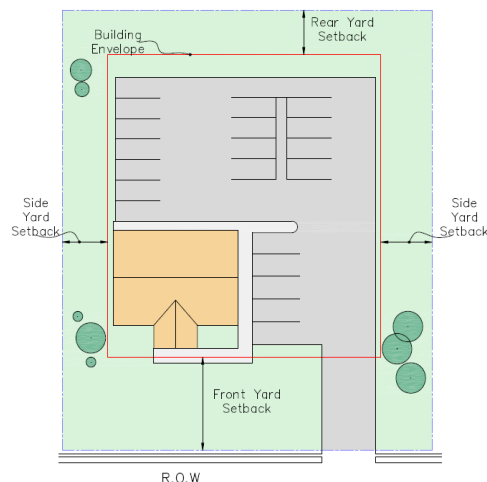
- 50 feet when adjacent to an Arterial Road
- 50 feet when adjacent to a Collector Road
- 50 feet when adjacent to a Local Road

Minimum Side Yard Setback:

- 12 feet for Primary structure; 30 feet if abutting a residential district
- 12 feet for Accessory structures; 30 feet if abutting a residential district

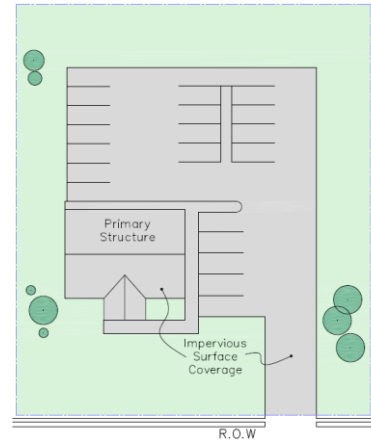
Minimum Rear Yard Setback:

- 12 feet for Primary structure; 30 feet if abutting a residential district
- 12 feet for Accessory structures; 30 feet if abutting a residential district



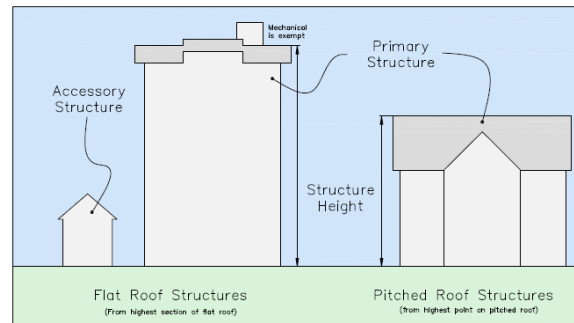
Maximum Lot Coverage:

- Square feet of all Primary and Accessory structures and impervious surface cannot exceed 80% of the Lot Area.



Maximum Structure Height:

- 100 feet for the Primary structure
- 35 feet for Accessory structures



C. Uses

1. Permitted Uses: See Appendix A, Official Schedule of Uses.
2. Special Exception Uses: See Appendix A, Official Schedule of Uses.
3. Accessory Uses: See Section 6.4
4. Temporary Uses: See Section 6.5
5. Industrial Uses: See Section 6.19

4.12 IH - Industrial District; Heavy

A. District Intent

The IH District is intended to establish areas for heavy industrial and related uses. This district shall contain those uses, which are compatible with other land uses in the area. This district shall allow the outside storage, manufacturing, fabrication, and assembly of products and goods and related activities. Residential uses are not allowed in an IH district. Due to the nature of these industries, IH districts are typically located away from residential areas and residential districts. IH districts should be buffered by less intensive industrial or commercial districts to minimize adverse impacts on surrounding land uses. Uses must conform with all federal, state and local environmental laws and regulations including but not limited to air emissions, water discharge, and solid and hazardous waste generation and disposal.

B. Development Standards

Maximum Lot Area:

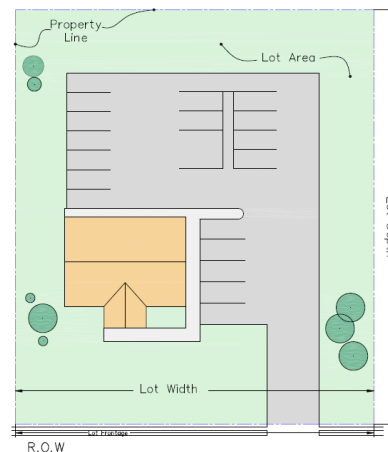
- NA

Minimum Lot Width:

- 100 feet

Sewer and Water:

- Requires municipal water and sewer hookup



Minimum Front Yard Setback:

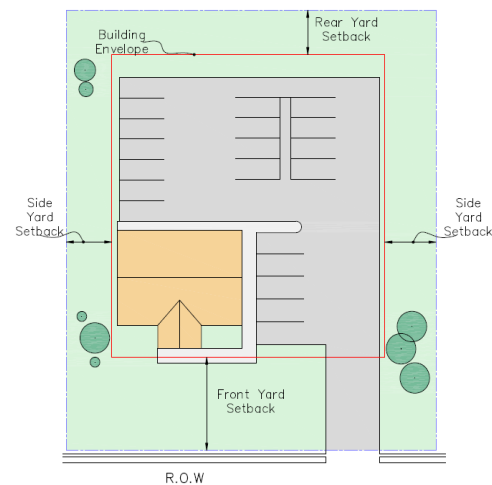
- 100 feet when adjacent to an Arterial Road
- 100 feet when adjacent to a Collector Road
- 100 feet when adjacent to a Local Road

Minimum Side Yard Setback:

- 12 feet for Primary structure; 30 feet if abutting a residential district
- 12 feet for Accessory structures; 30 feet if abutting a residential district

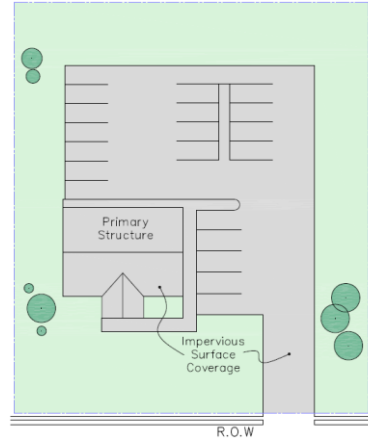
Minimum Rear Yard Setback:

- 20 feet for Primary structure; 30 feet if abutting a residential district
- 20 feet for Accessory structures; 30 feet if abutting a residential district



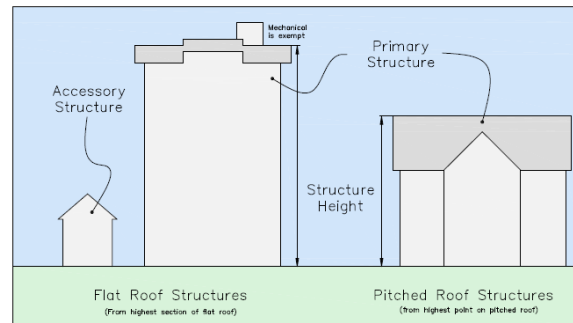
Maximum Lot Coverage:

- Square feet of all Primary and Accessory structures and impervious surface cannot exceed 80% of the Lot Area.



Maximum Structure Height:

- 100 feet for the Primary structure
- 35 feet for Accessory structures



C. Uses

6. Permitted Uses: See Appendix A, Official Schedule of Uses.
7. Special Exception Uses: See Appendix A, Official Schedule of Uses.
8. Accessory Uses: See Section 6.4
9. Temporary Uses: See Section 6.5
10. Industrial Uses: See Section 6.19

4.13 MH – Mobile Home District

A. District Intent

The MH (Mobile Home Residential) District is intended to be used for medium to high intensity lease-lot housing developments, existing and new development and small area zoning. This District shall enact stringent development standards to protect the quality of life for tenants and to ensure quality development that integrates well with surrounding areas. Use this zoning district for existing developments and with sensitivity for new residential development and allow a special exception use only when it is compatible with the surrounding areas. Any development in this district shall have, and must connect to public water and sanitary sewer systems.

B. Development Standards

Maximum Lot Area:

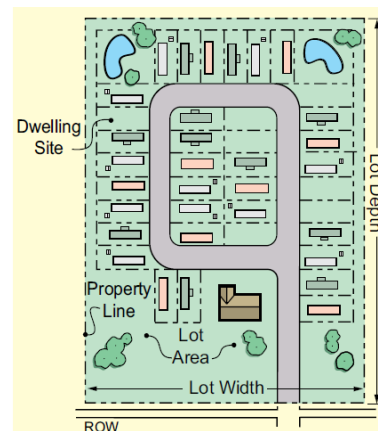
- 4,000 square feet

Minimum Lot Width:

- 60 feet

Sewer and Water:

- Requires municipal water and sewer hookup



Minimum Front Yard Setback:

- 25 feet when adjacent to an Arterial Road
- 25 feet when adjacent to a Collector Road
- 25 feet when adjacent to a Local Road

Minimum Side Yard Setback:

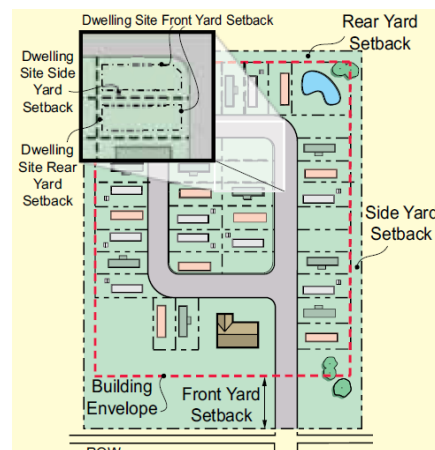
- 6 feet for Primary structure
- 6 feet for Accessory structures

Minimum Rear Yard Setback:

- 15 feet for Primary structure
- 12 feet for Accessory structures

Minimum Main Floor Area:

- 950 square feet for Primary structure





C. Other Regulations

(1) Development Plan

Each Mobile Home Park shall have a development plan which shall include at a minimum the following items:

- a) The general improvements proposed.
- b) The lot improvements applicable to each lot, which are proposed.
- c) The proposed layout, dimensions, and in composition of streets and alleys.
- d) The proposed layout of drainage and storm sewers.
- e) The proposed water facilities.
- f) The proposed sewage facilities.
- g) The proposed sidewalks.
- h) The proposed utilities layout.
- i) Reasonable public uses including common areas.
- j) Any proposal for the preservation of natural features and amenities.

(2) Development Limitations

Mobile Home Parks shall have a minimum of six (6) acres and a maximum of ten (10) acres in size.

(3) General Lot Improvements

a) Skirting

All living units shall be required to have skirting.

b) Tie Downs

Each living unit lot shall be provided with anchors, tie downs or other devices, as per the manufacturer's requirements, Indiana State Board of Health rules and regulations, or any other requirements imposed by law, for insuring the stability of the home.

c) Base Construction

Each lot shall contain an area reserved for the placement of a living unit, the base construction (i.e., foundation, pads, ribbons, etc.) of which shall meet or exceed the manufacturer's standards and recognized construction practices.

d) Natural Features/Amenities

At least five hundred (500) square feet per living unit shall be reserved for open/recreation space areas; this figure is in addition to any private open areas created by yard requirements. Each lot in a Mobile Home District shall have a minimum of one (1) tree per lot of at least one inch diameter.

e) Streets/Parking

Minimum Street/Parking requirements shall be as follows:

- 1. Streets shall be surfaced and improved to the standards and specifications of the Albion Street Department
- 2. A typical cross-section of any and all streets should be submitted, at the time of application, to the Albion Street Department for approval.
- 3. All driveways, access roads, streets and lanes within the MH district shall be identified by some means in order to avoid confusion on the part of police and emergency equipment when called to a particular location.



4. Minimum street or driveway improvements, where off-street parking is provided, shall be twenty-four (24) feet in width.
5. Minimum street or driveway improvements, where no off-street parking is provided, shall be thirty-two (32) feet in width for parking on one side and forty (40) feet for parking on both sides.
6. Parking spaces shall be provided at a rate of two (2) parking spaces per lot.

f) Sidewalks

1. There shall be concrete sidewalks installed of a minimum width of five (5) feet, and depth of four (4) inches on one side of each street, except where they cross a driveway, where they shall be six (6) inches in depth.
2. A hard-surfaced walkway or patio connecting the dwelling with its off-street parking area shall be provided.

g) Sewer and Water

All sewer and water service shall be installed by the developer, and shall conform to the minimum standards of the Town of Albion and the Noble County Health Department. All lots shall have Town water and sewer. Each Mobile Home Park shall have their own main meter as well as submeters for each individual lot.

h) Storage

There shall be a one (1) ten (10) by twelve (12) foot maximum dimension storage shed permitted on each lot within the Mobile Home District.

i) Inspection

Mobile Homes shall be considered a "building or structure" and subject to any unsafe building code, either heretofore adopted by the Town of Albion or henceforth adopted together with any amendments thereto.

The owner or operator of any Mobile Home Park located in a MH Zoning District shall provide to the Plan Administrator at least annually a copy of the Annual State Inspection. Said document shall be provided within ten (10) days of receipt by said owner or operator of the same from the State.

D. Uses

11. Permitted Uses: See Appendix A, Official Schedule of Uses.
12. Special Exception Uses: See Appendix A, Official Schedule of Uses.
13. Accessory Uses: See Section 6.4
14. Temporary Uses: See Section 6.5
15. Residential Uses: See Section 6.7

SECTION 5:
OVERLAY DISTRICT REGULATIONS





SECTION 5: OVERLAY DISTRICT REGULATIONS

- 5.1 Establishment and General Standards
- 5.2 Historic Downtown Overlay

5.1 Establishment and General Standards

The overlay district(s) listed below are hereby established to provide additional development standards that respond to the unique characteristics of the properties to which they apply. Overlay districts applicable to the Town of Albion include the Historic Downtown Overlay District.

A. Applicability

Property located within an overlay district shall be subject to the standards and regulations of its base zoning district, which shall include planned unit development districts, and the provisions prescribed below. In the event that a property is located within one or more overlay districts, said property shall be subject to the requirements of each applicable overlay district.

B. Effect on Land Uses

All permitted, special exception, and prohibited land uses in any underlying zoning district to which an overlay is applied shall remain as they are unless otherwise specified by the applicable overlay district standards.

C. Effect on Bulk Use Standard Requirements

All bulk use standards applicable to an underlying zoning district shall apply unless alternate standards are provided for by the overlay district(s).



5.2 Historic Downtown Overlay

The visibility and accessibility of the land within the courthouse square historic district are unique and therefore command the highest standards of development to stimulate substantial capital investments, encourage efficient land use, promote coordinated development, permit innovative site designs, establish development standards and preserve the integrity of the area within the downtown corridor.

A. Purpose and Intent

The purpose of the Historic District Overlay is to establish an overlay district to address the unique characteristics of the properties adjacent to the courthouse square historic district in the downtown Albion community. This area has unique management needs and aesthetic characteristics that require the establishment of additional development standards and regulations. It is the intent of this district to meet the goals of the Albion Comprehensive Plan and fulfill the purpose of this Ordinance. More specifically, this overlay district is intended to require development within the Town's courthouse square historic district that is aesthetically consistent and responsive to new development issues.

B. Applicability

The Historic District Overlay shall apply to all development sites, buildings, structures, plantings, signs, street hardware, and any other improvements that are visible to the public and which affect the physical development of land.

C. Boundary

The boundary of the Historic District Overlay is as illustrated on the Official Zoning Map.

D. Exemptions

All single and two-family residential uses shall be exempt from the requirements of the Historic District Overlay.

E. Uses

All uses permitted in an underlying base zoning district shall be permitted in the Historic District Overlay. All special exception uses in an underlying base zoning district shall be special exception uses in the Historic District Overlay.

F. Development Standards

Unless specified otherwise, the following development standards shall apply to developments within the courthouse square historic district.

(1) Building Orientation

Buildings shall front on Oak Street, Highland Street, Jefferson Street, Main Street, York Street, Orange Street and Hazel Street and shall be constructed with pedestrian-oriented facades as outlined below.

- a) The primary building entry shall be on these designated streets, with the exception of those buildings that front on more than one street. In this case, a corner entry is preferred.
- b) Blank Wall Limitation, is amended to require the building facade to have at least 75 percent transparent window coverage between the height of two and 10 feet above the sidewalk.
- c) Enclosed commercial space must have a minimum depth of 12 feet measured perpendicular to the front facade.



(2) Maximum Setbacks

No building setback shall be allowed from the property line abutting a street unless that space between the building and the street is an area which promotes visual and pedestrian access to the abutting structures and which provides pedestrian-oriented amenities and landscaping to enhance the public's use of the space for passive activities such as resting, reading, picnicking, etc. To qualify as a pedestrian-oriented space, an area must have the following:

- a) Visual and pedestrian access (including barrier-free access) to the abutting structures from the public right-of-way or a nonvehicular courtyard.
- b) Paved walking surfaces of either concrete or approved unit paving.
- c) Lighting below 15 feet in height and providing at least two foot-candles (average) on the ground.
- d) At least three feet of seating area (bench, ledge, etc.) or one individual seat per 60 square feet of plaza area or open space.
- e) The pedestrian-oriented space is encouraged to have:
 - 1. Landscaping that does not act as a visual barrier.
 - 2. Site furniture, artwork, or amenities such as fountains, kiosks, etc.
- f) A pedestrian-oriented space shall not have:
 - 1. Asphalt or gravel pavement.
 - 2. Adjacent chain-link fences.
 - 3. Adjacent blank walls without blank wall treatment.
 - 4. Adjacent visual barriers which could represent a safety/security hazard.

(3) Building Details

- a) Entrances. The main public entrances of all buildings must provide weather protection at least six feet in depth. Exception: the primary entrance for residential units must provide weather protection at least three feet in depth.
- b) Ground floor facades must include at least three of the elements listed below. Standard corporate logos or architectural elements will not qualify.
 - 1. Unique or handcrafted pedestrian-oriented signage.
 - 2. Artwork incorporated on the facade.
 - 3. Distinctive treatment of windows and/or door(s) (e.g., specially designed doors, multipaned or stained glass windows, etc.).
 - 4. Permanent weather protection element such as a glass and/or steel canopy.
 - 5. Distinctive exterior light fixtures.
 - 6. Unique or handcrafted planter boxes or other architectural features that incorporate landscaping.
 - 7. Distinctive facade kickplate treatment including the use of stone, marble, tile or other material that provides special visual interest.
 - 8. Decorative building material (e.g., tile inlay or band, distinctive masonry pattern, cast stone lintel or pilaster, etc.).



9. Other details as approved by the director that add visual interest to the storefronts.

(4) Hanging Baskets

Flower baskets may be installed and connected to irrigation consistent with similar baskets on street light poles in the CBD Zone.

(5) Wireless Communication Antennas

Any wireless communication antennas shall be integrated into building design such as architectural details, normal appendages (e.g., flagpoles), similar color/materials and not visible from public places.

(6) Parking

Shall be subject to the same standards as the underlying central business district zone.

(7) Prohibited Signs

In addition to those prohibited elsewhere in this title:

- a) Backlit signs with letters or graphics on a plastic sheet (can sign). Individually lit letters are allowed.
- b) Backlit awnings. Backlit awnings are allowed in this district.

SECTION 6:
USE REGULATIONS





SECTION 6: USE REGULATIONS

- 6.1 Official Schedule of Uses**
- 6.2 Permitted Uses**
- 6.3 Special Exception Uses**
- 6.4 Accessory Use and Structure Standards, General**
- 6.5 Temporary Use and Structure Standards, General**
- 6.6 Accessory Dwelling Unit Standards**
- 6.7 Multi-Family Residential Developments**
- 6.8 Multi-Family Dwelling Accessory Uses and Structures**
- 6.9 Park and Recreation Facility Accessory Uses and Structures**
- 6.10 Facilities for Group Homes**
- 6.11 Daycare Home Standards**
- 6.12 Home Occupation Standards**
- 6.13 Bed & Breakfast/Airbnb**
- 6.14 Drive-thru Establishments**
- 6.15 24-hour Business Establishments**
- 6.16 Sexually Oriented Uses**
- 6.17 Amateur Radio and Television/Radio Receiver Antennas**
- 6.18 Telecommunications Facility Standards**
- 6.19 Industrial Operation Standards**
- 6.20 Land Use Requirements**

6.1 Official Schedule of Uses

Primary and accessory uses are permitted or prohibited in the zoning districts established by or under Section 4, Zoning District Regulations, and as shown in Appendix A: Schedule of Uses. Appendix A shall be the determining factor as to whether or not a specific use is permitted, prohibited, or requires a special exception use in each of the zoning districts established by this Ordinance.

6.2 Permitted Uses

Principal Use is defined as the primary use to which a property is devoted and as the main purpose for which the property exists. A permitted use may be authorized as either a permitted use or a special exception. Permitted uses are those uses which are allowed without special permission of the Board of Zoning Appeals, given that they follow the provisions set forth in this Ordinance. Special Exception Uses are only permitted following a public hearing and approval by the Board of Zoning Appeals, as per Section 6.3 of this Ordinance.

In any district, no more than one (1) principal structure and its customary accessory uses shall be located on a single lot; except that primary structures designed and platted as a single unit under single ownership and control, such as a multi-family residential project, business shopping center, or combined industrial operations, may be permissible on a single lot under the terms of this Ordinance.

6.3 Special Exception Uses

Special Exception Uses are those uses that, because of potential incompatibility and negative impact on the immediate neighborhood, require a greater degree of scrutiny and review of site characteristics and impacts to determine their suitability in a given location. Therefore, the determination of Special Exception Uses as appropriate shall be contingent on their meeting the standards inclusive in this Section, the provisions of their respective zoning districts, and the weighing, in each case, of the public benefit and need against the local impact.

Uses which are considered by the Town of Albion to be Special Exception Uses are indicated as such in Appendix A: Schedule of Uses.



6.4 Accessory Use and Structure Standards, General

A. Board of Zoning Appeals Approval

To vary from the following specific use standards shall require review and approval from the Board of Zoning Appeals pursuant to the development standards variance process prescribed by this Ordinance.

B. Purpose and Intent

The intent of these accessory use and structure standards is to address the unique features of these types of structures and uses; allow the reasonable utilization of property; and to ensure the provision of adequate light, air, and circulation on each property.

C. Order of Establishment

No accessory use or structure, or incidental use or structure, shall be permitted to be located, placed, or established on any lot prior to the issuance of an improvement location permit for a primary structure, or an occupancy permit for a primary land use. All accessory uses and structures shall be permitted only in association with, and on the same lot as, the primary use or structure.

D. Incidental Uses and Structures

The following shall be considered incidental uses and structures and shall meet the requirements specified herein.

(1) Satellite Dish

a) Residential Zoning Districts

1. Size

Satellite dishes located in a single-family residential zoning district shall not exceed 650 square inches.

2. Location

No satellite dish, including anchors and supports, shall be permitted in any front yard or within the required side and rear yard setbacks.

3. Height

No satellite dish within a residential zoning district shall be mounted no more than five (5) feet above the highest point of the roof of the primary structure.

b) Non-Residential

All satellite dishes located within a nonresidential zoning district shall comply with the following:

1. Location

No satellite dish, including anchors and supports, shall be permitted in any front yard, or within the required side and rear yard setbacks in any non-residential district.

2. Height

In all non-residential zoning districts, no satellite dish shall exceed 10 feet in height, measured from ground level if mounted on the ground, or five feet in height above the highest point of the roof of the primary structure if mounted on the roof.

3. Screening

All satellite dishes located in a non-residential district shall be screened by the structure of the roof if mounted on the roof, or by landscaping approved by the Plan Administrator if mounted on the ground.



(2) Free-standing Outdoor Kiosks and Vending Machines (CS District only)

The Town of Albion prefers that all kiosks and vending machines be located inside or flush with the exterior of an existing building. All free-standing kiosks and vending machines shall require a kiosk or vending machine permit from the Town of Albion. Free-standing kiosks and vending machines include, but are not necessarily limited to, any free-standing, unmanned automated teller machine (ATM) or vending machine, but excluding newspaper racks. All free-standing kiosks and vending machines shall comply with the following:

a) Visibility

All free-standing kiosks and vending machines shall be located to minimize visibility to the street. If located adjacent to an existing building, the back of the kiosk or vending machine shall be positioned flush with the exterior wall.

b) Interference with Design Elements

The placement of a free-standing kiosk or vending machine shall be coordinated with the architecture of the building with which it is associated so as not to cover up or otherwise detract from window and door openings, landscaping, or decorative elements.

c) Pedestrian Traffic Flow

No free-standing kiosk or vending machine shall be placed in a location so as to impede pedestrian access, block parking areas or create an unsafe condition. A minimum of 36" clearance in front of the kiosk or vending machine is required when placed within a pedestrian way.

d) Public Rights-of-Way

No free-standing kiosk or vending machine may be installed within a public way or immediately adjacent to a public way so as to require customers to stand in the public way to use the kiosk or machine.

e) Accessibility

Public access to free-standing kiosks and vending machines shall meet all applicable State and Federal ADA accessibility requirements.

f) Illumination

All free-standing kiosks and vending machines shall be externally illuminated for security purposes.

g) Entertainment Media

Any free-standing kiosk or vending machine selling or otherwise offering entertainment media of a sexual nature shall also comply with all applicable sexually oriented uses standards and regulations prescribed by this Ordinance.

h) Product Waste

All free-standing kiosks or vending machines shall have a waste receptacle incorporated as part of the facility to provide for proper waste disposal to be emptied on a daily basis by the vending machine operator.

(3) Swimming Pools

Swimming pools are permitted according to the following: Private swimming pools shall be surrounded by a self-latching fence at least five (5) feet in height, located at least three (3) feet from the edge of the water on all sides, and maintained so as to prevent access to children and animals. If any side or sides of said private swimming pool shall lie within twenty-five (25) feet of



abutting residential use, a solid planting screen shall be provided and maintained which shall grow to a height of eight (8) feet and a depth of six (6) feet; or a solid screen of suitable construction material to a height of eight (8) feet and a depth of six (6) feet; or a solid screen of suitable construction material to a height of eight (8) feet, which will act as a sound barrier on said side or sides, shall be provided and maintained.

(4) Other Incidentals

Bird baths and houses, mailboxes, lamp posts (provided they do not exceed eight feet in height), flagpoles (not to exceed 25 feet in height), doghouses, patios, yard ornaments, athletic courts (provided they are not lighted), and similar items, except as otherwise stated in this Ordinance, shall be exempt from the requirements of this Section, provided they remain otherwise lawful.

E. Vehicles Use

In no instance shall a vehicle, including semi-tractor trailers, truck bed whether located on or off a truck chassis, and / or mobile home structure be used as an accessory structure in any district (such as for storage, etc.).

F. Accessory Structure Location

Accessory structures shall comply with the following location requirements:

(1) Septic Fields

No accessory structure shall be placed in any operable septic field.

(2) Landscaping & Buffer Areas

No accessory structure shall encroach into any required landscaped area or buffer yard.

(3) Yard Location

No accessory structure shall be permitted in any front yard, or within the required side and rear yard setbacks.

(4) Easement

No accessory structure shall be permitted in any easement or right-of-way.



6.5 Temporary Use and Structure Standards, General

A. Purpose and Intent

The purpose of these temporary use and structure standards is to establish minimum standards for the temporary use of property and the placement of temporary structures in order to (1) accommodate the temporary needs or properties and land uses, (2) ensure that temporary uses do not become permanent without proper scrutiny, and (3) protect the public welfare from the unique hazards that can be created by temporary uses and structures.

B. General

The following standards shall apply to all properties within the Town of Albion unless otherwise provided herein.

(1) Temporary Structure Standards

All temporary structures shall comply with the following requirements:

a) Applicable Development Standards

Temporary structures must meet all development standards for a permanent accessory structure unless otherwise specified in this Section.

b) Temporary Structure Time Limits

Any temporary structure used for a permitted primary use may be permitted for up to one year, unless otherwise specified by this Ordinance.

(2) Temporary Use and Structure Standards

Temporary uses and structures are permitted in any zoning district provided that the use is a permitted use in that zoning district. All temporary uses and structures shall comply with the following requirements:

a) Permit Requirements

All temporary uses and structures shall require a Temporary Use permit unless otherwise specified in this Ordinance. No temporary use or structure, or the related signs, lighting, parking, etc. shall be constructed or placed upon a site prior to all necessary permits being obtained.

b) Time Limits

Temporary uses and/or structures that seek extensions of the initial time limits established in this Ordinance shall be subject to administrative approval.

1. Extensions may be granted by the Board of Zoning Appeals or the Plan Administrator. The Board or Plan Administrator may impose reasonable conditions as part of its approval.
2. No extensions of the time limits described in this Section shall be granted for any temporary use or structure known to violate any requirements of this Ordinance as it exists at the time the extension is requested. An extension shall be considered invalid if the temporary use or structure was in violation of this Ordinance at the time the extension was sought.

c) Removal

All temporary uses and/or structures shall be removed and the site reverted to its original condition within the duration of the permit or any extension thereof.



(3) Construction Trailers

Construction trailers are permitted as temporary structures only during times of construction activity. Construction trailers shall not be located in any required setback or buffer yard.

(4) Construction Dumpsters

Dumpsters for construction-related debris shall be permitted as temporary structures only during times of construction activity. Dumpsters shall not be located in any required setback or buffer yard except in residential areas.

(5) Temporary Outdoor Uses

Uses such as temporary parking facilities, sidewalk sales, Christmas tree sale lots, festivals, farmer's markets, or similar activities conducted outside of an enclosed building, excluding residential garage/yard sales, may be permitted on a temporary basis in any zoning district in the Town of Albion upon obtaining a temporary outdoor land use permit from the Plan Administrator (excluding events permitted by the Albion Park Board).

The following procedures apply to the issuance of a temporary outdoor land use permit:

a) Purpose and Intent

To establish policies and procedures for the processing of special events permits so that public health and safety are protected without unnecessary delays for the applicant with good communication, and coordination among affected Town Departments, and Agencies.

b) Policy

State Law, and Town Ordinances regulate the use of real property in the Town. Generally, these laws/ordinances establish both the structures that may be constructed on land, and the activities that may be conducted thereon. The Town receives requests to allow activities, and occasionally structures, on a temporary basis. The Town has an interest in allowing certain types of conditionally allowed uses on a temporary basis. Some of these types of uses may allow private individuals, businesses, or not-for-profit organizations to hold special events which may temporarily alter the character of a particular area.

c) Definitions

"Special Events" means the following:

- 1.** Any organized formation, parade, procession, or assemble consisting of persons, animals, vehicles, or any combination thereof, traveling in unison, and with a common purpose upon any public street, highway, alley, sidewalk, or other public way which does not comply with normal, and usual traffic regulations, or controls; or
- 2.** Any other organized activity, or set of activities conducted by an individual, group, or entity for a common, or collective use of public land, or public facilities, and the possible, or necessary provisions of city services ancillary thereto. "Special Events" include any short term event which is to be conducted on public property, or on a public right-of-way, or which would significantly impact public streets, or rights-of-way near the event; or which would significantly impact the need for Town provided emergency services, such as police, fire, or medical aid. Special events might include, but are not limited to, fun-runs, roadway foot races, fund-raising walks, auctions, bike-a-thons, parades, carnivals, shows, or inhabitations, filming/movie events, circuses, block parties, and fairs. "Special Events protected under the First, and



Fourteenth Amendments” include any event involving political, or religious activity intended primarily for the communication, or expression of ideas.

One Day Event: Events on significantly impacting public property, public facilities, or public services, and lasting more than 24 hours.

Multi-Day Event: Events on, or significantly impacting public property, public facilities, or public services, and lasting more than 24 hours.

Public Open Space: Town of Albion streets, alley’s, sidewalks, public squares, and public parking lots.

Representative: The person designated by the event organizers as the prime person responsible for the event.

Community Group: A Community Group shall mean a local non-profit organization that supports a broad range of community service; membership of the group is open, and available to any city, or county resident. The purpose of the group will enrich the livability of the Town of Albion community; the group is not a registered political party.

Non-Profit Organization: Any organization that is a registered not-for-profit society.

Public Agency: Any governmental agency that operates on a not-for-profit basis.

Commercial: Any organization that operates on a for-profit basis

Event Organizer: The organization producing the event.

Charitable Collection: Events held with the intent of collecting funds for a local charitable organization, lasting four hours or less, and involving the use of public streets, or sidewalks, but with no public manpower costs.

d) Permit Requirement

No person, or organization shall conduct a special event on public property unless such person, or organization first obtains, and continues to maintain in full force, and effect, a special event permit for such special event. Events to be held on public property shall be limited in scope to activities which do not detrimentally impact the community. The Town Council will evaluate the potential impacts of a proposed event. Factors shall include, without limitation, the following:

1. Impacts on Noise
2. Impacts on Traffic
3. Impacts on Parking
4. Impacts on General Environment

The Town Council will not consider as a factor the content of any constitutionally protected speech at the event, unless there is a threat of immediate harm to person, or property.

e) Cost

After review of the town manager, town departments, and town council, the Town of Albion will notify the permit applicant of any charges that must be paid by the applicant prior to the event.

These charges will help to defray the cost of town staffing, labor, and services required by the event. The charge for a one-day special event permit is \$100, and the charge for a multiday permit is \$250. Funds must be received by the Town of Albion at least (2) business days in advance of the event.



Typical charges will include, but are not limited to, police, fire, or EMS coverage, street closings, access to town electric system, trash removal, street cleanup, and access to Public Address system.

There will be no charge for charitable collection event permits, and not-for-profits are exempt from the fee. However, the Town requests recognition for an in-kind donation in the amount of the waived permit fee.

f) Events Held in Town Parks

Any events planned to be held in any of the Town Public Parks outside of normal activities shall be required to have prior written approval from the Park Board before making application to the Town. Pavilion rentals, and camping sites are not included in this policy, but are subject to Town Parks and Recreation policy, and fees.

g) Events Held at Fire Station

Any events planned to be held in, or on the property of the Albion Fire Department outside of normal departmental activities shall be required to have prior written approval from the Fire Chief before making application to the Town. Rental of the Fire Station, or any equipment from the Fire Department are not included in this policy, but are subject to Albion Fire Department policy, and fees; and will be reported to the Town Administration upon approval by the Fire Chief.

h) Events Held in/on Private Property not Allowed by Applicant

Any event planned to be held in, or on private property not owned by applicant/organizer shall be required to have prior written approval from the property owner before making application to the Town.

i) Permit Procedure

A person, or persons wishing to hold a special event must file a Special Event Permit application with the Town at least sixty (60) days prior to the date of the proposed event. Notwithstanding the preceding, the Town may accept a special event permit application less than 60 days in advance if the Town determines (in his, or her sole discretion) that there is adequate time for review of the application. Any applicable permit fees will be due at the time of the application, however if the application is denied the Town will refund the application fee in full to the applicant.

A Special Event Permit application shall be on a form provided by the Town (see attachment). At a minimum, the application shall contain the following information:

1. The name of the special event organizer, and the organizer's contact person (if different);
2. A list of the special event permits requested by the organizer in the previous 12 months'
3. A detailed description of the proposed special event (including the hours it is to be conducted);
4. The location of the proposed special event;
5. A precise diagram of the venue area and floor plan (if applicable) for the proposed special event;
6. A description of any special equipment, or temporary buildings and structures, including, but not limited to, tents, stages, "bounce machines," and vendor's booths, and their estimated delivery, and setup times;
7. The anticipated number of workers, participants, and spectators at the proposed special event;



8. A traffic control plan (including any necessary directional devices, and street closures) for the proposed special event.
9. Water facilities, and sanitary measures (including toilets, and trash containers) for the proposed special event;
10. A collection, recycling, and disposal plan for garbage generated by the event;
11. A description of an arrangement to provide adequate parking for the people attending the event;
12. Security measures for the special event.

The Town may waive any of the above items if they find them inapplicable to the proposed event.

j) Insurance Requirements

The requirements of this paragraph shall be a condition of approval for any special event permit for a special event on Town-owned property. As a condition of permit approval, the special event permit holder shall obtain insurance, as required by the Town as set forth in this paragraph. The permit holder shall provide the Town with an endorsement showing that the Town has been added as an additional insured to the required insurance. The permit holder shall also sign an indemnification clause agreeing to defend, and hold the Town of Albion, its officers, agents, employees, and volunteers, harmless from any claims, liabilities, losses, or expenses arising from the special event. The permit holder shall submit the documents required by this paragraph no later than (10) Ten Business Days prior to the special event.

k) Alcoholic Beverages

In the case where an, "alcoholic beverage," as that term is defined by the Indiana Alcoholic Beverage Commission, will be served, and/or sold at the special event, the Town Marshall in conjunction with the Town Council shall be satisfied that appropriate security measures are being taken, and the special event permit holder shall obtain a permit from the State of Indiana Alcohol, and Beverage Commission.

l) Procedure for Review

The Town Manager, upon receiving an application for a special event shall do the following prior to issuance of the permit:

1. Consult with Town Department Heads on the request, and solicit their input;
2. Request any additional information from the applicant, and impose any restrictions that he, or she considers necessary, or appropriate to evaluate the event's potential impacts on the community.
3. Place on the Town Council agenda the permit application for review, and comment at a regularly scheduled Council Meeting on the 2nd, and 4th Tuesdays of the month.

For events with the potential substantial impacts on the community, the Town Council may:

1. Require notification of business owners, and/or residents of properties within the proximity to the proposed venue of the proposed request in order to solicit written, or oral comments on the proposed event; and/or place a public notice in the Town Newspaper.



m) Decisions on Applications and Appeal of Decision

Within (20) Twenty Days of receipt of an application, the Town Council shall advise the applicant in writing of the decision that either approves the request, conditionally approves the request, seeks additional information, or denies the request with the reasons for denial stated.

The Town Council's decision shall be final unless the applicant files a written appeal, with payment of applicable fees, within (10) Ten Days of the decision.

In the case of an appeal, the Town Council shall conduct a duly noticed public hearing within (30) Thirty Days following the receipt of the written appeal. The Town Council shall consider the applications under the standards set forth in this chapter, and sustain, or overrule the decision of the Town Council. The decisions of the Town Council shall be final.

n) Suspension of Permit

The Town Manager, or the Town Marshall shall have the power to suspend, and shall suspend any special event permit if the applicant has done any of the following:

1. Violated any provision, or requirement of approval imposed upon the permit.
2. Violated any provisions of the law.
3. With the actual conduct of the activity, threatened the preservation of the public peace, safety, or general welfare, or unreasonably interfered with the use, and enjoyment of other property in the immediate vicinity of the activity.

o) Delegation

The Town Council shall delegate any, or all of its authority under this policy to the Town Manager, unless otherwise specified.

(6) Fireworks Sales

Strict compliance with the provisions of State fireworks laws is required. Fireworks stands are hereby expressly prohibited from being located within a residential zoning district and the CS Courthouse Square District, unless otherwise approved by the Board of Zoning Appeals. The permit holder shall also provide proof of insurance with financial limits acceptable to the Plan Administrator. In no instance shall the sale of fireworks take place outside of an enclosed building.

C. Residential

The following standards shall apply to properties within a residential zoning district. The following temporary uses and structures are permitted as described below wherein no permit shall be required unless otherwise specified.

(1) Garage/Yard Sales

As used herein "garage or yard sale" is defined as a public or private sale conducted by the owner or occupier of a premise, and conducted within a residence, garage, other accessory buildings or outside thereof, which sale is of six or more items of personal property owned or on the possession of the owner or occupier of the premises, which personal property was not acquired by the owner or occupier for the purpose of resale.

- a) A garage or yard sale may be conducted two times in any one calendar year on any premises located in any residential zone, but no such sale shall be conducted for more than three (3) consecutive days.



b) All items of personal property sold at such garage or yard sale shall be owned by the owner or occupier of the premises, unless permission for sale of items not owned is given at the time of issuance of the permit provided for herein by the person issuing the permit.

c) Such garage or yard sale shall only be conducted during the hours from sunrise to sunset.

d) All personal property exhibited for sale outside any structure during such garage or yard sale shall be removed from the outside and placed within a structure immediately following the last day of such sale. All signs erected for such garage or yard sale shall likewise be removed.

e) No such garage or yard sale shall be held without the owner or occupier of the premises having first obtained a permit therefore. Such permit shall be obtained by applying therefore from the Plan Administrator who shall issue such permit upon payment of a fee of Five Dollars (\$5.00). Such permit shall specify the address and date of such sale.

f) Such Permit shall be posted in plain view on the premises during the date(s) of such sale.

(2) Temporary Home Sales Facilities

a) Temporary Model Homes

Temporary model homes shall be permitted in any residential development provided they comply with the following provisions:

1. Use

The use of the facility shall be limited to open house purposes for prospective buyers. Temporary model homes may not be used for the purpose of selling homes in other developments or in other communities.

2. Signs

Signs shall be placed in a manner consistent with the intersection Sight/Visibility Standards of this Ordinance and in compliance with Section 7, Sign Standards, of this Ordinance.

3. Exterior Lighting

All exterior lighting for model homes shall be limited to typical household exterior lighting. The use of all other types of lighting, including floodlighting and search lights shall be prohibited.

4. Parking

Off-street parking spaces for model homes installed for the use of salespersons and potential buyers shall comply to the size requirements of this Ordinance. Off-street parking for the facility shall be located in, and not extend beyond, the driveway. Any driveway area shall be consistent in size and paving with those of the homes to be constructed in the development.

5. Landscaping

Model homes shall provide landscaping consistent with that which will be provided for homes to be constructed in the development.

6. Model Home Conversion

Prior to the sale of a model home for use as a residence, all signage shall be removed and the garage area and driveway finished or fully installed. All necessary permits shall be obtained prior to occupancy as a residence.



b) Temporary Sales Trailers

No more than one temporary sales trailer shall be permitted in any development until either (a) 90% of the lots included in the preliminary plat for the development have been sold or (b) one year from the date of approval of the secondary plat or final detailed plan for the most recent section of the development, whichever is less. An Improvement Location Permit shall be required for all temporary sales trailers.

All temporary sales trailers shall comply with the following requirements:

1. Location

Temporary home sales trailers shall be located on a lot in the development in which the homes are for sale. No other structures shall be permitted on any lot occupied by a temporary sales trailer.

2. Use

The use of the facility shall be limited to open house purposes for prospective buyers. Temporary sales trailers may not be directly used for the purpose of selling homes in developments in other communities.

3. Signs

Signs shall be placed in a manner consistent with the intersection Sight Visibility Standards of this Ordinance and in compliance with Section 7, Sign Standards, of this Ordinance.

4. Exterior Lighting

All exterior lighting for temporary sales trailers shall be limited to typical household exterior lighting. The use of all other types of lighting, including floodlighting and search lights shall be prohibited.

5. Parking

Temporary sales trailers shall provide two off-street parking spaces. The spaces shall be surfaced with stone meeting the requirements of the Plan Administrator .

6. Landscaping

Temporary sales trailers shall provide a landscaped area extending from the trailer for five feet in each direction. The landscaping shall include a variety of shrubs and other materials consistent with the landscaping design of the development. The trailer site shall be graded to ensure proper drainage and treated with a combination of grass seed and sod appropriate to prevent erosion and provide a lawn consistent with that of the homes to be built in the development.

7. Sales Trailer Conversion

Any builder with a temporary home sales trailer and either constructing an approved model home, or removing the trailer, shall restore the trailer site to pre-installation conditions, removing the trailer and any associated signage and lighting. If the trailer is to be replaced by a model home, the trailer and all associated site features shall be removed prior to the issuance of a permanent Certificate of Occupancy for the model home.

8. Infrastructure

Temporary sales trailers shall provide adequate sewer, water and electrical for the duration of time in use.

D. Temporary Signage

See Section 8, Sign Standards



6.6 Accessory Dwelling Unit Standards

Single-family dwellings constructed and used as accessories to the primary dwelling on the property otherwise commonly known as "mother-in-laws quarters" and "granny flats" shall be either (a) attached to, and designed and constructed as part of the primary structure or attached to a detached building. The following will apply:

- A.** In any residential district, a special exception may be granted for an accessory apartment to be constructed within a single-family detached residence or within the existing accessory structure of such residence, provided such a lot has a minimum area of 10,000 square feet.
- B.** Accessory apartments shall be limited to occupation by family members or domestic employees only.
- C.** The owner(s) of the single family lot upon which the accessory apartment is located shall occupy at least one (1) of the dwelling units on the premises.
- D.** The minimum floor area for an accessory apartment within a primary dwelling shall be 300 square feet, but in no case shall it exceed 25% of the area of the primary residence in which it is located.
- E.** The minimum floor area for an accessory apartment located in an existing accessory building shall be 300 square feet, and shall not exceed the area of the existing accessory structure at the time the conditional use was approved.
- F.** No more than one accessory apartment shall be permitted per lot.
- G.** If an accessory apartment is located within the principal building, the only entry to such unit and its design shall be such that, the appearance of the buildings will remain as a single family residence.
 - (1)** Only one entrance to the principal building shall be visible from the front yard.
 - (2)** No exterior stairway to the second floor shall be permitted at the front or side of the building.
- H.** Accessory apartments located in existing accessory structures shall be located, designed, constructed, and landscaped in such a manner that, to the maximum extent feasible, the appearance of the property remains as a single family lot.



6.7 Multi-Family Residential Developments

All multi-family developments (excluding Mobile Home Parks) of more than four (4) units shall require development plan review. In addition to the standard requirements for a site development plan (*Section 11*), the following provisions shall apply to all multi-family developments with more than four dwelling units, except where the use is a residential conversion from a single or two family use to a multi-family use.

A. Location of Buildings

- (1) No separate free-standing building shall be closer than twenty (20) feet to any other building on or off of the site or lot.
- (2) The building or buildings shall be so designed or located so that the distance from any window of any room proposed to be used for human habitation shall be not less than forty (40) feet from the wall of any structure on the property, such distance to be measured by a line perpendicular to the plane of the surface of said window, except that this distance may be reduced to not less than thirty (30) feet for an exposure where a room is a bathroom or laundry utility room or is used as a community or group meeting room or for a similar purpose.
- (3) In the event that more than one (1) building is proposed, they shall be designed to be located so that not more than two (2) buildings are in a straight, unbroken line.
- (4) Each apartment building shall be designed with set-backs or breaks of not less than six (6) feet in all exterior walls for every two (2) building units.

B. Transportation Accessibility

- (1) Traffic facilities affording general access to and circulation within the development shall be developed as public streets or private roads; however, access must be perpetually available to residents and emergency vehicles.
- (2) Streets within the development shall align and connect with existing streets outside the development and provide for the connection of future developments.
- (3) To ensure adequate accessibility for emergency vehicles and school buses, there shall be more than one road access to enter and exit the development.
- (4) Developments shall have primary access off a primary or secondary arterial.
- (5) The proposed development shall be required to build turning lanes or acceleration lanes into adjacent streets as needed to minimize any traffic impacts from the development.
- (6) If a shared access street or road is constructed to serve two or more developments, or a single development with two or more owners, appropriate dedication or easement documents must be submitted to ensure perpetual access to each development.
- (7) Off-street parking space and adequate space for service facilities may be provided in the side yard(s) or rear yard and shall in no event be located in the required front yard, provided that no driveway, off-street parking area or service facility area shall be located closer than ten (10) feet to any side lot line. The off-street parking areas and service facility areas shall have sufficient lighting facilities, which shall be located and adjusted so that the glare or beam is directed away from any adjoining property, public street or dwelling unit windows.



- (8) Any open-air-street parking area and service facility area shall be screened according to the provisions of *Section 7.8*, and buffer areas required by the same Section shall be provided.
- (9) Multi-family residential developments shall include public sidewalks, constructed by the builder/lot owner at the time of construction of the residences. All sidewalk design and construction shall comply with the Americans with Disabilities Act (ADA), as amended. The restrictive covenants of the development shall include the following maintenance covenant text and be recorded with the plat of the development: *"The developer or property owner (lot owner) shall be responsible for constructing a five-foot wide concrete sidewalk of 4,000 PSI strength plain cement four inches thick, sloped 1/4 inch per foot toward the street with expansion joints each 48 inches along the entire street frontage of their respective lot. The sidewalk shall be constructed prior to completing finish lot grading. The sidewalk shall be located one foot inside the planned public right-of-way line, (not on the lot) and parallel to the street right-of-way line. The lot owner is responsible for the repair and maintenance of the sidewalk for the initial one year from completion of residence. Thereafter, the homeowners association shall be responsible for maintenance and upkeep of the sidewalk except for any damage done by the adjoining lot owner. All public sidewalks shall comply with all Americans with Disabilities Act (ADA), as amended, requirements and in the situation of a conflict between ADA rules, covenants or other regulations, the ADA shall govern."*

C. Development Amenities

In accordance with the development scale below, each multi-family development shall provide the following number of amenities to provide comfort, convenience, or pleasure within the development that will add to the quality of life of the people living there. The number of amenities required is proportional to the size of the development and may include, but are not limited to a clubhouse, gym, swimming pool, tennis court, basketball court, ball-field (soccer, baseball, etc.) walking/jogging/biking trail, volleyball court, racquetball court, etc. Picnic/barbecue areas and playgrounds are permitted as amenities in *Section 6, Use Regulations* in accordance with the following standards. Playground equipment is subjected to approval by the Administrator.

- (1) One large playground at least 5,000 square feet in area per 150 units. Such equipment should include a designated area mulched with sand, wood chips or grass, swings, slide, merry-go-round, play structure, etc.
- (2) One small playground at least 2,000 square feet in area per 50 dwelling units. Such equipment should include a slide, swings, teeter-totter, etc.

It should be noted that each type of amenity counts as one amenity, regardless of the quantity of the amenity that is provided. For example, if two basketball courts are provided, they count as only one amenity.

Number of Units in Development	Minimum Number of Amenities Provided
0-20	NA
21-40	1
41-60	2
61-90	3
91-120	4
121-150	5



- (3) In all developments of 150 dwellings units or more, one of the amenities shall include provisions for a civic or semi-public use, such as a clubhouse or swimming pool, which shall be made available to all property owners within the development. Any civic or semi-public building shall have a ground floor area of no less than 2,000 square feet and comply with the same architectural guidelines and covenants which are applicable to the residences proposed for the development.

D. Public Safety

In multi-family developments the petitioner/developer shall submit the development plan to the governing fire agency for review to determine if the plan shall include provisions to preserve land for future fire structures. If the fire agency so determines that a need exists for land, the Plan Commission may require, the petitioner to include in the plans of the development, such reserved land areas up to two acres. At such time as that land is platted, the developer shall include the land in the plat and deed the land to the governing fire agency within 60 days thereafter, or upon taking title of the land.

E. Block Length

The maximum length of a block of residences along a perimeter of the development, excluding frontage along a public road, shall not exceed 500 feet. Acceptable block breaks include a future street stub; neighborhood park a minimum of 100 feet in width; lot configuration which causes the residence orientation to be altered a minimum of 60 degrees; change in building minimum standards which alter the rear elevations of the residences to give the appearance of a block change (roof line changes, rear wall alignment).

F. Mailboxes

The subdivision covenants of a multi-family residential development shall establish uniform design and specification for all mailboxes. The design and specifications shall be done in accordance with the U.S. Postal Service regulations. Further, all municipal regulations for the placement of mailboxes shall be adhered to.

G. Landscaping

Refer to *Section 7.7, Landscaping Standards*, of this Ordinance.



6.8 Multi-Family Dwelling Accessory Uses and Structures

Where multi-family dwellings or manufactured home parks are permitted, customary incidental uses and accessory structures including but not limited to management offices, sales offices, storage facilities, day-care centers, self-service laundries, fitness centers, community centers, and recreation centers, may also be permitted, provided they comply with the following standards:

A. Area

The maximum cumulative area occupied by accessory uses and structures, including any associated parking shall not exceed 10 percent of the development site.

B. Subordinate Role

The accessory uses and structures shall be subordinate to the multi-family character of the development.

C. Design Focus

The accessory uses and structures shall be located, designed and intended to serve only the needs of the development.

D. Visibility

The accessory uses and structures shall present no visible evidence of their business nature to areas outside the multi-family community.

E. Parking

Parking for accessory uses and structures shall be consistent with the Parking Standards of this Ordinance.

F. Waste Containers

All dumpsters and other waste containers shall be screened from view consistent with Section 7.8, Buffering and Screening Standards, of this Ordinance.



6.9 Park and Recreation Facility Accessory Uses and Structures

Where park and recreation facilities are permitted, customary accessory uses & structures including but not limited to restrooms, groceries, refreshment stands, restaurants, laundries, and sporting goods sales are also permitted, subject to the following standards:

A. Area

The maximum cumulative area occupied by accessory uses and structures, including any parking intended for accessory structure use that is separate from park and recreation area primary parking, shall not exceed 10 percent of the park and recreation site.

B. Subordinate Role

The accessory uses and structures shall be subordinate to the recreational character of the development.

C. Design Focus

The accessory uses and structures shall be located, designed and intended to serve only the needs of the park and recreation facility.

D. Visibility

The accessory uses and structures shall present no visible evidence of their business nature to areas outside the park or recreation park facility.

E. Parking

Parking for accessory uses and structures shall be consistent with the Parking Standards of this Ordinance.

F. Waste Containers

All dumpsters and other waste containers shall be screened from view consistent with *Section 7.8, Buffering and Screening Standards*, of this Ordinance.



6.10 Facilities for Group Homes

A. Purpose and Intent

The purpose of these residential standards is to (1) provide minimum requirements for residential facilities and (2) establish the unique standards for new residential developments. This Section also establishes requirements for residential facilities for the developmentally disabled and mentally ill that minimizes conflicts with other uses and permits the establishment of such facilities consistent with IC 12-28-4-7.

For the purpose of this Ordinance, group homes shall be divided into the following three (3) classifications:

- (1) Class A; Homes for the Developmentally Disabled.
- (2) Class B; Homes for the Mentally Disabled.
- (3) All other types of Group Homes.

B. Residential Facilities for the Developmentally Disabled

Residential facilities for the developmentally disabled Type I shall be a permitted as prescribed by the Official Schedule of Uses. Residential facilities for the developmentally disabled Type I are defined as those that are not designed for, nor accommodate more than eight developmentally disabled individuals. Type I facilities accommodate more than eight developmentally disabled individuals (consistent with IC 12-28-4-7).

C. Residential Facility Standards for the Mentally Ill

Residential facilities for the mentally ill shall be permitted as prescribed by *Appendix A, Official Schedule of Uses*. All such facilities shall be required to comply with all licensing and operational standards of the State of Indiana.

(1) Location/Separation

A Class A or Class B group home shall not be located within three thousand (3,000) feet of another Class A or Class B group home as measured between lot lines.

(2) Permit Application/License Verification

Any person filing an application for an Improvement Location Permit shall file at the time of application a copy of the approved state license for a Class A or B group home. A valid state license must be obtained prior to Improvement Location Permit approval. An applicant shall disclose whether or not license revocation proceedings are pending.

(3) Neighborhood Compatibility

A new structure to be constructed and used as a group home facility shall be compatible with the existing neighborhood with regard to architectural style, exterior building materials, and landscaping.

(4) Change of Use of Existing Structure

An Improvement Location Permit shall be obtained prior to occupancy of an existing dwelling for use as a group home. An existing dwelling shall not be modified, remodeled, enlarged or altered so as to be incompatible with the existing neighborhood with regard to architectural style, exterior building materials, and landscaping. All other requirements are the same as those established in this Section 6.7 for constructing a new group home facility.

D. Senior/Special Needs Housing

- (1) All elderly housing must meet national Americans with Disabilities Act (ADA) requirements.



(2) All senior housing developments, whether independent, semi-independent, or dependent living facilities must meet all ADA requirements. In addition, elderly housing developments shall include the following ten (10) components:

- a) Ramps or elevators in place of steps.
- b) Non-skid floors.
- c) Doors of sufficient width to accommodate wheel chairs to all rooms.
- d) Electric cooking ranges.
- e) Showers in place of tubs for more than 50% of the units.
- f) Electric outlets at levels at least 24 inches above the floor.
- g) Grab bars around tubs and toilets.
- h) Central heating.
- i) Handle-type spigots and door knobs.
- j) Emergency signals which ring in adjoining apartments or at a central location.

(3) Independent and semi independent living facilities shall meet the provisions required for single/two family or multi-family uses, whichever is applicable, in the district in which they are located.

(4) Nursing homes (dependent living facilities) must meet the following requirements:

a) Minimum Lot area

Forty thousand (40,000) square feet, but not less than one thousand (1,000) square feet per person cared for at maximum occupancy.

b) Minimum Yard Requirements

Front Yard	See district requirements
Side Yard	Thirty (30) feet minimum
Rear Yard	Forty (40) feet minimum

c) Maximum Building Height

Thirty-five (35) feet.

d) All nursing homes in the Town of Albion shall be licensed by the State Board of Health and shall meet all the requirements of such agency.

6.11 Daycare Home Standards

Child day-care homes shall meet the definition established by IC 12-7-2-28.6 and shall be consistent with all applicable regulations of the State of Indiana.



6.12 Home Occupation Standards

A. Purpose and Intent

The purpose of these home occupation standards is to establish minimum requirements for home-based businesses in order to protect the residential character of the community, preserve property values, and prevent the hazards to persons and property that can result from residential-commercial land use conflicts.

B. Applicability

When a use is a home occupation, it means that the owner, lessee, or other persons who have a legal right to the use of the premises as a residential dwelling also have the vested right to conduct the home occupation without securing special permission to do so. However, such person shall be subject to all conditions which are applied in this Section.

C. Activities

The face-to-face wholesale/retail sale of stocked inventories is not permitted, except for incidental sales that do not exceed 25 percent of total home occupation sales. Mail order/telephone/internet sales, as well as distribution of sold merchandise, is hereby permitted. Manufacturing activities are hereby expressly prohibited.

D. Effects of Operation

There shall be no equipment or process used in the home occupation that creates noise, vibration, glare, smoke, fumes, odors, or electrical interference that is detectable, without the aid of instruments, off the premises (as determined by the Plan Administrator, or his or her designee). There shall be no electrical or mechanical equipment utilized in the home occupation that will create any visual or audible interference with radio or television reception.

E. Owner/Operator

At least one person residing within the dwelling must be the primary operator of the home occupation.

F. Employees

The home occupation may not involve the on-site employment or regular on-site gathering of any more than one person, other than those residing at the location of the home occupation.

G. Outdoor Storage/Display

There shall be no exterior storage of products, equipment or materials that are related to the home occupation.

H. Business Area

The home occupation may be located within the dwelling and/or an accessory structure, but shall not exceed a total area of 500 square feet. The home occupation must utilize no more than 25 percent of the total floor area of the dwelling.

I. Structural Alterations

The home occupation must not require any structural or aesthetic alterations to the dwelling and/or accessory structure that changes its residential character as described below:

(1) Dwelling Appearance

The dwelling and/or accessory structure shall not be altered in its appearance and the home occupation shall not be conducted in such a manner as to differentiate the dwelling from the residential character of the area by the use of colors, materials, construction, or lighting.



(2) Entrances

The home occupation shall not require any additional entrances to the dwelling and/or accessory structure.

(3) Utility Service

The home occupation shall not require increasing or enhancing the size, capacity, or flow of the water, gas, waste treatment, or electrical systems beyond what is standard for a residence. Illegal discharge to the Town's sanitary or stormwater sewers is expressly prohibited.

(4) Interior Alterations

There shall be no alterations to the interior of the dwelling to accommodate the home occupation that would render the structure undesirable for residential use, as determined by the Plan Administrator, or his or her designee.

J. Parking & Business Vehicles

The home occupation shall not involve on-site customers, employees, meetings, or other events that necessitate the installation of any off-street parking spaces in addition to those required of the dwelling unit by this Ordinance. In addition, the on-site storage of business vehicles shall meet the requirements of this Ordinance.

K. Deliveries

The home occupation must not require the regular use of commercial vehicles for pickup and deliveries, other than those from the U.S. Postal Service or other small package carriers. For the purposes of this ordinance a commercial vehicle is any vehicle in excess of 16,000 pounds.

L. Signs

Only one nameplate shall be allowed. It may display the name of the occupant and/or the name of the home occupation. It shall not exceed two (2) square feet in area, shall be non-illuminated, and attached flat to the main structure or visible through a window. The limitation to one nameplate is extended to apply to all lots, including corner lots.



6.13 Bed & Breakfast/Airbnb

Bed and breakfast establishments, where allowed, shall adhere to the following requirements:

- A. Bed and breakfast establishments shall only be located within and accessory to an owner-occupied single-family detached home.
- B. Bed and breakfast establishments shall comply with all local, county and state regulations.
- C. No ancillary commercial use shall be operated in connection with an approved bed and breakfast establishment.
- D. The operation of a bed and breakfast establishment shall not be considered or classified as a Home Occupation.
- E. A bed and breakfast establishment shall include no more than five (5) guestrooms for rent.

6.14 Drive-thru Establishments

Any structure wanting to add a drive-thru shall be required to obtain a special exception use permit granted by the Board of Zoning Appeals.

6.15 24-hour Business Establishments

Any 24-hour business must obtain a special exception use permit from the Board of Zoning Appeals. For the purposes of administering and enforcing this Ordinance, a 24-hour business shall be defined as a commercial establishment, other than a hospital, that operates anytime between the hours of 11:00 PM and 6:00 AM.



6.16 Sexually Oriented Uses

A. Definitions

(1) Adult Arcade

"Adult Arcade" shall mean any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer person per machine at any one time, and where the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing "specified sexual activities" or "specified anatomical areas."

(2) Adult Bookstore, Adult Novelty Store, Adult Video Store

"Adult Bookstore, Adult Novelty Store, or Adult Video Store" means a commercial establishment, which has significant or substantial portion of its stock in trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space to the sale or rental, for any form of consideration, of any one or more of the following:

- a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas";
- b) Instruments, devices, or paraphernalia, which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use (interaction, especially sexual activity, in which a person inflicts physical or mental suffering on another person) or abuse of oneself or others.

(3) Adult Cabaret

"Adult Cabaret" means a nightclub, bar, juice bar, restaurant bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features:

- a) Persons who appear semi-nude,
- b) Live performances which are characterized by the exposure of "specified anatomical areas" or "specified sexual activities," or
- c) Films, motion pictures, videocassettes, slides, or other photographic reproductions, which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas."

(4) Adult Motel

"Adult Motel" means a motel, hotel, or similar commercial establishment which:

- a) Offers public accommodations, for any form of consideration, and which regularly provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas" and which regularly advertises the availability of such material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising, including but not limited to newspapers, magazines, pamphlets or leaflets, radio or television, and



- b) Offers a sleeping room for rent for a period of time less than ten (10) hours.

(5) Adult Motion Picture Theater

"Adult Motion Picture Theater" means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any consideration.

(6) Adult Theater

"Adult Theater" means a theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features person who appear in state of semi-nudity or live performances which are characterized by their emphasis upon the exposure of "specified anatomical areas" or specified sexual activities."

(7) Distinguished or Characterized by an Emphasis Upon

"Distinguished or Characterized by an Emphasis Upon," means the dominant or principal theme of the object described by such phrase. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon the exhibition or description of Specified Sexual Activities or Specified Anatomical areas," the films so described are those whose dominant or principal character and theme are the exhibition or description "specified anatomical areas" or "specified sexual activities."

(8) Establish or Establishment

"Establish or Establishment" shall mean and include any of the following:

- a) The opening of commencement of any sexually oriented business as a new business;
- b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- c) The addition of any sexually oriented business to any other existing sexually oriented business; or
- d) The relocation of any sexually oriented business.

(9) Nudity or a State of Nudity

"Nudity" or "State of Nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple.

(10) Person

"Person" shall mean individual, proprietorship, partnership, corporation, association, or other legal entity.

(11) Public Park or Recreational Areas

"Public Park or Recreational Areas" means a park or recreational area operated by a governmental unit, state, county, township or local.

(12) Private Park or Recreational Areas

"Private Park or Recreational Areas" means a park or recreational area operated by an individual or entity, not a governmental unit, which provides recreational facilities to the general public. This shall include but not limited to a saddle club or horse stable, bowling alley, roller skating rink, or other like or similar structures.



(13) Regularly Features or Regularly Shown

"Regularly Features or Regularly Shown" means a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the sexually oriented business.

(14) Semi-Nude or State of Semi-Nudity

"Semi-Nude or State of Semi-Nudity" shall mean a state of dress in which opaque clothing covers no more than the genitals, anus, anal cleft or cleavage, pubic area, vulva, and nipple of the female breast, as well as portions of the body covered by supporting straps or devices.

(15) Semi-Nude Model Studio

"Semi-Nude Model Studio" means any place where a person or persons who regularly appear in a state of semi-nudity, or in modeling sessions characterized by the exposure of "specified anatomical areas," are provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. It is a defense to prosecution for any violation of this ordinance that a person appearing in a state of nudity or semi-nudity did so in a modeling class operated:

- a) By a college, junior college, or university supported entirely or partly by taxation;
- b) By a private college or university which maintains and operates educational programs in which credits are transferable to college, junior college, or university supported entirely or partly by taxation; or
- c) In a structure:
 - 1. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and
 - 2. Where, in order to participate in a class a student must enroll at least three days in advance of the class.

(16) Sexual Encounter Establishment

"Sexual Encounter Establishment" means a business or commercial establishment, that as one of its principle business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or when one or more of the persons is semi-nude. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

(17) Sexually Oriented Business

"Sexually Oriented Business" shall mean an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, semi-nude model studio, or sexual encounter establishment.

(18) Sexually Oriented Entertainment Activity

"Sexually Oriented Entertainment Activity" means the sale, rental, or exhibition for any form of consideration, of books, films, video cassettes, magazines, periodicals, or live performances, which are characterized by an emphasis on the exposure or display of specific sexual activity.

(19) Specified Anatomical Areas

"Specified Anatomical Areas" shall mean human genitals, anus, cleft of the buttocks, or the female breast.



(20) Specified Sexual Activity

"Specified Sexual Activity" means any of the following:

- a) Sex acts, Normal or perverted, including intercourse, oral copulation, masturbation, or sodomy; or
- b) Excretory functions as a part of or in connection with any of the activities described in a) above.

B. A person commits a violation of this ordinance if that person operates or causes to be operated a sexually oriented business in any zoning district other than industrial, as defined and described in the Albion Zoning Code.

C. A person shall not cause a business to be operated in violation of the provisions of this ordinance.

D. A person causes a violation of this ordinance when causing, engaging, or participating in the operation of a sexually oriented business within 1,000 feet of:

(1) A church, synagogue, mosque, temple or building, which is used primarily for religious worship and related religious activities;

(2) A public or private educational facility, including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, intermediate schools, junior high schools, middle schools, secondary schools, continuation schools, special education schools, junior colleges, and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

(3) A boundary of any type residential district as defined in the Albion Zoning Code;

(4) A public park or recreational area, open space area or other naturalized landscaped area as defined by the Albion Zoning Code which has been designated for natural, park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian bicycle paths, wilderness areas, or other similar public land within the city which is under the control, operation, or management of the city park and recreation authorities;

(5) A private park or recreational area.

(6) The property line of a lot devoted to any residential use as defined in the Town of Albion Zoning Code;

(7) An entertainment business and or restaurant which is oriented primarily towards children or family entertainment; or

(8) Licensed premises licensed pursuant to the alcoholic beverage control regulations of the State of Indiana.

E. A person commits a violation of this ordinance if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1,000 feet of another sexually oriented business.



F. A person commits a violation of this ordinance if that person causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1,000 feet of an apartment complex.

G. A person is in violation of this ordinance if that person causes or permits the operation, establishment, or maintenance of more than one sexually oriented building, structure, or portion thereof, or the increase of business in the same floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

H. For the purpose of this ordinance, all measurement shall be measured in a straight line, without regard to intervening structures or objects, from the closest point of the property to the closest point of property being measured to. Presence of a city county, or other political subdivision boundary shall be irrelevant for purposes of calculating and applying the distance requirements of this Section.

I. Any sexually oriented business lawfully operating on April 11, 2000 that is in violation of subsection A through G of this Section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended, or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business, which was first, established and continually operating at a particular location is the conforming use and the later-established business(es) is/are nonconforming.

J. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a use listed in subsection C of this Section within 1,000 feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or been revoked.

K. A sexually oriented business may not be operated in the same building, structure, operation thereof, containing any other sexually oriented business as defined herein.



6.17 Amateur Radio and Television/Radio Receiver Antennas

All amateur radio antenna, CB radio antenna, antenna for receiving television signals, antenna for receiving radio signals, and all other personal broadcasting equipment shall meet the following requirements:

A. Location

No antenna (including anchors or supports) shall be located in any front or side yard.

B. Height

No amateur radio tower shall exceed five feet in height above the highest point of the roof of the primary structure, whichever is greater. Amateur radio towers shall be permitted to exceed these height requirements if a determination is made by the Board of Zoning Appeals, through the development standard variance process, that the increased tower height is technically necessary to successfully engage in amateur radio communications.



6.18 Telecommunications Facility Standards

A. Purpose and Intent

The purpose of these telecommunication facility standards is to provide for adequate, reliable public and private telecommunications service while maximizing the use of transmission wireless support structures and wireless support structure sites. These requirements also seek to minimize the adverse, undesirable visual impact of wireless support structures through minimizing needed wireless support structures and wireless support structure sites, careful design and siting, and screening.

B. Validity Clause

If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word in this Section is declared invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of the Section.

C. General Regulations Applicable to Wireless Telecommunication Facilities

(1) Abandonment

Abandoned or unused wireless support structures or portions of wireless support structures shall be removed. The owner of a wireless facility shall file annually a declaration with the Plan Administrator or his or her duly authorized designee as to the continuing operation of every facility installed subject to these regulations, in addition, the owner shall file annually a Certificate of Insurance from the owner's insurance carrier listing The Town of Albion and the Albion Town Council as additional insureds for the purposes of general liability with regard to bodily injury, personal injury and property damage from all possible risks in an aggregate amount of not less than \$5,000,000 per incident with a further provision that said insurance carrier shall notify the Albion Town Council 30 days in advance of either cancellation and/or non-renewal of said policy of insurance, Failure to do any of the above requirements shall be determined to mean that the facility is no longer in use and considered abandoned.

(2) Removal

All abandoned or unused wireless support structures and associated facilities shall be removed within 180 days of the cessation of operations at the site unless a time extension is approved by the Plan Administrator or his or her duly authorized designee. A copy of the relevant portions of a signed lease which requires the applicant to remove the wireless support structure and associated facilities upon cessation of operations at a site shall be submitted at the time of application. In the event that a wireless support structure is not removed within 180 days of the cessation of operations at a site, the wireless support structure and associated facilities may be removed by the Town and the costs of removal, enforcement including attorney's fees shall be assessed against the property, and/or the property owners.

(3) Time Constraint

Unused portions of wireless support structures above a manufactured connection shall be removed within 180 days of the time of antenna relocation. The replacement of portions of a wireless support structure previously removed requires the issuance of a new wireless facility permit.

(4) Materials

The use of residentially compatible high quality materials such as wood, brick, or stone is required for associated accessory structures within or adjacent to the equipment compound, which shall be designed to architecturally match the exterior of any adjacent residential or commercial structures within the neighborhood or area.



(5) Design

Wireless telecommunication support structures should generally shall be of a monopole design and, when located within or adjacent to an environmentally or aesthetically sensitive area, or a residential district, be designed to architecturally camouflage the wireless telecommunication support structure as much as reasonably practical to blend into the surroundings.

(6) Support Structure Height

- a) In any commercial zoning district the maximum height of the wireless support structure shall be 150 feet. The maximum height of any accessory structure shall be 15 feet.
- b) In any industrial zoning district the maximum height of the wireless support structure shall be 200 feet. The maximum height of any accessory structure shall be 15 feet.
- c) In any residential district the maximum height of the wireless support structure shall be 100 feet. The maximum height of any accessory structure shall be 15 feet.

(7) Interference

No new telecommunications facility shall result in any interference with public safety telecommunications.

(8) Proximity

No wireless support structure equipment compound shall be placed closer than 500 feet to any property included in a residential zoning district.

(9) Setback

The minimum front, side, and rear yard setback for all wireless support structures shall be a minimum of the area within which the wireless support structure is designed to collapse, as set forth in the applicant's engineering certification for the wireless support structure. No part of a wireless telecommunications facility, including the equipment compound, security fence, any required guide wires or bracing shall be permitted in the required setback of the applicable Zoning district. Landscape screening may be provided in the setback area.

(10) Right-of-way Encroachment

No part of any wireless telecommunications facility nor associated lines, cables, equipment, wires or braces shall at any time extend across or over any part of an existing or planned public right-of-way, street, highway, sidewalk, or property line.

(11) Fence Height

An eight foot high security fence/wall shall completely surround the wireless support structure equipment compound and accessory equipment building site.

(12) Screening Area

An area 10 feet in width shall remain outside of the fence/wall for the purpose of providing the landscape screening described in this Section.



(13) Access Gates

In all zoning districts, the required security fence enclosing the facility shall be 100 percent opaque and of wood, brick, or stone construction. Opaque eight foot tall wooden, composite wood, or metal gates shall be provided to access the facility.

(14) Landscape Screening

Evergreen buffer plantings shall be located around the outermost perimeter of the security fence of all wireless telecommunications facilities, including any wires and anchors. If evergreen hedges are used they shall be a minimum of two feet tall at the time of planting (measured from ground level) and shall be planted a maximum of three feet on center. If evergreen trees are used they shall be a minimum of five feet tall at the time of planting (measured from the top of the root-ball), and shall be planted a maximum of 10 feet on center. Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.

D. Required Approvals

(1) Installation of New Co-location

The placement or installation of new wireless facilities on existing structures that include a wireless facility or a wireless support structure, including water towers and other buildings or structures. This includes the placement, replacement, or modification of wireless facilities within an approved equipment compound.

In addition to the requirements provided elsewhere in this Ordinance, applications for collocation shall include the following:

- a) The name, business address, and point of contact for the applicant.
- b) The location of the proposed or affected wireless support structure.
- c) Evidence of conformance with applicable building permit requirements.

(2) Substantial Modification of Wireless Support Structure

The installation or mounting of a wireless facility on a wireless support structure in a manner that:

- a) Increases the height of the wireless structure by the greater of:
 - 1. 10% of the original height of the wireless support structure; or
 - 2. 20 feet.
- b) Adds an appurtenance to the wireless support structure that protrudes horizontally from the wireless support structure more than the greater of:
 - 1. 20 feet; or
 - 2. The width of the wireless support structure at the location of the appurtenance;

Or
- c) Increases the Square footage of the equipment compound in which the wireless facility is located by more than 2,500 square feet.

Any substantial modification that increases height, width, adds an appurtenance, or increases the size of the equipment compound requires a Special Exception from the Board of Zoning Appeals (BZA).

In addition to the requirements provided elsewhere in this Ordinance, applications for substantial modifications to wireless support structures shall include the following:



- a) The name, business address, and point of contact for the applicant.
- b) The location of the proposed or affected wireless support structure.
- c) A construction plan that describes the proposed wireless support structure and all equipment and network components, including antennas, transmitters, receivers, base Stations, power Supplies, cabling, and related equipment. Such plan shall be provided by professional engineer licensed in the State of Indiana, and include the engineer's stamp and registration number.
- d) If a special exception is required by this Ordinance, evidence showing that the application complies with the criteria set forth in the Ordinance with respect to the special exception.

(3) Installation of New Wireless Support Structure

The installation of any new wireless support structure(s) shall be reviewed either by the Plan Administrator in the case of a permitted use or by the Board of Zoning Appeals as a special exception use consistent with the provisions of this Ordinance.

In addition to the requirements provided elsewhere in this Ordinance for the receipt of a special exception use approval and an improvement Location Permit, applications for new wireless support structures wireless support structures or a complete replacement of an existing wireless support structure with a new wireless support structure shall include the following

- a) The name, business address, and point of contact for the applicant.
- b) The location of the proposed or affected wireless support structure.
- c) A construction plan that describes the proposed wireless Support structure and all equipment and network components, including antennas, transmitters, receivers, base stations, power Supplies, cabling, and related equipment. Such plan shall be provided by professional engineer licensed in the State of Indiana, and include the engineer's stamp and registration number.
- d) Evidence supporting the choice of location for the proposed wireless support structure, including a sworn statement from the individual responsible for the choice of location demonstrating that collocation of wireless facilities on an existing wireless Support structure was not viable option because collocation:
 - 1. would not result in the same wireless service functionality, coverage, and capacity;
 - 2. is technically infeasible; or
 - 3. is an economic burden to the applicant,
- e) if a special exception is required by this Ordinance, evidence showing that the application complies with the criteria set forth in the Ordinance with respect to the special exception.

(4) Replacement of Existing, Legal nonconforming Wireless Support Structure

Existing legal nonconforming wireless support structures may continue in use for their current purpose but may not be replaced unless either the replacement wireless support structure is an exact match to the height, setback, and other features of the removed wireless support



structure, or the replacement wireless support structure complies in all respects to the requirements in this Ordinance. If such wireless support structures are hereafter damaged or destroyed due to any reason or cause whatsoever, the wireless support structure may be repaired and restored to its former location and physical dimensions upon obtaining an Improvement Location Permit.



6.19 Industrial Operation Standards

A. Purpose and Intent

The purpose of these industrial operation standards is to minimize the conflicts between industrial uses and other land uses and to protect persons and property from the possible negative impacts of industrial operations.

B. Applicability

All industrial uses shall be in compliance with any and all applicable requirements of the State and Federal governments (including the standards of the Occupational Safety and Health Administration - OSHA). No industrial use shall exhibit obnoxious characteristics to the extent that it constitutes a public nuisance defined by and subject to this Ordinance. In cases where the requirements of this Ordinance are in conflict with other applicable requirements, the most restrictive shall apply.

C. Exemptions

The following uses, activities, and circumstances shall be exempt from the standards established by this Section:

(1) Construction & Maintenance

Site preparation or the construction, maintenance, repair, alteration, or improvement of structures, equipment or other improvements on or within the lot lines of the subject property.

(2) Motor Vehicles

The operation of motor vehicles for the transportation of personnel, material, or products.

(3) Public Safety Alerts

Public safety sirens and related apparatus used solely for public purposes and/or necessary for the protection of life, limb, or property.

D. Interpretation

The industrial standards established by this Section provide general guidelines for discussing expectations with new and expanding industrial operations. Where applicable the determination of compliance of industrial operations with the requirements of this Section shall be determined by the Advisory Plan Commission, Board of Zoning Appeals, or Plan Administrator when consistent with the petition review processes established by this Ordinance.

E. General Standards

All uses placed into operation after the effective date of this Ordinance shall comply with all Federal and State standards, as well as the following general standards in the interests of protecting public health, safety, and general welfare and lessening potential damage to property. No use in existence on the effective date of this Ordinance shall be altered or modified in a manner that conflicts with these standards.

(1) Fire and Explosive Hazards

Firefighting equipment and prevention measures shall be subject to the approval of the governing fire agency and shall be readily available and apparent when any activity involving the handling and storage of flammable or explosive materials is conducted.

(2) Noise

At no boundary of a residence or business district may the sound pressure level of any industrial use exceed the following decibel limits:



Maximum Noise Limitations

Permitted Sound	Maximum Permitted Sound	Maximum
Octave Band Frequency	Levels Along Residence District Boundaries	Levels Along Commercial District Boundaries
20 to 75	72	79
76 to 150	67	74
151 to 300	59	66
301 to 600	52	59
601 to 1200	46	53
1201 to 2400	40	47
2401 to 4800	34	41
4801 +	32	39

(3) Odor

No use on a property shall emit any objectionable odor, or combination of odors, that is detectable without the aid of instruments at the boundary line of any residential or commercial zoning district.

(4) Vibration

No I-1 use may cause at a lot line, continuous vibrations exceeding those under column I in the following table. Nor may it cause at any residence district boundary, continuous earthborn vibrations higher than the limits set forth in column II.

Maximum Permitted Vibration (I-1 District)

Maximum Permitted Vibration (I-1 District)			
Frequency More than Displacement (inches)	But Not More Than		II Displacement (inches)
0	10	.0008"	.0004"
10	20	.0005"	.0002"
20	30	.0002"	.0001"
30	40	.0001"	.0001"
40	50	.0001"	.0001"
50		.0001"	.0001"

(5) Glare and Heat

No use on a property shall produce any glare or heat that is detectable without the aid of instruments at the property lines of the lot on which the use is located. All outdoor lighting shall be exempt from these Industrial Standards, but shall comply with the Exterior Lighting Standards of this Ordinance.

(6) Noxious or Toxic Materials

No use on a property shall accumulate or discharge outside any building materials, gases and fluids generally known to be toxic or noxious. Such uses shall also comply with all applicable regulations of the Indiana Department of Environmental Management or the Noble County Board of Health.

(7) Waste Materials

No use on a property shall accumulate on the lot, or discharge beyond the lot lines any waste matter in violation of the applicable standards and regulations of the Noble County Board of Health and/or Indiana State Board of Health.



(8) Water Pollutants

No use on a property shall discharge any material, whether liquid, solid or gas, into public waters without any required approvals of the Noble County Board of Health and/or Indiana State Board of Health.

(9) Smoke

a) No I-1 use may emit more than ten smoke units per stack or smoke in excess of Ringelmann No. 2. However, once during any 24-hour period, for soot blowing, process purging and fire cleaning, each stack may emit an additional ten smoke units and that time it may smoke up to and including Ringelmann No. 3.

b) No I-2 use may emit more than sixty smoke units per hour per stack or smoke in excess of Ringelmann No. 2. However, once per 6-hour, for soot, blowing, process purging and fire cleaning, each stack shall be permitted an additional ten smoke units and during that time may emit smoke up to and including Ringelmann No. 3.

c) Ringelmann number means the number of the area on the Ringelmann chart that most nearly matches the light-obscuring capacity of smoke. The Ringelmann chart is described in the Bureau of Mines Information Circular 6888 on which are illustrated graduated shades of gray for use in estimating smoke density. Smoke below the density of Ringelmann No. 1 shall be considered as no smoke or Ringelmann No. 0.

(d) Smoke unit means the number obtained when the smoke density in Ringelmann number is multiplied by the time of emissions in minutes. For the purpose of this calculation, a Ringelmann density reading shall be made at least once per minute during the period of observation. Each reading shall then be multiplied by the time in minutes during which it is observed. The product so computed shall then be added to give the total number of smoke units observed during the entire observation period.



6.20 Land Use Requirements

Each land use is either permitted by right or by special exception. For the purposes of administering and enforcing this Ordinance, the location of a given land use shall be as prescribed by the Official Schedule of Uses. Any use not designated by a "P" or "S" in the subject district shall be considered to be a prohibited use in the subject district. The Plan Administrator may determine into which category a use is placed if it is not specifically listed but is similar to another use that is listed in the Official Schedule of Uses. This determination may be appealed to the Board of Zoning Appeals pursuant to *Section 11, Permits, Petitions and Procedures* of this Ordinance.

A. Compatibility with Surrounding Land Uses

All proposed developments within the Town of Albion will be reviewed for their compatibility with the surrounding neighborhoods, the natural environment, and their ability to create pleasing transitions between land uses. To decrease the level of incompatibility between residential and non-residential uses, landscape buffers may be required. Refer to *Section 7.8, Buffering and Screening Standards*, of this Ordinance.

B. Residential Uses

(1) Determining Density and Open Space

- a) To allow greater flexibility and variety in the creation of residential subdivisions while preserving significant community and natural resources, residential subdivisions are required to arrange the residential units on areas of the project site best suited for development and protect at least 10 percent of the land for open space uses. Open spaces must be accessible to residents of the subdivision without crossing a private lot.
- b) Residential development within a project may not exceed the gross density of the identified on Appendix B, Use Standards, of this Ordinance. No minimum lot size is required, but the applicant must meet all of the other development standards of the residential zoning classification and the requirements of this Ordinance.
- c) The development potential of the property is determined by multiplying the area of the tract times the density permitted by the zoning district.
- d) The minimum open space requirement is calculated by multiplying the area of the tract by 0.10.
- e) Land designated for open space uses shall be restricted from further subdivision through the use of conservation easements in a form acceptable to the County Recorder and duly recorded in the County Recorder's Office.
- f) Storm water management ponds or basins, land within the rights-of-way of underground pipelines, and floodplain areas may be included as part of the minimum required open space. Road rights-of-way may not be included as a part of the minimum required open space.

(2) Evaluation Criteria

In evaluating the layout of lots and open space, the following criteria will be considered by the Plan Commission as indicating design appropriate to the site's natural, historic, and cultural features and meeting the purposes of this Ordinance. Diversity and originality in lot layout shall be encouraged to achieve the best possible relationship between development and conservation areas. The Plan Commission shall evaluate proposals to determine whether the proposed subdivision:



- a) Protects and preserves all floodplains, wetlands, and slopes greater than 20 percent from clearing, grading, filling, or construction to the greatest extent possible.
- b) Preserves and maintains mature woodlands and existing agricultural fields and creates sufficient buffer areas to minimize conflicts between residential and agricultural areas.
- c) Maintains and creates a buffer of natural species vegetation at least 100 feet wide adjacent to wetlands and surface waters, including creeks, streams, springs, lakes, and ponds.
- d) Designs around existing hedgerows and tree lines between fields and minimizes impacts on woodlands greater than five acres in size. Woodlands on highly erodible slopes should also be avoided.
- e) Protects wildlife habitat areas of species listed as endangered, threatened, or of special concern by the US Environmental Protection Agency and/or the Indiana Department of Natural Resources.
- f) Improves public safety and vehicular carrying capacity by avoiding development fronting directly onto existing public roads.
- g) Organizes the subdivision where the largest practicable number of lots abuts open space areas in order to provide direct views and access to open space.
- h) Provides recreational areas in suitable locations that offer convenient access by residents and adequate screening from nearby lots.
- i) Includes a pedestrian circulation system designed to ensure that pedestrians can walk safely and easily on the site, between properties and activities or special features within the neighborhood open space system.
- j) Provides open space that is reasonably contiguous. Fragmentation of open space should be minimized so that resource areas are not divided into numerous small parcels located in various parts of the development. To the greatest extent practicable, this land shall be designated as a single block with logical, straightforward boundaries with a length-to-width ratio not to exceed 4:1. Long, thin open space areas shall be avoided unless the conservation feature is linear or such configuration is necessary to connect with other streams and trails. The open space shall generally abut existing or potential open space uses on adjacent parcels.

(3) Garage Location/Orientation

Two car garages, a minimum of 22 feet in width, shall be required for all dwellings. A garage or carport may not face the street unless it is located a minimum 20 feet behind the front elevation of the principle structure. Front loading garages shall not exceed 45 percent of the width of the front elevation. Detached garages must be separated from the primary structure a minimum of 10 feet. For any three car garage that faces a street, the third bay must have a separate door and be recessed a minimum of four feet from the other bays.



SECTION 7:
DEVELOPMENT STANDARDS





SECTION 7: DEVELOPMENT STANDARDS

- 7.1 Introduction and Application
- 7.2 Use Standards
- 7.3 Height Standards
- 7.4 Sight Visibility Standards
- 7.5 Environmental Standards
- 7.6 Architectural Design Standards
- 7.7 Landscaping Standards
- 7.8 Buffering and Screening Standards
- 7.9 Fence and Wall Standards
- 7.10 Exterior Lighting Standards
- 7.11 Parking Standards
- 7.12 Loading Standards
- 7.13 Entrance/Drive Standards

7.1 Introduction and Application

A. Introduction

All structures, land uses, land use changes, structural alterations, structural relocations, structural additions, and structural enlargements that are constructed, created, established, or occur after the effective date of this Ordinance (except as may otherwise be provided within this Ordinance) shall be subject to all development standards and regulations applicable to the zoning district in which they are located. All projects approved prior to the effective date of this Ordinance shall adhere to the terms and conditions of approval and/or written commitments made under the zoning ordinance that was in place at the time of filing.

B. Expansion or Modification of Existing Uses and Structures

No structure, parking area, or other site feature regulated by this Ordinance shall be enlarged, altered, or expanded unless the minimum improvements required by this Section are provided on the property in a manner equal to the extent of its alteration or expansion.

C. Requirements for Non-conforming Uses and Uses Permitted by Special Exception or Variance

Any use which is non-conforming in the zoning district in which it is located or is permitted by special exception or variance shall be consistent with the standards for the zoning district in which the use is permitted by this Ordinance. The Board of Zoning Appeals may specify the appropriate standards for all uses permitted by special exception or variance.

7.2 Use Standards

A. Dimensions

The use standards for each zoning district classification shall be as prescribed by the *Appendix B, Use Standards*.

B. Encroachment

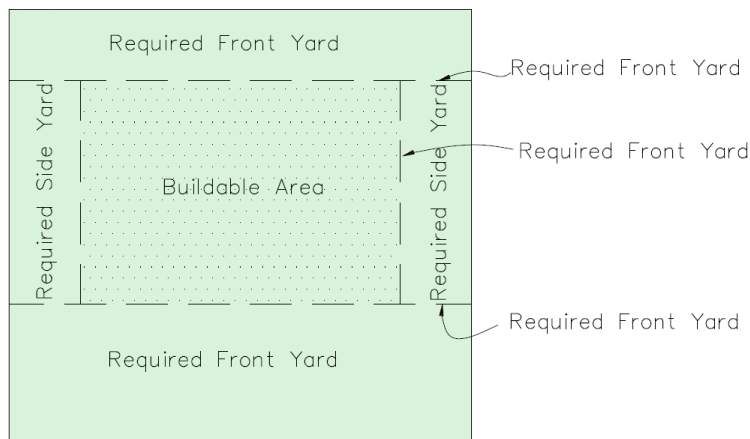
(1) Residential Districts

Balconies, stoops, stairs, chimneys, open porches, bay windows, and raised doorways shall be permitted to extend within a minimum front yard setback to a maximum of 12 feet. Open patios and decks may extend within the minimum rear yard setback to a maximum of 12 feet. Hedges, garden walls, or fences may be built on property lines or as a continuation of building walls. However, in no instance may a fence be located within a utility and/or drainage easement.

(2) Non-residential Districts

In no instance shall any structure be allowed to locate within a required setback. For the purposes of administering and enforcing this Ordinance, structures in this case shall include, but shall not be limited to the following: garages, carports, balconies, roofs, decks, chimneys, fire escapes, and platforms above grade level. Parking spaces, interior drives, other vehicle use areas and sidewalks may be permitted within a required setback provided said improvement complies with all applicable provisions of this Ordinance.

Yard and Setbacks Diagram





7.3 Height Standards

A. General Height Standards

Refer to *Appendix B, Use Standards of this Ordinance*.

B. Exceptions

No structure may be erected or changed so as to make its height greater than specified in the applicable zoning district, except as noted below. For the purposes of this section, the height of church steeples, chimneys, and other structures which are attached or otherwise a part of another structure shall be measured from grade level.

(1) General Exceptions

The following structures may exceed the permitted height regulations by two-fold (x2):

- a) Church steeples;
- b) Spires, belfries, and cupolas; and
- c) Industrial related storage tanks, mechanical equipment, and smokestacks.

(2) Telecommunications Towers and Antenna

The height of telecommunication towers and antenna shall comply with the height requirements of this Ordinance. Refer to Appendix B, Use Standards of this Ordinance.

(3) Amateur Radio Towers

Amateur radio towers shall meet the requirements of the *Specific Use Standards of Section 6.17* of this Ordinance.

(4) Necessary Appurtenances

The following structural elements may exceed the permitted height standards for the zoning district in which they are located by up to 10 feet:

- a) Necessary mechanical appurtenances;
- b) Utility substations and related essential facilities;
- c) Water tanks;
- d) Chimneys;
- e) Fire towers;
- f) Stair towers;
- g) Stage bulkheads; and
- h) Elevator bulkheads.

(5) Agricultural Structures

All structures in a zoning district where agriculture is allowed that are used in agricultural products storage and/or processing may exceed the permitted height standards for the district in which they are located and be erected to any height that is necessary for their operation. This



exemption shall not be interpreted as applying to commercial agricultural structures, such as commercial grain terminals and similar uses.

(6) Water towers

Water towers may exceed the permitted height standards for the zoning district in which they are located and may be erected to a height that is necessary for their operation.

C. FAA Requirements

Nothing in this Ordinance, including the exceptions listed above shall be interpreted as waiving any height regulations related to air travel. All applicable Federal Aviation Administration (FAA) restrictions and regulations shall apply to all structures.

7.4 Sight Visibility Standards

A. Purpose and Intent

The purpose of these sight visibility standards is to contribute to a safe vehicular and pedestrian transportation system by ensuring clear visibilities at street intersections and the vehicle entrances to properties.

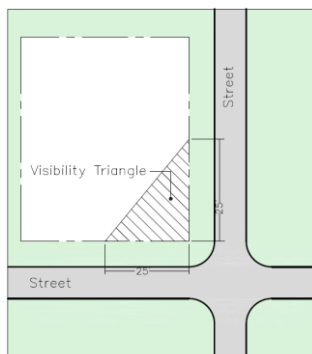
B. Sight Visibility Triangle Requirement

All properties shall maintain an area, otherwise referred to as the "sight visibility triangle," at every intersection of an adjoining street with other streets and entrance drives. The sight visibility triangle shall be free of structures, vegetation (including crops), signs (other than street signs), and other opaque or partially opaque objects between a height of 2 1/2 and 12 feet measured from the nearest top-of-curb, or edge of pavement where curbs are not present.

C. Sight Visibility Triangle Area

The Sight Visibility Triangle shall be established by connecting points located along the intersecting rights-of-way (or edge of pavement in the case of entrances). The dimensions of the triangle vary depending on criteria such as design speed. Refer to the Geometric Design of Highways and Streets by the AASHTO (American Association of State Highway and Transportation Officials) latest edition, for Intersection Sight Distance.

Sight Visibility Triangle





7.5 Environmental Standards

The following environmental standards apply:

A. Excessive Slope

Areas of land shall be deemed unsuitable for building when pre-development or post-development slopes are greater than twenty-five percent (25%).

B. Unsuitable Land Qualities

Areas of land shall be deemed unsuitable for building when it:

- (1) Contains adverse soil or rock formations;
- (2) Is highly susceptible to erosion;
- (3) Has a low percolation rate;
- (4) Has a low weight bearing strength or
- (5) Has any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of the community.

C. Erosion Prevention

All land, regardless of slope, from which structures or natural cover has been removed or otherwise destroyed, shall be appropriately graded and seeded within thirty (30) days after the removal or destruction of said natural cover to prevent erosion. Also, siltation fences shall be established over the duration of the project to prevent soil erosion.

D. Alternatives to Shoreline

No alteration of the shoreline or bed of a stream or creek shall be made until written approval is obtained from the Indiana Department of Natural Resources, Army Corps of Engineers, and the provisions of the Zoning Ordinance are complied with. Alterations include, among other things, filling of a stream, creek, wetlands regulated ditch, wetlands, and dredging of a stream, creek, or ditch.

E. Retention, Detention, and Pond Edges

The use of engineered hard edges is not permitted except around inlets and outlets. The use of engineered hard edges may not exceed five percent (5%) of the linear feet of the total edge of any retention facility, detention facility, or a pond.

F. Waste Disposal

No waste materials (e.g. garbage, rubbish, trash, construction material, gasoline, oil, flammables, soils, tars, chemicals, greases, industrial or agricultural waste, or any other material of such nature, quantity, obnoxiousness, toxicity, or temperature) that may contaminate, pollute, or harm the waters may be deposited, located, stored, or discharged on any lot in a way that would be likely to runoff, seep, or wash into surface or ground water.

G. Fuel Storage

No flammable or explosive liquids, solids, or gasses as specified by the State Fire Marshal may be stored in bulk above-ground in any residential district, except tanks or drums of fuel connected directly with energy devices, or heating appliances located and operated on the same lot as the tanks or drums of fuel.

H. Debris/Refuse

Debris, refuse, trash, construction material, garbage, litter, unfinished structures, scrap metals, or rotting wood may not accumulate on any property.



I. Air Pollution

No use shall discharge airborne substances across lot lines (e.g. fly ash, dust, smoke, vapors, noxious, toxic or corrosive matter, or other air pollutants) in such concentration as to be detrimental to health, animals, vegetation, or property, or conflict with public air quality standards. Outdoor furnaces and the like are not permitted except in an Agricultural District.

J. Restrictions Along Streams

(1) If required by the Indiana Department of Natural Resources, buildings and structures may be erected within a regulatory floodway only if a permit to construct in a floodway has been issued.

(2) Water wells, water lines and sewage facilities located within a flood plain shall be constructed to eliminate contamination of or by, floodwater.

K. Water Pollution

No authorization of a use under this Ordinance includes the authority to discharge liquid or solid wastes into public waters except as permitted under the Stream Pollution Control Law (Acts of 1943, Chapter 214, as amended). Plans and specifications for proposed sewage and other waste treatment and disposal facilities must be approved by the Indiana Department of Environmental Management and/or the State Board of Health, and any other Indiana department or agency authorized to review and approve such facilities.



7.6 Architectural Design Standards

A. Purpose

The purpose of this section is to provide for uniform performance standards and criteria for the design of buildings within the town in recognition that quality and compatibility of building design directly impact the health, safety and welfare of the citizenry, and stimulates economic stability through orderly growth and enhancement of the tax base essential to the generation of funds adequate to address the increasing demands for municipal services. This purpose is achieved through:

- (1) The enhancement of the physical character of the community and quality of life of its citizens through the coordinated control of the built environment created by development;
- (2) The balancing of aesthetic design qualities with functional development and utility resulting in a community offering benefits as a place to live, recreate, and work;
- (3) The preservation and enhancement of the physical character, integrity, and quality of community areas, particularly those areas having a discernible character or special historic, or other significance;
- (4) The enhancement and protection of the property values, occupancies of uses of the surrounding areas in the furtherance of the Comprehensive Plan and other development goals and objectives of the town;
- (5) The stimulation of improvements and maintenance of surrounding properties, thereby preventing and reserving the effects of urban blight and deterioration; and
- (6) The heightening of community expectations and awareness concerning the design quality of the built environment and its positive influence on the community.

B. Authority

Architectural design review shall be concurrent with site development plan review in *Section 11* and shall be required for single-family residential developments for exterior remodeling, multi-family, commercial, office and industrial developments as a condition of approval of a permit. No improvement location permit authorization for structures shall be issued prior to site plan and architectural design review approval. Parking lots and parking areas accessory to uses regulated by *Section 7.11* shall also require site plan and architectural review approval. Site plan and architectural review shall not alter the type and category of uses permitted in the various zoning districts.

C. Relationship Between Zoning District Standards and Requirements of this Section

- (1) Structure design shall contribute to the uniqueness of the underlying zoning district by applying appropriate materials, elements, features, color range and activity areas tailored specifically to the site and its context.
- (2) A standardized prototype design shall be modified if necessary to meet the provisions of this section.
- (3) In the case of a multiple-structure development, each individual structure shall include predominant characteristics shared by all structures in the development so that the development forms a cohesive place within the underlying zoning district, the standard in the zoning district shall prevail.



(4) With the exception of standards for the structure orientation and structure front setbacks, in the event of a conflict between a design standard in this section and a standard of requirement contained in the underlying zoning district, the standard in the zoning district shall prevail.

D. Residential

(1) Streetscape

a) Housing Model Variety

Housing models are distinguished from one another if it has at least three characteristics that clearly distinguish it from other housing models including but not limited to different floor plans, exterior materials, roof lines, garage placement or building facade.

1. Single-family developments of fifty (50) or more houses will have at least three (3) different types of housing models and should be varied significantly from contiguous lots and lots directly across the street from one another.

b) Garages

Single-family development projects and the houses within the development should be designed so that garages are not a dominant feature of the streetscape.

1. Minimizing the extent to which the garage protrudes from other portions of the house.
2. Varying garage door treatments by using doors with different details or by using a combination of single and two-door garages or side entry garages within the development.
3. Varying front setbacks for the garages and/or the houses.
4. Designing houses so that there is a substantial area of the front facade which is not garage.
5. Developing the project with rear entry garages using an alley.

c) Roofs

All roofing materials shall be subject to approval by the Plan Commission.

1. Two or more roof planes visible on the front of the house shall count towards architectural feature requirements. Use gables, dormers or hip roofs.
2. The pitch of the largest square footage roof must be 6:12 or greater with façade gables of 8:12, unless the style of the house warrants a change. A roof pitch of 3:12 may be permitted for prairie style homes subject to review by the Plan Administrator.
3. There shall be a minimum roof overhang of twelve inches on all sides of a house.
4. The roof shall be covered with the highest industry standard roofing materials including, but not limited to natural clay tiles, slate, concrete tiles (with natural texture and color), wood shakes or shingles (with adequate fire protection), or high profile, three-dimensional asphalt/fiberglass shingles with a 30-year warranty, or synthetic or recycled material that simulates tile, stone, shake or slate.
5. The height and orientation of the roofs shall be varied.

d) Building Material Requirements

1. Where two wall materials are combined horizontally on one elevation, the heavier material must be below.



2. All vinyl siding shall be approved and endorsed as meeting or exceeding ASTM D3679 by the Vinyl Siding Institute through their Vinyl Siding Certification Program. Vinyl siding shall be a minimum thickness of 0.046 inches. Lap siding shall have a maximum 6" exposed board face. A letter or certificate stating such shall be attached to each building permit request. All vinyl siding colors shall be submitted for review by the Plan Administrator.

e) Façade Design/Construction Requirements

1. A single front elevation shall not be repeated unless it is separated by at least two different front elevations along either side of the same street frontage.
2. No more than 10 percent of the houses in the subdivision shall have the same front elevation. Developments under 20 units shall have a minimum of two types of front elevations.
3. The exterior wall surface of the first floor of any multi-story residence shall have a minimum of one two-foot step back on both the front and rear elevation and a gable on the front and rear elevation, unless the style of the house warrants a change.
4. Exterior chimneys for fireplaces which abut a public road shall be made entirely of masonry. Half chimneys for gas appliance fireplaces shall have a roof and vent on the side, and are hereby expressly prohibited from being located on the front elevation.
5. Front porches are encouraged, and are to be a minimum of four feet in depth without columns. In the event that a front porch has columns, said columns shall be a minimum of six inches by six inches for a single-story porch, or 12 inches by 12 inches for a two-story porch.
6. Monolithic exterior building walls (walls with one type of siding and no windows or doors) are prohibited. There shall be a change of siding materials and/or architectural features (such as windows, chimneys, doors, etc.) on all sides of each house.
7. Front and rear elevations shall have a minimum of three (3) openings (i.e. windows or doors). All side elevations shall have a minimum of one (1) opening. All residential buildings shall comply with the minimum requirements set forth by the Indiana Fire Code for room openings.
8. Exhaust vents shall not be visible from the front elevation of the home.
9. It is required that the workmanship on the exterior of the building will be of highest industry standard resulting in no visual defects (such as wavy siding).
10. Unless adjacent to masonry wrap, all windows, doors and corners shall have a minimum nominal one inch by six inch wood or vinyl surround, shutters, decorative trim, or headers.
11. All siding must be masonry, wood, metal, vinyl, cement fiber board, stucco, stone, matching approved materials in scale, E.I.F.S. All siding shall be reviewed by the Plan Administrator.
12. All siding shall match in terms of type, color, and texture.
13. Stains and paints used for exterior walls need to comply with the existing appearance and character of the neighborhood.

f) Mailboxes

The location and construction of mailboxes shall comply with the rules and regulations of the U.S. Postal Service.

g) Compatibility

Where the character of an area is identifiable, new development should be designed to maintain that character. In areas where the character is not identifiable, new development should be designed to be complementary or consistent with the



characteristics of the surrounding area in a way that contributes to the establishment of a positive character for the area.

1. Use similar or complementary materials, colors or design details.
2. Use similar or complementary building shapes and/or forms.
3. Develop consistent design theme throughout the project through the use of similar materials, colors, shapes, forms and design details.
4. Residential development projects and structures should be designed so that their apparent scale is compatible with surrounding properties and structures. Such considerations are especially useful in mitigating effects of higher density development located near developments with a lower density.
5. Using slope proximity requirements set forth below, structures should be set back from the property line so that buildings with greater bulk or height are further from adjacent properties that are less bulky or height.

E. Multi-family Residential

(1) Streetscape

a) Housing Model Variety

Housing models are distinguished from one another if it has at least three characteristics that clearly distinguish it from other housing models including but not limited to different floor plans, exterior materials, roof lines, garage placement or building facade.

1. Any development with ten (10) or more multiple-family units shall have at least two (2) different types of housing models.
2. Any development of twenty-five (25) or more multiple-family units shall have at least three (3) different types of housing models.
3. Any development of fifty (50) or more multiple-family units shall have at least four (4) different types of housing models.

(2) Parking

Parking areas may be located behind buildings, below buildings or on one or both sides of buildings.

(3) Setbacks

For multi-family developments, every building containing four or more dwelling units shall have at least one (1) building entry or doorway facing any adjacent streets. The facade oriented to a street shall also include windows, doorways, and a structured transition from public to private areas using built elements such as porch features, arbors, low walls, trellis work and/or similar elements integrated with planning.

(4) Façade Design/Construction Requirements

a) Architectural detailing, horizontal/vertical off-sets, window details and other features shall be provided on all sides of the building to avoid blank walls.

b) All siding must be masonry, vinyl (all vinyl siding shall be a minimum thickness of 0.046 inches), wood, fiber cement plank siding, stucco, stone, decorative pre-cast panels, matching approved materials in scale, integrally colored block, E.I.F.S. All siding shall be submitted for review by the Plan Administrator.



c) Projects with multiple buildings must have the site layout and building orientation reviewed by the Plan Commission.

d) Windows are required on all sides of the dwelling that are visible from the street.

(5) Roofs

All roofing materials shall be subject to review by the Plan Administrator.

a) The roof shall be a minimum of 6:12 on sloped roofs; a façade gable shall be a minimum of 8:12.

b) There shall be a minimum roof overhang of twelve inches on all sides of a multifamily residential building.

c) The roof shall be covered with the highest industry standard roofing materials including, but not limited to natural clay tiles, slate, concrete tiles (with natural texture and color), wood shakes or shingles (with adequate fire protection), or high profile, three-dimensional asphalt/fiberglass shingles with a 30 year warranty, or synthetic or recycled material that simulates tile, stone, shake or slate.

d) Any structure with three or more units shall incorporate wall and roof articulation to reduce apparent scale. Elements such as balconies, porches, arcades, dormers, cross gables, secondary hipped or gabled roofs can be used to achieve this appearance.

(6) Dumpsters

Dumpsters shall be enclosed with a solid enclosure that is of the same material as the primary structure or of opaque material, is a minimum of six feet in height, and contains a solid gate. Shrub plant material shall be provided where possible to further enhance the wall enclosure. In no instance shall a dumpster all enclosure or dumpster plantings be located within a utility and/or drainage easement.

(7) Mechanical Screening

All mechanical equipment shall be screened from view. This can be achieved by solid landscaping, solid fence or walls for ground placed equipment (provided that said fence or wall is not placed within a utility and/or drainage easement), and the use of parapet walls or other roof structures of the same or compatible material of the main structure(s). For the purposes of administering and enforcing this Ordinance, the term parapet is defined as a portion of the vertical wall of a building which extends above the roofline.

(8) Architectural Features

All multi-family residential buildings shall incorporate a minimum of four of the following features, and side and rear elevations shall contain at least one architectural feature.

a) Front porch greater than eight feet by four feet for column specifications.);

b) Reverse gables;

c) Covered front stoops/steps with pathway leading from sidewalk;

d) A separate overhead door for each garage bay;

e) Decorative garage doors or windows in garage doors;



- f) Transom windows;
- g) Veranda/balcony;
- h) Two or more roof planes;
- i) Brick or masonry on 100 percent of the front elevation, exclusive of openings;
- j) Two or more dormers;
- k) At least four feet of relief at one or more points along the front elevation;
- l) Bay windows;
- m) Side-loaded garages with courtyard entry;
- n) Full first floor masonry;
- o) Sunroom, screened porch, or balcony; or
- p) Overhangs or soffits of at least 15 inches over all exterior walls.

F. Commercial Developments

The implementation of various design standards is a catalyst to ensure quality construction for future commercial development. These design criteria apply to development projects for uses such as retail and service uses, shopping centers and freestanding buildings. Commercial designs should promote the design of an environment that is built to human scale and to encourage street fronts that create a pedestrian-conducive environment, while also accommodating vehicular movement. The primary objective of the regulations contained in this section is to provide a range of design choices that would promote creative, functional and cohesive development compatible with surrounding areas.

(1) Building Massing

- a) A single, large, dominant structure mass shall be avoided in new buildings and, to the extent reasonably feasible, in development project involving changes to the mass of existing buildings.
- b) Horizontal masses shall not exceed a height to width ratio of 1:3 without substantial variation in massing that includes a change in height and projecting or recessed elements.
- c) No interrupted length of any facade shall exceed one hundred (100) horizontal feet.
- d) Facades shall have an expression of architectural or structural bays through a change in plane no less than twelve (12) inches in width, such as an offset, reveal or projecting rib.
- e) Changes in mass shall be related to entrances, the integral structure and/or the organization of interior spaces and activities and not merely for cosmetic effect.

(2) Building Design

a) Facades

1. Facades shall add architectural interest and variety and avoid the effect of a single, long or massive wall with no relation to human size. Ground floor facades that face



public streets shall have arcades, display windows, entry areas, awnings or other such features along no less than sixty percent (60%) of their horizontal length.

2. Large expanses of glass shall be permitted, up to seventy percent (70%) of the elevation area.
3. Architectural elements used on the front elevation shall be implemented on all elevations and shall incorporate no less than three of the following architectural elements:
 - a. Color change;
 - b. Texture change;
 - c. Material change;
 - d. An expression of architectural or structural bays through a change in roof plane, height, or architectural enhancements, and must be approved by the Plan Commission;
 - e. Functional balconies
 - f. Awnings; or
 - g. Story change wherein a clear delineation between each story of the structure is provided by a consistent cornice line.

b) Roofs

1. Roof Features

Roofs shall have at least two of the following features:

- a. Parapets
Parapets shall not exceed one-third of the height of the supporting wall and must conceal flat roofs.
- b. Cornice
Cornices shall be three-dimensional.
- c. Eaves & Overhangs
Eaves and overhangs shall extend eighteen inches past the supporting walls.
- d. Cupolas
Cupolas shall not exceed 15 feet past the base roofline.
- e. Special Architectural Features
Bay windows, decorative roofs and entry features may project up to three (3) feet.

2. Roof Pitch

The roof shall be a minimum of 6:12 pitch on a sloped roof; a façade gable shall be a minimum of 8:12 pitch,

or

Sloping roofs that do not exceed the average height of the supporting walls, with an average slope of greater than or equal to one (1) foot of vertical rise for every three (3) feet of horizontal run and less than or equal to one (1) foot of vertical rise for every one (1) foot of horizontal run.

3. Roof Material

All roofs shall be covered with the highest industry standard roofing materials including, but not limited to natural clay tiles, slate, concrete tiles, (with natural texture and color), high quality architectural standing seam metal roofing, wood shakes or shingles (with adequate fire protection), or high profile, three dimensional asphalt/fiberglass shingles. Metal roofs shall have a low gloss finish to reduce glare. The following materials shall be subject to review by the Plan Commission: green



roofs, solar panel roofing, wood shake, metal, and synthetic or recycled materials used to simulate natural materials.

c) Entryways

Each single tenant retail establishment shall have clearly defined, highly visible customer entrances featuring no less than three (3) of the following:

1. Canopies or porticos;
2. Overhangs;
3. Recesses/projections;
4. Arcades;
5. Raised corniced parapets over the door;
6. Peaked or gabled roof forms;
7. Arches;
8. Columns;
9. Awnings;
10. Sidelights, transoms width must equal door width;
11. Outdoor patios
12. Architectural details such as tile work and moldings which are integrated into the building structure and design;
13. Integral planters or wing walls that incorporate landscaped areas and/or places for sitting, awnings, porches, plinths, bay windows, or shutters;
14. Enhanced exterior lighting, such as wall sconces, building mounted accent lights, or decorative pedestal lights;
15. Prominent 3-D entryway feature such as a clock tower or other similar architectural design element projecting from the plane of the main exterior walls by a minimum of eight feet and raised above the adjoining parapet wall or roof by a minimum of three feet.

(3) Materials and Colors

a) Exterior Building Materials

1. Exterior building materials shall not include smooth-faced concrete block, or concrete tilt-up panels. However, concrete tilt-up panels with brick, decorative stamped concrete or stone facing can be used.
2. Exterior building materials shall consist of brick, stone, integrally colored CMU, pre-cast concrete (must have integral color or embedded brick or stone), stucco and external insulation finish system (E.I.F.S) that simulates a stucco appearance.
3. Wood siding or similar materials are permissible in limited applications, but shall not be used as the primary building material.

b) The exterior of all buildings adjacent to residential areas shall consist of brick, stone façade, or stucco, or another material approved by the Plan Commission.

c) Detailing (moldings, cornices, etc.) and banding should consist of a different tint and texture. Materials not listed on the predominant or subsidiary lists may be utilized for detailing and banding such as textured concrete masonry.

d) Façade and exterior wall colors shall be low reflectance, subtle, neutral, or earth tone colors. Building trim and accent areas may feature brighter colors, including primary colors. The use of high intensity colors, metallic colors, black or fluorescent colors are not recommended.



(4) Mechanical Screening

All mechanical equipment shall be screened from view. This can be achieved by solid landscaping, fence or walls for ground placed equipment, and the use of parapet walls or other roof structures.

(5) Dumpsters

Dumpsters shall be enclosed with a solid enclosure that is of the same material as the primary structure, is a minimum of six feet in height, and contains a solid gate. Shrub plant material shall be provided where possible to further enhance the wall enclosure. In no instance shall a dumpster all enclosure or dumpster plantings be located within a utility and/or drainage easement. In no instance shall a dumpster be located in the front yard.

(6) Site Design

a) For projects with multiple buildings, attempts shall be made to incorporate variation in building height, building mass, roof forms and changes in wall planes.

b) Where the character or scale of an area is identifiable, new development should be designed to maintain that character and to be compatible with that scale. In areas where the character is not identifiable, new development should be designed to be complementary or consistent with the characteristics of the surrounding area in a way that contributes to the establishment of a positive character and scale for the area.

1. Use similar or complementary materials, colors or design details.
2. Use similar or complementary building shapes.

(7) Site Design and Relationship to Surrounding Community

a) Retail establishments occupying more than twenty-five thousand (25,000) gross square feet of floor area shall contribute to the establishment or enhancement of community and public spaces by providing at least two (2) of the following:

1. Patio/seating area;
2. Pedestrian plaza with benches;
3. Window shopping walkway;
4. Outdoor playground area;
5. Kiosk area;
6. Water feature;
7. Clock tower;
8. Or other such deliberately shaped area and/or a focal feature of amenity that, in the judgment of the Plan Commission, adequately enhances such community and public spaces.

b) Any such areas shall have direct access to the public sidewalk network and such features shall not be constructed of materials that are inferior to the principal materials of the structure and landscaping.

G. Industrial Developments

The implementation of various design standards is a catalyst to ensure quality construction for future industrial development. In addition to all Commercial Standards as prescribed above, the following standards shall also apply to all Industrial uses, including light industrial uses. Exceptions may be made for special developments with distinct and unique architectural designs.



(1) Façade Design/Construction Requirements

All buildings on a site are to have similar design or theme, materials, and compatible architecture. Façade and exterior wall colors shall be low reflectance, subtle, neutral, or earth tone colors. Building trim and accent areas may feature brighter colors, including primary colors. The use of high intensity colors, metallic colors, black or fluorescent colors are not recommended.

(2) Siding

All siding must be stone, brick, cement fiber board, integrally colored CMU, or E.I.F.S. Pre-cast concrete (must have integral color or embedded brick or stone). Buildings clad in metal may be permitted. All siding materials shall be submitted for review by the Plan Commission.

(3) Entryways

Each single tenant industrial establishment shall have clearly defined, highly visible customer entrances wherein the primary customer entrance features no less than three of the following:

- a) Canopies or porticos;
- b) Overhangs;
- c) Recesses/projections;
- d) Arcades;
- e) Raised corniced parapets over the door;
- f) Peaked or gabled roof forms;
- g) Arches;
- h) Columns;
- i) Awnings;
- j) Sidelights, transoms width must equal door width;
- k) Architectural details such as tile work and moldings which are integrated into the building structure and design;
- l) Integral planters or wing walls that incorporate landscaped areas and/or places for sitting;
- m) Enhanced exterior lighting, such as wall sconces, building mounted accent lights, or decorative pedestal lights;
- n) Prominent 3-D entryway feature such as a clock tower or other similar architectural design element projecting from the plane of the main exterior walls by a minimum of eight feet and raised above the adjoining parapet wall or roof by a minimum of three feet.



7.7 Landscaping Standards

Nothing contained in this Section shall be deemed to impose any liability upon the Town, its officers or employees, nor to relieve the owner of any private property from the duty to keep any tree, shrub or plant upon any street tree area on his or her property or under his or her control in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any public roadway or alley.

A. Purpose

The purpose of this Section is to establish minimum standards for the provision, installation, and maintenance of landscaped areas in order to physically separate and visually screen adjacent uses and zoning districts that are not fully compatible. These regulations are intended to:

- (1) Increase the compatibility of development with both adjacent development and the natural environment.
- (2) Provide direct and important physical and psychological benefits to human beings through the use of landscaping to reduce noise and glare, and to break up the monotony and soften the harsher aspects of urban development.
- (3) Protect and enhance property values.
- (4) Improve environmental quality through the numerous beneficial effects of landscaping upon the environment.
- (5) Foster aesthetically pleasing development that will protect and preserve the appearance and character of the community.

B. Applicability

Landscape plans are required by all public, private, and institutional development which require site development plans. These landscape regulations shall apply to single and two-family residential uses only when buffering from incompatible uses is required. Previously approved development need not comply unless new site development approval is being sought.

C. Enforcement

For buffer, screen, or other landscaping, as set forth in this Section, a landscape plan shall be submitted along with the development plan for that development. No permanent Certificate of Occupancy shall be issued without completion of all landscaping shown on the landscape plan required herein. A temporary Certificate of Occupancy may be issued for the building for a period of up to one (1) year when the weather conditions do not permit landscape installation, provided that the developer shall submit a financial guarantee in the amount of one hundred and twenty-five percent (125%) of the installed cost of landscaping when planting has to be delayed. Failure to implement the approved landscape plan, including preservation of existing features, or to maintain the landscaping in accordance to the provisions of this section as long as incompatibility of adjoining uses exists, shall be a violation of this Zoning Ordinance subject to the penalties outlined in *Section 12, Enforcement and Penalties*.

D. Landscaped Areas

The following areas shall be landscaped as prescribed. The following landscaping standards are in addition to any buffering or screening requirements prescribed on the following pages.

(1) Public Rights-of-way

No person shall plant a tree or other vegetation other than grass, otherwise allow a tree to grow within a dedicated public right-of-way. In no instance shall a tree be planted or allowed to grow above underground utilities.



(2) Planting Adjacent to Free-standing, Non-residential Buildings

A planting area five feet wide shall be installed along all sides of buildings. Sidewalks may be permitted in these areas, but shall not occupy the entire area on any side of the building. These adjacent planting areas need not be rectangular in shape as long as the required amount of space is landscaped. Innovative and original designs are encouraged. The adjacent planting area at the rear of a structure may be excluded if that structure is located less than 40 feet from the rear property line and sufficient peripheral planting is included to compensate for its removal.

(3) Plantings adjacent to Free-standing, Single-family Residential Buildings

Each single-family residential lot shall have the following minimum specifications:

- a) A minimum of one shade tree
- b) A minimum of two ornamental trees, two evergreen trees, or one ornamental tree and one evergreen tree
- c) A minimum of eight shrubs, planted along the foundation of the primary building
- d) A minimum of one deciduous tree, planted within the front yard

E. Content of Landscape Plan

When required, a landscape plan shall conform to the following standards:

- (1) A landscape plan prepared by a landscape architect licensed by the State of Indiana is required for each lot within the proposed development.
- (2) All landscape plans submitted for approval as a component of a required site plan shall show the entire zoning lot to scale, on 24" x 36" sheets plus a digital copy and shall contain the following information:
 - a) The location and dimensions of all existing and proposed structures, parking lots and drives, roadways and right-of-ways, sidewalks, refuse disposal areas, utility lines and easements, freestanding structural features, and other landscape improvements, such as earth berms, walls, fences, screens, and paved areas;
 - b) The name and address of the owner, developer, and plan preparer, the date the plan was prepared, scale, and north arrow;
 - c) The location, quantity, size, and name – both botanical and common – of all proposed planting materials;
 - d) The location, size, and common name of existing trees and individual shrubs, areas of dense trees or shrubs, and other natural features, indicating which are to be preserved and which are to be removed;
 - e) The location of barriers to be placed at or beyond the drip line of any trees to be preserved and the type of material to be used for the barrier;
 - f) Details indicating specific grading measures or other protective devices where trees are to be preserved in areas of cut and fill; and
 - g) Planting and installation details as necessary to ensure conformance with all required standards.



F. General Landscape Design Standards

(1) Scale and Nature of Landscaping

The scale and nature of landscaping materials shall be appropriate to the size of the structures. Large scaled buildings, for example, should generally be complemented by larger scaled plants. Plant materials shall be selected for its form, texture, color, pattern of growth and adaptability to local conditions.

(2) Clearance

Trees shall be planted or preserved so that when they reach maturity, there will be a minimum ten (10) foot clearance between the tree trunk and structures, building overhangs, walls, fences and other trees.

(3) Materials

Grass and other vegetative ground cover shall be used for all green space areas, including parking lot islands, except for decorative mulch planting beds containing trees and/or shrubs and inert stabilization in areas subject to severe runoff, erosion or pending.

(4) Vision Clearance Areas

Landscaping in landscaped areas shall not obstruct the sight lines between the street and the access drives and parking aisles near the entries and exits in accordance with the standards provided for in *Section 7.4, Sight Visibility Standards*. Landscaping shall not be located where it creates an obstruction of view in the radius of any curb return.

(5) Trash and Loading Facilities

All trash dumpsters, trash pads, loading areas consisting of two or more loading spaces, loading docks, and service and maintenance areas shall be screened from other residential zones and all adjacent public roads. Such screening may be achieved by using a six (6) foot high, completely opaque fence or wall, a six (6) foot high berm, or a six (6) foot high evergreen screen planted nine (9) feet on center in a double staggered row.

(6) Heating and Cooling Facilities

Ground-mounted heating and cooling units for nonresidential or multi-family structures shall be adequately screened by landscaping so as not to be visible from streets and/or adjacent properties.

(7) Detention/Retention Basins and Ponds

Detention/retention basins and ponds shall be landscaped and are encouraged to be shaped to replicate a natural form of a pond. Such landscaping should include shade and ornamental trees, evergreens, shrubbery, hedges, and/or other plant materials.

(8) Screening Requirements for Wireless Communication Facilities

The communications tower base and all accessory equipment shall be enclosed by a security fence of at least six (6) feet in height with an access gate that remains locked except when attended by authorized personnel. In addition, the enclosure shall be screened on all sides; and both the fence and screening shall meet the following provisions:

- a) The security fence shall be opaque and shall be of colors that are compatible with the natural and built environments.
- b) The screen shall be of dense evergreen plant material with a mature height of at least six (6) feet.



(9) Service Structures

Any new development is encouraged to be served by underground utilities such as electricity, cable, etc., where feasible. Any service structure that can be seen from the first floor of a residence or from any street shall be screened. Structures may be grouped together; however, screening height requirements shall be based upon the tallest of the structures. Service structures shall include, but are not limited to: loading docks, propane tanks, dumpsters, electrical transformers, utility vaults which extend above ground, ground mounted utility equipment and any electrical or other equipment or elements providing service to a building or a site. All service structures shall not be visible from adjacent residential developments or public right-of-ways.

(10) Other Site Elements

Site elements such as outdoor lighting, signage, trash receptacles and fencing should be considered integral parts of the landscaped plans. The end result should be one, which incorporates a pleasing appearance from both on and off the site.

(11) Curbing

Concrete or similar curbing should be installed around all landscape areas to continue landscape material and to provide protection from vehicles.

G. Parking and Loading Areas: Landscaping and Screening Requirements

(1) General Provisions

- a) All landscaped areas shall be separated from vehicular use areas by concrete curbing. Roll curbs may not be used for this separation.
- b) All landscaped areas at the front line of off-street parking spaces shall be protected from encroachment or intrusion of vehicles through the use of wheel stops. Wheel stops shall have a minimum height of six (6) inches above the finish surface of the parking area, be properly anchored, and continuously maintained in good condition. Wheel stops shall not be placed in locations of anticipated intense pedestrian traffic. As an alternative, curbing can be extended to serve the same purpose.

(2) Parking Lot Landscaping

The following landscaping requirements shall apply for all parking areas containing ten (10) or more parking spaces:

a) Interior Landscaping

- 1. A minimum of five percent (5%) of the gross area of the interior vehicular use area of a parking lot shall be landscaped. Perimeter parking lot landscaping and/or buffering shall not be included toward satisfying this requirement.
- 2. Landscaped areas should be distributed throughout the parking lot in the form of landscaped islands in order to reduce the visual impact of long rows of parked cars.
- 3. One hundred percent (100%) of said landscaping area shall be planted with ground cover.
- 4. Appropriate ground cover may include shade trees, ornamental trees, shrubbery, hedges, and grasses. However, at least one (1) shade tree shall be provided for



every one hundred and twenty (120) square feet of landscaped area. See *Appendix C, Official Planting Guide* for suitable plant types.

5. No parking space shall be further than 60 feet from the trunk of a shade tree. Existing shade trees over 12 inches in caliper may be used to fulfill these requirements.

b) Perimeter Landscaping

All parking lots regulated by this Section shall have a perimeter landscaped area of at least three (3) feet in width for lots less than ten thousand (10,000) square feet in area and of at least five (5) feet for lots more than ten thousand (10,000) square feet in area. Such perimeter landscaping shall extend the full length of the parking lot.

1. One hundred percent (100%) of said landscaping area shall be planted with ground cover.
2. At least one (1) shade tree and three (3) small shrubs shall be planted in the perimeter landscaping area for every ten (10) parking spaces in the parking lot. However, if the shade trees already exist in the right-of-way adjacent to the parking area, such trees may be counted to satisfy this requirement. See *Appendix C, Official Planting Guide* for suitable plant types.
3. When both landscape buffers and parking lot perimeter landscaping are required in the same location, the more restrictive shall apply.

(3) Parking Lot Screening

Where a parking lot abuts a residential district or is located within a residential district, or where a parking lot abuts a public street, the following provisions shall apply to the length of the parking lot adjacent to those streets or residential uses or districts.

a) Width and Height

Screening shall be in a strip of landscaped open space at least five (5) feet wide and shall reach a height of at least three (3) feet.

b) Location

Screening may only be installed behind the front setback line.

c) Screening Materials

Screening may consist of both natural and man-made materials, provided that the materials create a continuous visual screen. The following screening types may be used:

1. **Plant Materials**
Plant materials shall be characterized by dense growth and shall form an effective year-round screen within three (3) years of the date of planting. Plant materials must be at least three (3) feet in height and shall be chosen from *Appendix C, Official Planting Guide*.
2. **Fences and Walls**
Fences and walls shall be solid and opaque and shall be made of vinyl, wood, brick, or masonry materials.
3. **Berms**
Earthen berms shall have a maximum slope of 3:1, shall not exceed three (3) feet in height, and must be entirely vegetated with lawn or ground cover within two (2) years of the date of planting.



(4) Loading Area Screening

Vehicle loading areas shall be screened from public roads and adjacent residential districts where the yard containing the loading area is adjacent to the roadway or residential district. Screening shall be a minimum of six (6) feet in height and create a year-round, solid visual screen within three (3) years of planting.

H. General Landscaping Requirements

(1) Placement

The interior dimensions, specifications, and design of any planting area shall be sufficient to protect the trees and shrubs planted and provide for their proper growth.

(2) Plant Materials

a) Plant materials should be appropriate to local growing and climatic conditions (native). Whenever appropriate, existing trees greater than 12 inches in caliper should be conserved and integrated into the landscape plan. Plant materials shall be selected for their purpose, structure, texture, hardiness, and appearance.

b) Plant materials shall comply with the requirements described in the latest edition of the American Standard Nursery Stock, which is published by the American Association of Nurserymen. See *Appendix C, Official Planting Guide*.

(3) Plant Specifications

Plants shall conform to the measurements specified below:

- a) Caliper measurements shall be taken six (6) inches above grade for trees under four (4) inches in diameter and twelve (12) inches above grade for trees four (4) inches or larger in diameter.
- b) Minimum branching height for all shade trees shall be four (4) feet.
- c) Minimum size for shade trees shall be two (2) inches in caliper.
- d) Minimum size for ornamental trees shall be one and one half (1 ½) inches in caliper.
- e) Minimum size for evergreen trees shall be four (4) feet high.
- f) Ornamental shrubs shall have a minimum height of at least 24" as measured from the base of the trunk, and a minimum spread of at least 18" as measured by the average width diameter of the shrub foliage.

(4) Ground Cover

- a) All plantings will be mulched in with a natural material.
- b) For lots 15,000 square feet or less, the front yards and side yards to the building back corners of all single family residential homes shall be entirely sodded. The remainder of the yard may be sodded or seeded. All seeded areas shall be covered with straw or seeded by an equivalent or better method.
- c) Front yards of all non-residential buildings shall be entirely sodded. Any side yards to the building back corners will be sodded at least 20 feet from the building foundation, if



these side areas are to be landscaped with turf. The remainder of the yard shall be seeded and covered with straw or seeded by an equivalent or better method.

(5) Prohibited Plant Materials

As a matter of best practice and in accordance with state and federal regulations plants that are classified as being illegal in the State of Indiana or as a federal noxious weed are hereby prohibited from being planted on public or private property in the jurisdiction of the Town of Albion. Reference *Appendix C, Official Planting Guide* for allowable plantings.

(6) Changes after Approval

No landscaping that has been approved by the Plan Commission may later be altered, eliminated, or sacrificed, without first obtaining further Plan Commission approval.

(7) Inspection

The Plan Administrator, or his or her designee, shall have the authority to visit any lot within the Commission's jurisdiction to inspect the landscaping and check it against the approved plan on file.

I. Preservation of Existing Features

Trees and shrubs already existing within the required buffer area shall be preserved wherever feasible.

- (1) When the location of existing trees in a healthy and growing condition or significant natural landscape features impede strict compliance with the standards set forth herein, then the submittal of an alternative buffer and screening plan which incorporates such existing features into the overall site design is encouraged.
- (2) Existing trees may be used to fulfill tree planting requirements if such trees are in a healthy and growing condition and if they are included on the Plant List set forth in *Appendix C, Official Plant Guide* of this Ordinance. The Plan Administrator may approve existing trees which are not included on the plant list as part of the landscape plan upon determining that the tree is of an appropriate size and variety.
- (3) Existing trees to fulfill tree planting requirements shall be protected by barricades or other applicable methods during site preparation and construction to protect the area defined by the limits of the drip line of the canopy of trees. These barricades shall remain in place during heavy construction on the site, and no vehicle, machinery, tools, chemicals, construction materials, or temporary soil deposits may be permitted within the barriers, nor may any notice or other object be nailed or stapled to protected trees. Upon completion of the development, a minimum of seventy-five percent (75%) of the protected area shall be maintained as permanent permeable landscape area at grades existing prior to site development.
- (4) Where trees are to be preserved in areas of cut or fill, specific grading measures or other protective devices, such as tree wells, tree walls, or specialized fill and pavement designs shall be required and shall be fully detailed on the Landscape Plan.

J. Supplemental Tree Plantings Provisions

All lots, including common areas, within subdivisions shall be planted with supplementary shade trees if less than the required number of trees exists on the lot after construction is complete. For design flexibility, one shade tree may be substituted for two ornamental trees or two evergreen trees for up to 50 percent of the required supplemental trees. Existing deciduous trees at least eight inches in caliper may be used to fulfill the supplemental tree planting requirements. Existing deciduous trees over 12



inches in caliper may reduce by one the required number of supplemental trees. Existing evergreen trees over 8 feet in height may also be used to fulfill supplemental tree planting requirements.

K. Installation and Maintenance

(1) Installation

All landscaping required by the approved landscaping plan shall be installed prior to the issuance of a building occupancy permit if said permit is issued during a planting season, or within six months of the date an occupancy permit is issued if issued during a non-planting season.

(2) Maintenance

a) It shall be the responsibility of the owners and their agencies to insure proper maintenance of the landscaping, in accordance with the standards set by this Ordinance and as indicated on the landscaping plan which has been approved by the Plan Commission. This includes, but is not necessarily limited to, replacing dead plantings within thirty (30) days of the plants demise with identical varieties or a suitable substitute, and keeping the area free of refuse and debris.

b) It shall be the duty and responsibility of every person owning any real property within the Town to keep all trees and plants on their respective property trimmed in such a manner that there is a clearance of at least fourteen (14) feet above any street or alley, and a clearance of at least seven (7) feet over any sidewalk. It shall also be the duty and responsibility of every person owning or occupying any real property within the Town to keep all trees on their respective property trimmed in such a manner that they do not obstruct the view of any traffic sign or device for vehicular or non-vehicular traffic in the direction controlled by that traffic sign or device.

c) Destructive maintenance practices such as severely trimming trees is strictly forbidden. For the purposes of administering and enforcing this Ordinance, the phrase severely trimmed shall include cutting of the branches or trunk of a tree in a manner which will substantially reduce the overall size of the tree area so as to destroy the existing symmetrical appearance or natural shape of the tree in a manner which results in the removal of main lateral branches leaving the trunk of the tree in a stub appearance.

d) All trees shall be trimmed so as to comply with the ANSI A300 standards, as amended from time to time.

7.8 Buffering and Screening Standards

A. Buffering Standards

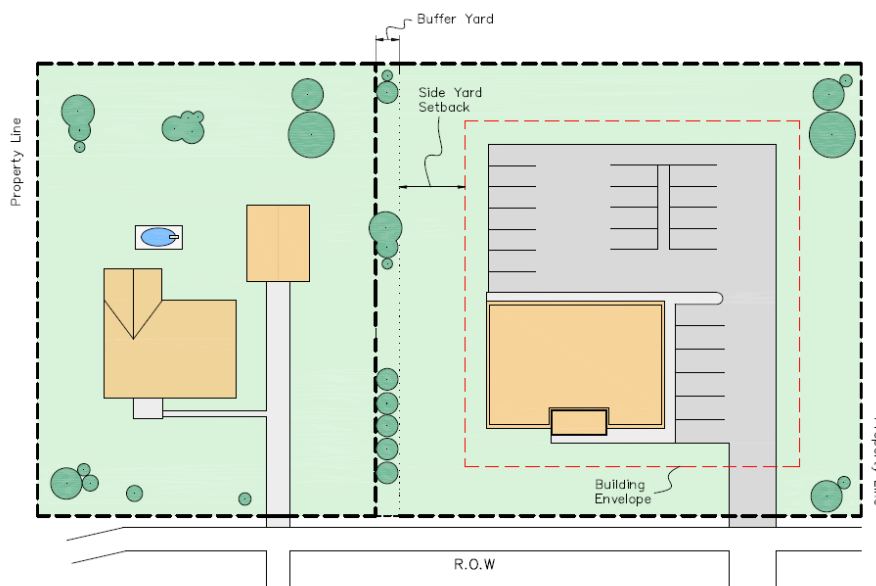
(1) Applicability

Undeveloped properties, expansions of more than 40 percent of existing floor area, and rezoned property are subject to the provisions of this section. Developed lots or lots with unexpired permits at the effective date of this Ordinance are hereby exempt from this requirement.

B. Location of Buffer Areas

Landscape buffers shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line. Such buffers shall run the entire length of the lot line along which they are required. Landscape buffers shall not be located on any portion of an existing or dedicated public or private street right-of-way or drainage and utility easements. Buffer areas shall be in addition to the required building setback area, with the exception of buffer level B which may be coterminous with the required yard area.

Buffer Yard Location



C. Determination of Landscape Buffer Yard Required

- (1) Determine the type of landscape buffer required, the following procedure should be followed:
 - a) Identify the zoning district of the proposed use by referring to the vertical column of the Landscape Buffer Requirements matrix.
 - b) Identify the zoning district of the existing adjacent land use or zoning district by referring to the horizontal column of the Landscape Buffer Requirements.
 - c) Locate the cell on the table where the two selected columns meet. The letter in that cell corresponds to the buffer area regulations found in below.



Landscape Buffer matrix

Subject Zoning	Adjacent Zoning													
	A	R1	R2	R3	R4	R5	CS	CO	CG	CH	IL	IH	MH	Public Street
A														
R1	A													E
R2	A													E
R3	A													E
R4	B	B	B	B	B	B	B	B	B	C	C	D	B	E
R5	B	B	B	B	B	B	B	B	B	C	C	D	B	E
CS	B	C	C	C	C	C	B	B	B	B	B	D	C	
CO	B	C	C	C	C	C	B	B	B	B	B	D	C	
CG	B	C	C	C	C	C	B	B	B	B	B	D	C	
CH	B	D	D	D	D	D	B	B	B	B	B	D	D	
IL	D	D	D	D	D	D	D	D	D	D	B	C	D	
IH	D	D	D	D	D	D	D	D	D	D	C	C	D	
MH	A	B	B	B	B	B	B	B	B	C	C	D	B	E

D. Buffer Types

(1) Level "A" Buffer

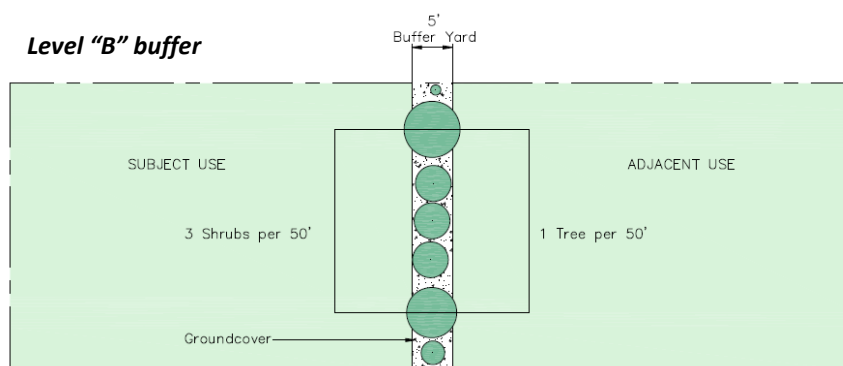
The level "A" buffer provides a buffer area between residential uses and agricultural operations. The level "A" buffer shall also apply to new residential uses in agricultural districts when such uses abut an operating farm.

- a) The width of the buffer shall be thirty (30) feet.
- b) No plantings shall be required in the level "A" buffer. Rather, property owners are cautioned that any plant material located within the required buffer is at risk from chemical applications on adjacent farm fields.

(2) Level "B" Buffer

The level "B" buffer provides a low level of buffering between similar uses and shall have the following characteristics.

- a) The width of the buffer shall be five (5) feet.
- b) One (1) shade tree and three (3) large shrubs shall be planted every fifty (50) lineal feet. Trees and shrubs may be grouped or spaced linearly.
- c) Ground cover plant material shall fully cover the remainder of the buffer.
- d) The entire buffer shall be required regardless of whether a buffer has been provided on an adjacent property.



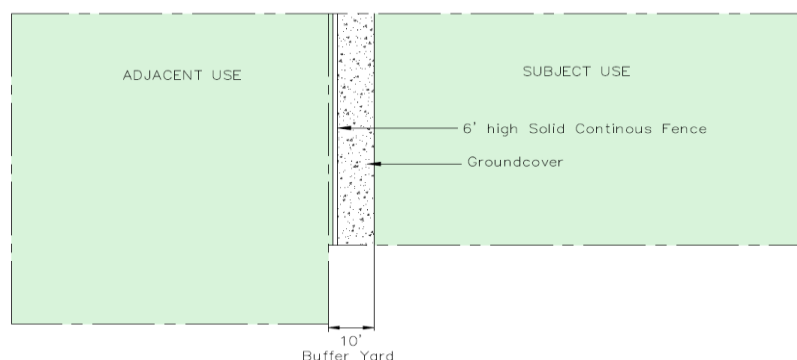
(3) Level "C" Buffer

The level "C" buffer provides a higher level of screening between incompatible uses. Two (2) options are provided for a level "C" buffer. Either option may be chosen.

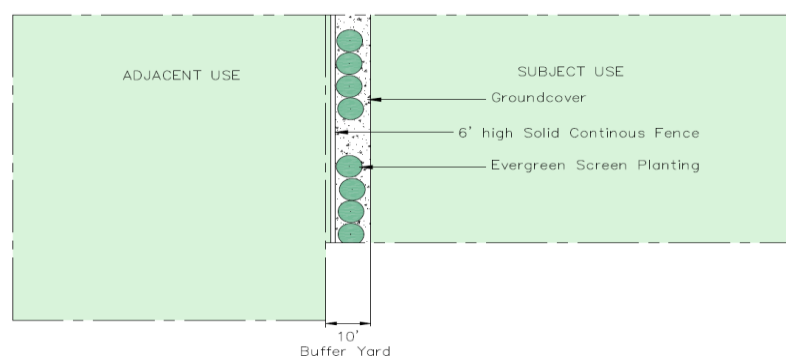
a) Option one:

1. The width of the buffer shall be ten (10) feet.
2. The buffer shall contain an solid, opaque fence, six (6) feet in height erected along one hundred percent (100%) of the yard length or an interrupted solid, opaque fence six (6) feet in height and supplemented with evergreen landscaping in order to create a solid, year-round visual screen along the entire length of the yard. Plant material should be placed intermittently along long expanses of fences to create a softening effect.
3. Ground cover plant material shall fully cover the remainder of the buffer.

Level "C" buffer, Option 1



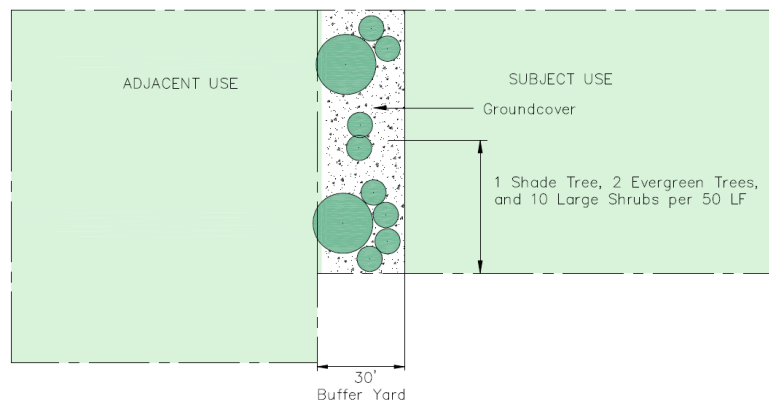
Level "C" buffer, Option 1



b) Option two:

1. The width of the buffer shall be thirty (30) feet.
2. One (1) shade tree, two (2) evergreen trees, and ten (10) large shrubs shall be planted every fifty (50) lineal feet. Trees and shrubs may be grouped or spaced linearly.
3. Ground cover plant material shall fully cover the remainder of the buffer.

Level "C" buffer, Option 2



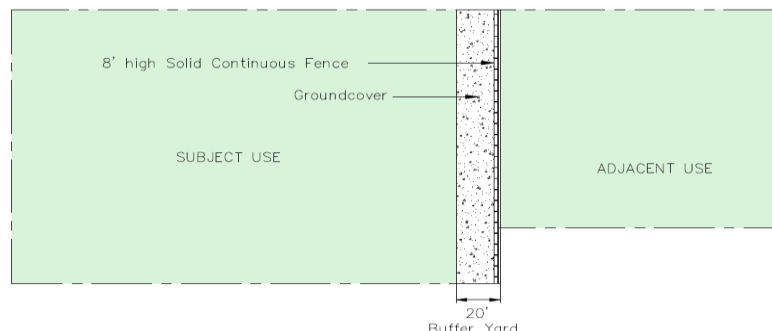
(4) Level "D" Buffer

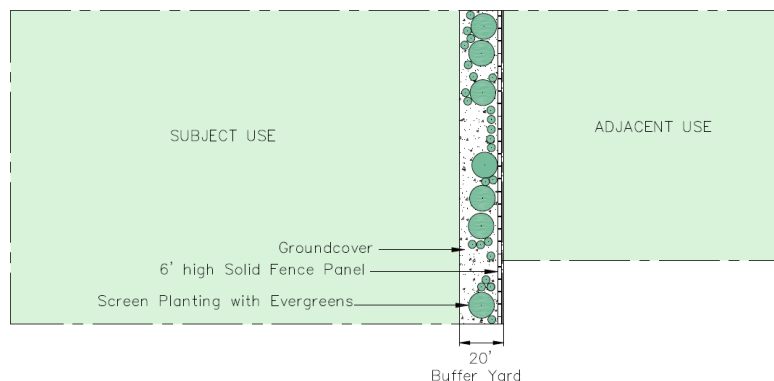
The level "D" buffer provides for the highest level of screening between the most intense uses and incompatible zoning districts such as residential and those likely to be located close to residential districts. Two (2) options are provided for a level "D" buffer. Either option may be chosen.

a) Option one:

1. The width of the buffer shall be twenty (20) feet.
2. The buffer shall contain a solid, opaque fence, eight (8) feet in height erected along one hundred percent (100%) of the yard length or an interrupted solid, opaque fence six (6) feet in height and supplemented with evergreen landscaping in order to create a solid, year-round visual screen along the entire length of the yard. Plant material should be placed intermittently along long expanses of fences to create a softening effect.
3. Berms may be used to achieve the height of the fence.
4. Ground cover plant material shall fully cover the remainder of the buffer.

Level "D" buffer, Option 1

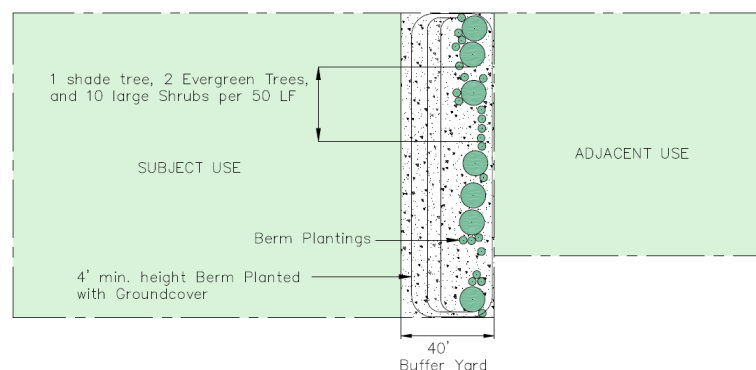




b) Option two:

1. The width of the buffer shall be forty (40) feet.
2. One (1) shade tree, two (2) evergreen trees, and ten (10) large shrubs shall be planted every fifty (50) lineal feet. Trees and shrubs may be grouped or spaced linearly.
3. Berms, a minimum of four (4) feet in height shall be used to increase the height of the buffer.
4. Ground cover plant material shall fully cover the remainder of the buffer.

Level "D" buffer, Option 2

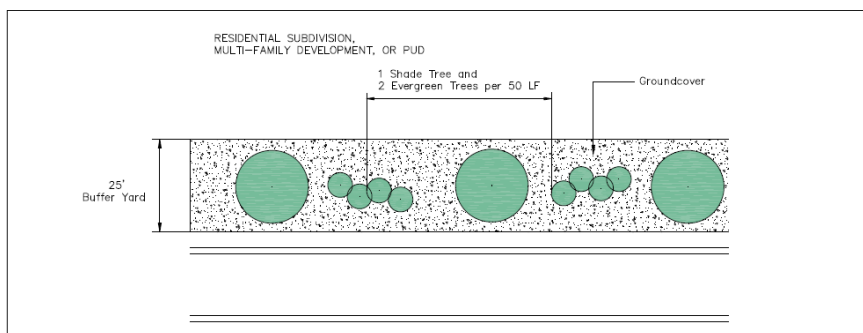


(5) Level "E" Buffer

The level "E" buffer shall be used where a new residential subdivision, new multi-family development or new PUD abuts a public street and shall have the following characteristics:

- a) The width of the buffer shall be twenty-five (25) feet.
- b) One (1) shade tree and two (2) evergreen trees shall be planted every fifty (50) lineal feet. Trees may be grouped or spaced linearly.
- c) Berms shall be encouraged but not required.
- d) Ground cover plant material shall fully cover the remainder of the buffer.

In the case of a residential subdivision, the buffer area shall be indicated on the plat as a common area rather than a portion of individual building lots.



E. Screening of Loading and Storage Areas

Screening shall be by opaque wall or fence six to eight feet in height. One-third of the surface area of the wall or fence must be screened from an existing or planned public right-of-way with plants within six months of the date of the occupancy permit being issued. Screening shall be evergreen, and planted at a maximum spacing of four feet on center.

7.9 Fence and Wall Standards

A. Purpose and Intent

The purpose of these fence and wall standards is to provide minimum requirements in order to provide adequate light, air circulation, and privacy; and to protect the public welfare by preventing visual obstructions along public ways.

B. Applicability

All fences and walls are subject to review by the Plan Administrator. Unless otherwise noted in this Ordinance, fences and walls are permitted in the various districts subject to the regulations of this Section.

C. Residential Uses

(1) Rear and Side Yard Fences and Walls

a) Height

The maximum height of all rear and side yard fences and walls associated with a residential use shall be six feet. In instances where a residential use directly abuts a non-residential use, the abutting side may have an eight foot fence to be approved by the Board of Zoning Appeals.

b) Materials

All rear and side yard fences and walls associated with a residential use shall be constructed out of vinyl, vinyl-coated chain link, wrought iron, wood, stucco, brick, stone, or combinations of the above. In instances where two or more materials are used, the heavier material shall be below. Other materials may be permitted by the Plan Commission, following a review by and recommendation from the Plan Administrator.

(2) Front yard fences and walls

a) Height

The minimum height of all front yard fences and walls associated with a residential use shall be two feet. The maximum height shall be three feet.

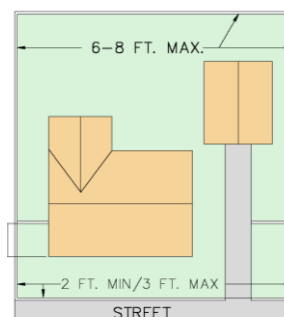
b) Materials

All front yard fences and walls shall be constructed out of vinyl, wrought iron, wood, stucco, brick, stone, or combination thereof, provided the heavier material is located on the bottom.

(3) Location

In no instance shall a fence be located within a utility or drainage easement. The location of all walls and fences in association with a residential use shall be as illustrated below.

Location of Residential Fences and Walls



D. Commercial and Industrial Uses

(1) Rear and Side Yard Fences and Walls

a) Height

The maximum height of any fence associated with a commercial or industrial use shall be twelve feet.

b) Materials

All rear and side yard fences and walls associated with a commercial or industrial use shall be constructed out of vinyl-coated chain link, chain link, wrought iron, stucco, brick or combinations of the above, provided the heavier material is placed on the bottom.

(2) Front yard fences and walls

a) Height

The maximum height of all fences and walls located within the front yard of a commercial or industrial use shall be six feet height, with the exception of walls and fences used for screening as required by this Ordinance.

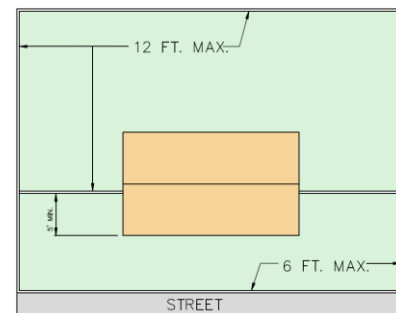
b) Materials

Wrought iron, wood, stucco, brick, stone, or combination thereof, provided the heavier material is located on the bottom.

(3) Location

In no instance shall a fence be located within a utility or drainage easement. The location of walls and fences for commercial and industrial developments shall be as illustrated below.

Location of Commercial and Industrial Fences and Walls





7.10 Exterior Lighting Standards

A. Purpose and Intent

The purpose of these exterior lighting standards is to provide minimum outdoor lighting standards that protect the public safety and the general welfare of the community by reducing unsafe and unpleasant lighting conditions, such as light trespass and light pollution, while also promoting the safe and efficient movement of vehicles and pedestrians and the security of local properties.

B. General Requirements

All exterior lighting shall comply with the following requirements:

(1) Mounting Height Measurement

For the purposes of this Section, the mounting height of all light fixtures shall be defined as the vertical distance between the grade level of the surface being illuminated and the top of the lighting fixture (luminaire).

(2) Use of Timers/Dimmers

Wherever practicable, exterior lighting shall include timers, dimmers, and/or sensors to reduce overall energy consumption and eliminate unnecessary lighting.

(3) Electrical Service

The electrical service to all outdoor lighting fixtures shall be underground, unless the fixtures are mounted directly on buildings or utility poles.

(4) Holiday Lighting

Holiday lighting shall be exempt from the provisions of this Section.

(5) Light Trespass

Light trespass into the night sky and onto neighboring properties shall be prevented through the use of such techniques as horizontally mounted lamps with reflectors, glass, polycarbonate or acrylic refractors, louvered optics, and houseside shields.

C. Residential Street Lights

Street lighting within any residential development shall comply with the following design criteria or its equivalent as determined by the Board of Zoning Appeals or Plan Commission:

(1) The street lighting shall be adequate to light all road intersections, curves, cul-de-sacs, and entrances into and within a development.

(2) Lighting units which shall include a pole, luminaire, and all other necessary parts and equipment, shall be placed at a minimum of every 200 to 250 feet on property lines staggered on opposite sides of the street and at intersections, curves, cul-de-sacs, and entrances to any development.

(3) The lighting as described above shall be placed away from the street on the backside of the curb a minimum of one and one-half feet. In the event that there is not a curb, the lighting shall be placed one and one-half feet off of the road side of the sidewalk or multi-use path.

(4) Lighting shall consist of all utility quality columns and fixtures and photovoltaic devices conforming to ANSI standard C136.10.

(5) The light fixture column shall comply with the Town's lighting specifications. Equal fixture shall be considered by the Board of Zoning Appeals as a development standards variance.



(6) Light column foundations shall extend no more than four inches above finish grade and shall be installed in accordance to the specifications of the Town's lighting specifications.

(7) Luminaire light source shall be composed of high power LEDs, or Light Emitting Diodes. Refer to the Town's lighting specifications.

(8) All equipment, including but not limited to the light column, luminaire and additional fixtures shall remain the property of the Developer, property owner, or the Homeowners Association who shall be responsible for all of the maintenance of said equipment as well as all operational cost of said equipment until which time the Town annexes said development.

(9) Record drawings shall be provided in digital format to the Plan Administrator upon completion of installation of said lighting system, said format to use the Auto-Cad software program or its approved equivalent.

(10) If the development is an apartment complex, condominium or other form of multiliving arrangement, the same requirements as set forth above shall apply in addition to which the lighting fixtures at the entrances shall be 5.0 foot-candles, the lighting around parking and building areas shall be 1.0 foot-candles, and shall in all respects comply to the Illuminating Engineering Society (IES) Lighting Handbook.

(11) For all projects, a photometric map indicating the distribution and foot-candles of all proposed lighting shall be supplied to the Plan Administrator prior to installation.

D. Non-residential Street Lights

All standards set forth in (C), Residential Street Lights, above shall apply where not in direct conflict with those additional criteria set forth below. In the event that one or more of the following criteria conflicts with the criteria set forth in (C), the more restrictive standard shall apply.

(1) All lighting shall be consistent with the Town's lighting specifications.

(2) All fixtures shall be mounted on standards or columns as specified in (C), (5) above, not to exceed 30 feet in height. Lighting fixture, standards or columns shall be mounted in an approved concrete foundation in compliance with specifications by the State of Indiana.

(3) The light at the property line in non-residential areas shall not exceed 0.3 footcandles. When a non-residential district abuts a residential district or use, the light at the property line shall not exceed 0.1 foot-candles of illumination.

E. Illuminated Canopy Requirements

Lighting levels under canopies for gas stations, convenience stores, drive-up banking centers, and similar locations shall be adequate to facilitate the activities taking place on the property, and shall not be used for the purpose of illuminating signs. Such lighting shall be in compliance with the following requirements:

(1) Lighting Fixtures

Lighting fixtures on canopies shall comply with either of the following requirements:

- a) All light fixtures mounted on the canopies shall be recessed so that the lens cover is recessed or flush with the bottom surface (ceiling) of the canopy, or



b) The lighting of the canopy shall use indirect lighting through which light is beamed upward and then reflected down from the underside of the canopy by light fixtures that are shielded so that illumination is focused exclusively on the underside of the canopy.

(2) Fixture Location

Lights shall not be mounted on the top or sides of any canopy and the sides of the canopy shall not be illuminated. In no instances shall this be interpreted as prohibiting the placement of signs on the canopy which are illuminated consistent with the standards for sign illumination in *Section 8, Sign Standards*.

F. Lighting of Outdoor Athletic/Performance Facilities

Lighting for all outdoor athletic and performance facilities and events shall provide adequate light for the event or facility while minimizing light pollution and the illumination of adjacent streets and properties.

(1) Play/Performance Area Lighting

Lighting fixtures for the playing fields and/or performance areas shall be specifically mounted and aimed so that their beams fall directly within the play/performance area and its immediate surroundings and does not spill onto adjacent streets or properties.

(2) Dual Lighting System

The use of spotlights and/or floodlights to illuminate the play/performance area shall be permitted. However, each facility shall be designed and constructed with a dual lighting system which permits the main lighting for the event (spotlighting, floodlighting, etc.) to be turned off, with an alternate low level lighting system used for clean-up, night maintenance and other activities.

(3) Exemptions

Outdoor athletic fields and courts established as accessory uses to single and two-family residences shall be exempt from these requirements.

G. Security Lighting

Security lighting shall be coordinated with other lighting on the property to the extent possible and shall otherwise be in compliance with the following requirements:

(1) Non-residential Lighting Fixtures

All security lighting in non-residential areas shall be shielded and specifically aimed so that illumination is directed only to the intended area. The light source for any security lighting shall include shields that prevent their light source or lens from being visible from adjacent properties and/or streets. Security lighting fixtures may be mounted on poles located no further than 10 feet from the perimeter of the area intended to be illuminated.

(2) Residential Lighting Fixtures

Security lighting fixtures in residential areas shall make use of indirect and reflected lighting techniques to provide soft lighting under canopies, entry porches, or soffits.

H. Lighting of Building Facades

Building facades may be illuminated, subject to the following requirements:

(1) Lighting Fixtures

Lighting fixtures shall be located, aimed, and shielded so that light is directed only onto the building facade. Lighting fixtures shall not be directed toward adjacent streets or roads.



(2) Lighting Direction

Lighting fixtures shall be designed to wash the facade of the building with light (rather than providing a spot or floodlight affect) and may be directed upward or downward onto the facade. Exterior facade lighting shall be contained on the building facade or in the landscape areas adjacent to the building and shall focus on entries and architectural features.



7.11 Parking Standards

A. Purpose and Intent

The purpose of these parking standards is to reduce street congestion by eliminating on street parking, to ensure proper vehicular and pedestrian circulation, and therefore improve public safety by identifying the appropriate number and location of off-street parking spaces for each zoning district.

Every use of land must include on-premises parking sufficient for the needs normally generated by the use, as provided for in this subsection. Parking spaces or bays contiguous to the street, required by subdivision or other Town ordinances, are in addition to and not in place of the spaces so required.

B. General Requirements

(1) General Provisions

- a) Accessory off-street parking and loading facilities shall be provided and maintained in accordance with the provisions of this section for all buildings, structures or premises used in whole or in part for purposes permitted by this Ordinance.
- b) When the intensity of use of any building, structure or premises shall be increased through the addition of dwelling units, floor area, beds, seating capacity, or other unit of measurement, parking and loading facilities as required herein shall be provided for such increase in intensity of use.
- c) For any non-conforming use which is hereafter damaged or partially destroyed, and which is lawfully reconstructed, re-established, or repaired, off-street parking and loading facilities equivalent to those maintained at the time of such damage or partial destruction shall be restored and continued in operation; provided, however, in no case shall it be necessary to restore or maintain parking or loading facilities in excess of those required by this Ordinance for equivalent new uses.
- d) Whenever the existing use of a building, structure or premises shall hereafter be changed or converted to a new use permitted by this Ordinance, parking and loading facilities shall be provided as required for such new use.
- e) Accessory off-street parking or loading facilities in existence at the time of the effective date of this Section shall not hereafter be reduced below, or if already less than, shall not be further reduced below the requirements for a similar new use under the provisions of this Ordinance.
- f) Nothing in this Ordinance shall be deemed to prevent the voluntary establishment of accessory off-street parking or loading facilities to serve any existing use of land or buildings, provided that all regulations herein governing the location, design, and operation of such facilities are adhered to.
- g) Accessory off-street parking and loading facilities provided to comply with the provisions of this Ordinance shall not subsequently be reduced below the requirements of this Ordinance.
- h) Accessory off-street parking facilities required herein shall be utilized solely for the parking of passenger automobiles or light trucks of less than one (1) ton capacity, belonging to patrons, occupants or employees of specified uses. Said parking



facilities shall not be used for the storage, display, sale, repair, dismantling or wrecking of any vehicle, equipment or material, unless such facilities are enclosed in a building and otherwise permitted in the district.

- i) No business signs or advertisements shall be permitted in parking areas, provided, however, directional and identification signs shall be permitted in accordance with *Section 8, Sign Standards*.

(2) Location

- a) No off-street parking spaces may be fully or partially located in an existing or planned public right-of-way, septic field, required landscape area, buffer yard, utility easement, or drainage easement. In no instance shall any vehicle be stored or parked in any front yard or side yard or rear yard. Temporary parking of vehicles in driveways accessed from the street and passing through the yard are exempt from this requirement.
- b) Accessory off-street parking or loading spaces shall be provided on the same lot as the use served, except as otherwise provided in this Ordinance, and may be situated as one or more individual areas.

(3) Access

All required parking spaces must be designed to provide direct access for vehicles. In no case may areas which do not have direct access be considered a parking space meeting the requirements of this Ordinance. For example, a residential driveway shall not be considered a parking space meeting the requirements of this Section if a parked vehicle in the driveway prevents direct access to a required parking space in a garage or carport.

(4) Parking Space Dimensions

- a) Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this Section.

Minimum Space and Aisle Dimensions of Parking Spaces

Parking Angle* (In Degrees)	Space Width	Space Depth	Aisle Width (In Feet)
Parallel	9'	22'	12'
Right Angle	9'	20'	24'
60 degree angle	9'	18'	18'
45 degree angle	9'	17'	18'
Compact Car*	8'	15'	18'

The length for measuring the depth of a space shall be measured at right angles to the edge of the useable parking forming the angles, exclusive of aisles.

*Note: Spaces exclusive for compact or subcompact cars may be used only if specifically designated "For Compact Cars or Motorcycles Only".



C. Single and Two-family Developments

Parking spaces for single and two-family residential developments shall be provided on the same lot as the dwelling unit for which they are required and shall meet the following standards:

(1) Spaces Requirements

A minimum of two off-street, paved spaces are required for each dwelling unit.

(2) Access/Location Requirements

Parking areas must be designed to prevent vehicles from having to back into or maneuver in any arterial or collector street which includes SR 8 and SR 9.

D. Multi-family Developments

Parking spaces for all multi-family developments shall comply with the following standards:

(1) Space Requirements

A minimum of 2.5 off-street parking spaces are required for each dwelling unit, rounded up to the nearest complete space. In addition, parking spaces for management offices, sales facilities, self-service laundries, and other accessory uses shall be equal to one-half of the requirements for those uses established by this Section.

(2) Parking of the Disabled

The required spaces shall include parking for the disabled meeting the requirements of this Section. The minimum number of disabled spaces provided shall either be as specified in the American with Disabilities Act or equal one space for every handicap-accessible dwelling unit, whichever is greater. See *Table 7.1, Parking Spaces Accessible to the Disabled*.

(3) Driving Surfaces

All parking areas, including parking spaces, interior drives, and ingress/egress into parking areas must be paved with asphalt, concrete, or other porous pavement materials that are approved by the Plan Administrator. All parking areas shall be clearly painted to show each parking space.

(4) Maneuvering

All parking spaces shall be provided with adequate maneuvering space into which vehicles can back for the purpose of exiting the parking space. For all multi-family uses, the following interior drive minimums shall be required:

- a) 13 feet if one-way traffic and no parking or 45 degree parking,
- b) 18 feet if one-way traffic and 60 or 90 degree parking,
- c) 24 feet if two-way traffic or accessing a loading berth(s).

(5) Drainage

Parking areas must be constructed to allow proper drainage, which shall be subject to the review of the Plan Commission and/or approval of the Town Manager.

(6) Curbs

All parking areas shall generally be completely curbed. Curbing shall not be required if, in the written opinion of the Town Manager, the drainage system for the property shall be best served if curbs were not present.

(7) Lighting

Lighting for parking areas shall be in compliance with the applicable requirements of this Ordinance.



(8) Landscaping

Landscaping for parking areas shall be in compliance with the applicable requirements of this Ordinance.

(9) Access/Location Standards

Parking areas must be designed to prevent vehicles from having to back into or maneuver in public streets, excluding all alleys and any streets that are internal to the development.

E. Non-residential Developments

Parking spaces for all non-residential developments shall comply with the following standards:

(1) Location

Parking spaces shall be located on the lot with the use(s) for which they are required. All parking spaces and interior drives shall meet the following requirements.

a) Access to Public Streets

Parking areas must be designed to prevent vehicles from having to back into or maneuver in public streets (access to alleys shall be exempt from this requirement).

b) Maneuvering Space

All parking spaces shall be provided with adequate maneuvering space into which vehicles can back for the purpose of exiting the parking space. For all non-residential uses, and where multi-family uses permitted in a non-residential district, the following interior drive minimums shall be required:

- 1) 13 feet if one-way traffic and no parking or 45 degree parking,
- 2) 18 feet if one-way traffic and 60 or 90 degree parking,
- 3) 24 feet if two-way traffic or accessing a loading berth.

c) Off-street Parking

Off-street parking in the front set back shall be prohibited.

(2) Driving Surfaces

All parking areas, including parking spaces, interior drives, and ingress/egress into parking areas must be paved with asphalt, concrete, or porous pavement material that has been previously approved by the Plan Administrator to the nearest paved street. All parking areas shall be clearly marked to show each parking space.

(3) Drainage

Parking areas must allow proper drainage, and shall be subject to the review of the Plan Commission and/or approval of the Town Manager.

(4) Curbs

All parking areas for non-residential uses shall be completely curbed. Curbing shall not be required if, in the written opinion of the Town Manager, the drainage system for the property and surrounding environment shall be best served if curbs were not present.

(5) Minimum Number of Spaces

The minimum number of parking spaces required per property shall be determined by the sum of spaces required for each applicable use of the proposed development or redevelopment as prescribed by *Appendix D, Official Parking Standards*.



(6) Accessible Parking Spaces

Accessible parking spaces for the disabled shall be provided in accordance with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities. See **Table 6.1, Parking Spaces Accessible to the Disabled**.

- a) All required parking spaces for the disabled shall be those that are the closest to the main entrance of the primary structure.
- b) Parking spaces for the disabled shall count toward the total number of spaces required by this Ordinance.

F. Parking Spaces Required

- (1) In determining the minimum required number of off-street parking or loading spaces (*Appendix D, Official Parking Standards*), the following instructions shall be applicable in such computations:
 - a) If the unit of measurement is any fraction of the unit specified in relation to the number of spaces to be provided, said fraction shall be considered as being the next unit and shall be counted as requiring one space.
 - b) In sports arenas, churches and other places of assembly in which patrons occupy benches, pews or other similar seating facilities, each twenty-two (22) inches of such seating shall be counted as one (1) seat for the purpose of determining requirements hereunder.
- (2) Accessory off-street parking facilities for separate uses may be provided collectively if the total number of spaces so provided is not less than the sum of the separate requirements for each such use, and provided that all regulations governing location of accessory parking spaces, in relation to the use served, are adhered to. Further, no parking space or portion thereof shall serve as a required space for more than one use unless otherwise authorized by the Board of Zoning Appeals.
- (3) Required off-street loading and unloading spaces shall not be construed as being part of the required off-street parking spaces.
- (4) No part of an alley shall be used to meet the minimum parking requirements of this Ordinance.
- (5) For purposes of determining off-street parking requirements under this subsection, gross floor area shall mean the total horizontal areas of the one or several floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within selling or working space such as counters, racks, or closets and any basement floor area devoted to retailing activities, to the production or processing of goods or to offices; provided, however, gross floor area shall not include that area devoted entirely and permanently to storage purposes, parking and loading facilities, or space used for restrooms, utilities, stairwells or elevator shafts.
- (6) Off-street parking shall be provided according to the ratios set forth in *Appendix D, Official Parking Standards*.



- (7) Every company car, truck, tractor or trailer normally stored at a business site shall be provided with an off-street parking space. Such space shall be in addition to the parking requirements listed in *Appendix D, Official Parking Standards*.
- (8) For uses not specified in this Subsection, or in such instance when the requirement for an adequate number of spaces is unclear or not specified in another part of this Ordinance, the number of parking spaces shall be determined by the Plan Administrator on the basis of similar requirement, the number of persons served or employed, and the capability of adequately serving the visiting public. Such determination may be appealed to the Board of Zoning Appeals.
- (9) In case of conflict between the provisions of this Subsection, the higher requirement shall govern.

G. Accessible Parking Spaces Required

The Town of Albion requires all development within the Town which serves the public to provide facilities which are accessible to people with disabilities as defined by the Americans with Disabilities Act (ADA). In accordance with this goal, accessible parking shall be provided by any building or use initiated after the effective date of this Ordinance according to the following minimum requirements and any further requirements hereafter adopted by federal, state, or local law.

(1) Required Spaces

Accessible parking spaces shall be provided at a rate listed in *Table 7.1, Parking Spaces Accessible to the Disabled*. In addition to these requirements, accessible patient parking at outpatient facilities must equal no less than ten percent (10%) of the required parking, and facilities which specialize in treatment or services for persons with mobility impairments must provide accessible parking equaling no less than twenty percent (20%) of the required parking for patient use.

(2) Design and Layout of Accessible Parking Lots

Access aisles and accessible routes for the mobility impaired shall be provided pursuant to ADA requirements. Accessible spaces must be a minimum of eight (8) feet wide with a five (5) foot access aisle. One of every eight (8) spaces, however, must have an access aisle of eight (8) feet wide and be designated "van accessible".

(3) Passenger Loading Areas

Passenger loading zones shall provide an access aisle of a minimum of twenty (20) feet in length, adjacent and parallel to the vehicle pull up space. If there are curbs between the access aisle and the vehicle pull up space, then a curb ramp shall be provided.

(4) Signage and Marking

All accessible spaces shall be designated by the international access symbol. Van accessible spaces shall be labeled by both the international symbol and an additional sign indicating that the space is accessible for vans.

Signs shall be a minimum of five and one half (5 ½) feet above ground level so as not to be obscured by parked vehicles. The mobility impaired symbol shall also be painted on the ground to the rear of the parking space.



Table 7.1 Parking Spaces Accessible to the Disabled

<u>Total Number of Parking Spaces in Lot</u>	<u>Minimum Number of Accessible Spaces Required</u>
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
1,001 and over	20, plus 1 for each 100 over 1,000

H. Drive-Thru Stacking

Drive-thru establishments shall provide stacking space for the queuing of vehicles awaiting use of drive-thru windows. Each stacking space must be twelve (12) feet long, and each lane of stacking spaces must be at least nine (9) feet wide. Lane widths should be delineated with pavement markings. However, individual spaces within the lane need not be marked. *Appendix D, Official Parking Standards* denotes the number of stacking spaces required for common drive-through uses. Any drive-through use not listed shall be required to provide at least four (4) stacking spaces per drive-through window. Stacking spaces must be in addition to the required parking spaces and must not be located within a required driveway, internal circulation system, or parking aisle. No alley way or public street may be used for stacking of vehicles.

I. Development Standards

All off-street parking areas for four (4) or more automobiles shall be developed in accordance with the standards of this Section, except in the case of one and two-family dwellings, agricultural uses, and storage of vehicular merchandise not counting toward the minimum requirements as set forth in this Ordinance.

(1) Dimensions

- a) Each required off-street parking space shall be at least nine (9) feet in width and at least seventeen (17) feet in length, exclusive of access drives or aisles, ramps, columns, or office or work areas. Such spaces shall have adequate vertical clearance. For parallel parking, the length of the parking space shall be increased to twenty-two (22) feet, and the minimum required width may be reduced to eight (8) feet.
- b) Except on lots occupied by one and two-family dwellings, each off-street parking space shall open directly upon and aisle or driveway at least twelve (12) feet wide or such additional width and design in accordance with the following table, so as to provide safe and efficient means of vehicular access to such parking space. Such aisle or driveway shall be unobstructed and allow for the passage of emergency vehicles at all times.



Table 7.2 Minimum Space and Aisle Dimensions of Parking Spaces

Parking Angle* (In Degrees)	Space Width	Space Depth	Aisle Width (In Feet)
Parallel	9'	22'	12'
Right Angle	9'	20'	24'
60 degree angle	9'	18'	18'
45 degree angle	9'	17'	18'
Compact Car*	8'	15'	18'

The length for measuring the depth of a space shall be measured at right angles to the edge of the useable parking forming the angles, exclusive of aisles.

*Note: Spaces exclusive for compact or subcompact cars may be used only if specifically designated "For Compact Cars or Motorcycles Only".

(2) Layout and Design

- a) All off-street parking or loading facilities shall be designed with appropriate means of vehicular access to a street or alleys in a manner which will least interfere with traffic movement.
- b) Driveway entrances or exits shall be no closer than twenty-five (25) feet to an adjoining residential property line or ten (10) feet to an adjoining non-residential property line, or designed in such a manner as to least interfere with traffic movement. No driveway across public property at the right-of-way line of the street shall exceed a width of thirty (30) feet; provided, however, two driveways not exceeding thirty (30) feet in width each may constitute a single entrance-exit divider designed driveway, provided further, that such driveways shall conform to the specifications of the Town.
- c) Required off-street parking spaces shall be so designed, arranged, and regulated so that:
 - 1. Such parking areas are lined or designated to ensure the most efficient use of the parking spaces.
 - 2. Parking in all nonresidential districts shall be provided with curbing, wheel stops, or other devices to prevent motor vehicles from being parked or driven within required setback areas or onto required landscaped open space.
 - 3. Individual spaces are located so that no part of the parked vehicle will extend beyond the boundary of the established parking area into any minimum required yard or onto adjoining property.
 - 4. Parking spaces are unobstructed and have access to an aisle or driveway so that any automobile may be moved without moving another, and so that no maneuvering directly incidental to entering or leaving a parking space shall be on any public right-of-way or walkway.
 - 5. All paved portions of all parking spaces and maneuvering aisles shall be set back a minimum of five (5) feet from any wall of a building.



- d) Off-street parking spaces may be open to the sky or enclosed in a building. In any instance, when a building is constructed or used for parking facilities on the lot, said building shall be treated as any major structure and subject to all requirements thereof.
- e) Parking areas may be provided with a one story shelter building or guard building which shall not exceed one hundred (100) square feet of gross floor area and shall conform to all the structural requirements of the Zoning District.
- f) All parking lots abutting residential uses or Zoning Districts, and all parking lots in any district containing ten (10) or more spaces shall be subject to the landscaping and screening requirements for such parking lots as set forth in *Section 7.7 G (2) Parking Lot Landscaping*.
- g) All parking areas shall provide means of pedestrian circulation to the use and between the use and the street.
- h) Any lighting facilities used to illuminate off-street parking areas shall be so located, shielded and directed upon the parking area in such a manner that they do not reflect or cause glare onto adjacent properties or interfere with street traffic. In no instance shall bare unshaded bulbs be used for such illumination.

(3) Surfacing and Drainage

- a) All open, off-street parking areas shall be surfaced with an all weather, dust-free concrete or asphalt material, capable of carrying a wheel load of four thousand (4,000) pounds and shall be maintained in good condition and free of weeds, dirt, trash, and debris; except that, a gravel surface may be used for a period of not exceeding one year after the date of granting the Certificate of Occupancy where ground conditions are not immediately suitable for permanent surfacing as specified above.
- b) A gravel surface in the area of storage or handling may be used permanently in association with industries that handle liquids or chemicals which create a potential hazard if containment should be lost and where absorption into the ground through a loose surface material would eliminate or alleviate such hazard.
- c) Such parking areas shall be graded and properly drained in such a manner that there will be no free flow of water onto either adjacent property or public sidewalks. Further, any additional run-off generated by such improved areas shall be disposed of in appropriate drainage facilities.
- d) In any parking area, the surface shall be painted, marked, or otherwise delineated so that each parking space is readily apparent.

J. Requirements for Non-conforming Uses and Uses Permitted by Special Exception or Variance

Any use which is non-conforming in the zoning district in which it is located or is permitted by special exception or variance shall provide parking which is consistent with the use and the standards for the zoning district in which the use would ordinarily be permitted by this Ordinance. In no instance shall the number of parking spaces required for non-conforming uses or those permitted by special exception or variance be solely based on the standards for the district in which they are located. The Board of Zoning Appeals shall specify the number of parking spaces for all uses permitted by special exception or variance



consistent with the intent of this Section. However, the Board of Zoning Appeals may grant variances consistent with the intent of this Ordinance.

G. Requirements for Uses Not Specifically Listed

The number of parking spaces required for uses that are not listed specifically shall be determined by the Plan Administrator by comparing the proposed use with those that are specified and further determining the most relevant comparable use.

H. Park Use Requirements

Off-street parking space for park and recreation uses and buildings located in any zoning district shall be consistent with the requirements for business uses provided by this Ordinance.

I. Vehicle Storage Requirements

In no instance should the provisions for stored vehicles be interpreted as enforcement of traffic code provisions for inoperable vehicles. These provisions are intended to ensure that auto repair and salvage facilities are operated consistent with the general welfare of the community. The storage of all motor vehicles shall be consistent with the following requirements:

(1) Primary Structure Required

Unless expressly permitted by this Ordinance, no vehicle, including recreational and commercial vehicles, shall be parked, stored, or allowed to remain on a lot or parcel of land that does not contain a primary structure.

(2) Stored Vehicles to be Salvaged / Repaired

The outdoor storage of such vehicles associated with permitted auto repair or salvage facilities shall be consistent with the following requirements:

- a) Any automobile awaiting repair shall not be stored outdoors for longer than five business days.
- b) All such vehicles, including antique vehicles, may be stored within the rear or side yard. In no instance shall such vehicles be stored in any front yard, buffer yard, required landscape area, utility easement, drainage easement, or required setback area.
- c) All storage areas for such vehicles shall be completely enclosed with a six foot tall, 100 percent opaque wood, stone, or masonry fence. Gates allowing access to the storage areas are permitted, provided they are closed when not in use, and constructed of six foot tall, 100 percent opaque wooden doors.

(3) Recreational Vehicle Storage

The storage or parking of recreational vehicles (including travel-trailers, boats, snowmobile or motorcycle trailers, etc.) in residential zoning districts and associated with residential uses is subject to the following requirements:

- a) A recreational vehicle may be stored on a residential property provided the vehicle is not placed on the grass in the front yard. A recreational vehicle may be parked in the front yard on a residential lot, outside of an enclosed structure, for a period not to exceed a total of 48 hours in any one week period.
- b) Not more than one recreational vehicle will be permitted to be parked or stored in the open on residential property at any one time; however one additional recreational vehicle is permitted for visitation for up to seven consecutive days, not to exceed 14 days in any one year.



c) In no instance shall a parked recreational vehicle be occupied longer than seven days in any 30 day period of time.

d) The Plan Administrator, or his or her designee, shall require a land owner to verify that the vehicle is licensed, registered and operational.

(4) Commercial Vehicle Storage

The storage or parking of commercial vehicles in residential zoning districts and primarily residential Planned Unit Developments is subject to the following requirements.

a) The parking of commercial vehicles that are a Class 2 or less shall be limited to two. Any commercial vehicle may be stored within an enclosed structure. The parking of trailers shall be permitted if they are behind the primary structure front line and have currently licensed, registered and operational.

b) This regulation shall not be interpreted to apply to commercial vehicles used for conveying the necessary tools and materials to premises where labor, using such tools and materials, is to be performed during the time of parking such vehicles, or to commercial vehicles in the process of temporarily loading or unloading deliverable goods.

J. Off-site and Shared Parking Provisions

Under certain conditions, off-site and shared parking may be allowed on another lot. The parking shall be within 500 feet of the lot occupied by the uses(s) for which they are required.

(1) Off-site Parking

Two or more uses may provide off-site parking collectively on one lot, provided the total number of spaces is not less than seventy-five percent of the sum of the spaces required for each use.

(2) Shared Parking

To the extent that developments wish to make joint use of the same parking spaces operate at different times, up to one-half of the parking spaces may be credited to both uses if one use is a church, theater, or assembly hall whose peak hours of attendance will be at night or during times of worship, and the other use or uses are ones that will be closed at night or during times of worship.

(3) Approval

All off-site and shared parking space arrangements are subject to the approval by the Plan Administrator, or his or her designee. Approvals shall be based on the determination that the use of off-site and/or shared parking will not provide hardships for pedestrians, will not result in potentiality hazardous traffic conditions, and will provide an adequate number of parking spaces for the uses involved. The parking needs of possible future uses of the property shall also be considered by the Plan Administrator, or his or her designee.

(4) Required Documentation

Permanent documentation of any off-site and/or shared parking agreement must be signed by all involved property owners. The permanent written agreement shall include, but is not limited to the following items: maintenance, snow removal, ownership, and liability. The agreement shall be reviewed and approved by the Plan Administrator and the Town Attorney. A recorded copy of the agreement shall be retained for the files of the Plan Commission. Cross access easements shall be provided and recorded by each property owner to enable the sharing of parking facilities. Recorded copies of the cross easements shall be provided to and retained by the Plan



Administrator. Amendments to the agreement shall be subject to Plan Administrator approval and be duly recorded with the County Recorder.

K. Bicycle Parking Requirement

All non-residential uses shall provide one designated bicycle parking area for every 30 vehicle parking spaces required by this Ordinance, with a minimum area for two bicycle spaces. Each bicycle parking area shall provide adequate facilities for securing the parked bicycle.

L. Parking Space Requirements

(1) Minimum Number of Spaces

Total off-street spaces required for each lot shall be calculated by adding the applicable requirements established by *Appendix D, Official Parking Standards*.



7.12 Loading Standards

A. Purpose and Intent

The purpose of these loading requirements is to provide minimum standards for the loading and unloading of materials at commercial, industrial, and institutional facilities, with the exception of the Courthouse Square Overlay (CS) such facilities which are located in any other mixed-use district. These requirements are intended to prevent loading and unloading from occurring on a public street or in other locations that would present a danger to persons or property. Commercial, industrial, and institutional facilities located within the Courthouse Square Overlay (CS) or a mixed-use district shall be exempt from the standards and regulations of this Section.

B. Loading Berth Requirement

Adequate off-street loading berths and areas shall be provided for any building or structure which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles. Off-street loading berths may be provided either within or outside of structures on the property.

C. Location

All required off-street loading berths shall be located on the same lot as the use to be served. They shall be designed so that no portion of a loading/unloading vehicle projects into a street, alley, or other public rights-of-way. No permitted or required loading berth shall be located within twenty-five (25) feet of the nearest point of intersection of any two streets, nor shall it be located in a required front yard or side yard adjoining a residential use or district. No loading space may be located in any front yard or any required buffer yard. Shared truck courts between adjacent properties shall be permitted.

D. Design and Construction

All off-street loading berths shall meet the following design and construction requirements:

(1) Size Requirements

All interior and exterior off-street loading berths for over-the-road tractor-trailers shall be a minimum of 13 feet in width and 140 feet in length including the apron. For local pick-up and delivery trucks, off-street loading berths shall be at least 12 feet in width and 60 feet in length including the apron.

(2) Vertical Clearance

All loading spaces shall be provided with a vertical clearance of not less than 15 feet.

(3) Driving Aisle Requirements

All loading berths shall be accessed by a driving aisle that is a minimum of 24 feet in width for two-way traffic or 13 feet in width for one-way traffic at all points between the accessed public street and the loading berth.

(4) Surfacing Requirements

All off-street loading berths shall be paved with concrete, asphalt or other appropriate material meeting the durability requirements of the Town Manager, or his or her designee.

E. Required Loading Spaces

Uses and buildings with a gross floor area of five thousand (5,000) square feet or more shall provide off-street loading spaces in accordance with *Table 7.3, Required Loading Spaces*, provided that loading spaces shall not be required for uses which do not receive or transmit goods or wares by truck delivery.



Table 7.3 Required Loading Spaces

Use Description

Manufacturing, distribution, wholesaling, storage and similar uses:

<u>Floor Area in Square Feet</u>	<u>Number of Loading Spaces Required</u>
5,000 – 25,000	1
25,001 – 60,000	2
60,001 – 100,000	3
Each 10,000 above 100,000	1

Use Description

Office buildings, hotels and motels, retail sales, hospitals, institutions and similar uses:

<u>Floor Area in Square Feet</u>	<u>Number of Loading Spaces Required</u>
5,000 – 60,000	1
60,001 – 100,000	2
Each 10,000 above 100,000	1

F. Access

Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alley in a manner that will not interfere with traffic movements. There shall be no maneuvering within any existing or planned public right-of-way. In no case shall a loading berth be located in such a manner as to require loading/ unloading vehicles to back into an existing or planned public right-of-way or overhang adjacent property.

G. Space Allowed

Space provided for use as any off-street loading berth shall not be used to satisfy any off-street parking space requirements of this Ordinance.



7.13 Entrance/Drive Standards

A. Purpose and Intent

The purpose of these entrance and drive standards is to provide for a safe and efficient vehicular and pedestrian transportation system by establishing minimum standards for site entrances, driveways, and interior drives.

B. General Requirements

Unless otherwise provided by this Ordinance, all driveways and interior drives shall comply with the following design requirements:

(1) Entrance Widths

No entrance shall exceed the following pavement widths at the point which they intersect an existing or planned public right-of-way. The distances for these standards shall be determined by measuring from the outside edges of the curb or pavement (whichever is greater) of the entrance or drive at an existing or planned public right-of-way which it accesses, and shall not include any acceleration or deceleration lanes or turning radii:

- a) 14 feet per lane (exclusive of any medians) if from a non-residential or multi-family residential use onto any type of street, and
- b) 24 feet total if from a single-family or two-family use onto any type of street.

(2) Travel Direction

The direction of travel for vehicles using entrances shall be as follows:

- a) All entrances providing access to an existing or planned public right-of-way from all lots used for purposes other than single or two-family residences shall be designed so that vehicles are traveling in a forward direction when entering and leaving.
- b) In no case may any entrance for any use be designed to require a vehicle to back onto any arterial or collector street.

(3) Shared Entrances and Drives

Shared entrances and drives are encouraged for all uses in all zoning districts, specifically for any multi-family residential or non-residential use accessing a major collector or arterial street.

a) Access Easements

All shared entrances and drives shall be constructed only in appropriate access easements which easements must be recorded before usage commences.

b) Required Documentation

A permanent documentation of any shared entrance and drive agreement must be signed by all involved property owners. The permanent written agreement shall include, but is not limited to the following items: maintenance, snow removal, ownership, and liability. The agreement, which can be amended and assigned shall be reviewed and approved by the Town Manager and duly recorded with the County Recorder. Any changes to the agreements must be accomplished with the consent of the Plan Administrator. A copy of the agreement shall be retained for the files of the Plan Commission. The agreement shall be recorded prior to the issuance of the occupancy permit.



(4) Interior Drive Widths

The minimum pavement width shall be exclusive of any parking spaces. For single and two-family residential uses the minimum driveway width shall be 12 feet. For all multi-family uses refer to the *Section 6.17 D (4)* of this Ordinance.

C. Curbs

All entrances and interior drives for property used for purposes other than agriculture, single family residential or two-family residential shall generally be completely curbed. Curbing shall not be required if, in the written opinion of the Town Manager/County Highway Engineer, the drainage system for the property shall be best served if curbs were not present.

D. Commercial Area Internal Linkages

For all uses located in a commercial zoning district there shall be interior drives that allow access between existing and proposed commercial uses on adjacent properties.

(1) Cross-Access Required

The drives must be designed as a single two-way drive or a pair of one-way drives that provide access between the parking lots and interior drives of all adjoining commercial uses.

(2) Separation

Interior drives providing cross-access between adjacent parcels shall be separated from an existing or planned right-of-way of any such street by a minimum distance specified by the Town Manager based on the vehicle stacking requirements of the entrance(s) to the property from the public street.



SECTION 8:
SIGN STANDARDS





SECTION 8: SIGN STANDARDS

- 8.1 Prohibited Signs**
- 8.2 Exempt Signs**
- 8.3 General Sign Standards**
- 8.4 Sign Design & Construction Requirements, General**
- 8.5 Temporary Signs**
- 8.6 Signs for Ground Floor Uses**
- 8.7 Signs for Upper-floor Uses**
- 8.8 Sign Design & Construction Requirements, by Type**

The intent of this Section is to further the goals of the Comprehensive Plan; avoid the proliferation of signage; encourage signs to be compatible with the scale of buildings and the surrounding features; maintain and enhance the aesthetic environment of the community; eliminate potential hazards to motorists and pedestrians resulting from signs; and promote the health, safety, and welfare of the residents of Albion. Anyone wishing to vary from the following standards is hereby required to obtain a development standards variance from the Board of Zoning Appeals pursuant to this Ordinance.

8.1 Prohibited Signs

Refer to *Appendix F, Sign Standards*, for a list of permitted signs, by zoning district. The following types of signs are hereby expressly prohibited from being located within the jurisdiction of the Plan Commission.

A. Individual pole signs

Individual pole signs, or individual free-standing signs, are hereby prohibited from being located within the jurisdiction of the Plan Commission.

B. Portable signs

Unless expressly permitted by this subchapter, all portable signs, including those involving any element of human movement are hereby prohibited from being located within the jurisdiction of the Plan Commission.

C. Animated signs

Signs that utilize any flashing lights, motion picture, laser, or visual projection of images or copy in conjunction with any business or advertisement.

D. Emissions

Signs that emit audible sound, odor or visible matter.

E. Imitation of official signs

Signs that purport to be, are an imitation of, or resemble an official traffic sign or signal or which bear the words "Stop", "Slow", "Caution", "Danger", "Warning", or similar words. Exceptions would fall under the Manual on Uniform Traffic Control Devices (MUTCD) Section 9B for trail signage.

F. Imitation of emergency vehicles

Signs that may be construed as a light of an emergency or road equipment vehicle.

G. Visual impairment

Signs that hide any traffic or roadway sign, signal or device from view, or that interfere with the sight visibility standards as defined by this chapter.



H. Encroachment

Unless otherwise expressly permitted by this chapter, signs that are located in any planned right-of-way including those posted on utility poles or street signs are prohibited. Projecting signs specified as permitted in this subchapter and approved by the Town Council may be allowed to encroach on the public rights-of-way, provided they remain otherwise lawful.

I. Obstruction

Signs that obstruct any door, fire escape, stairway, or any opening intended to provide entrance or exit for any structure.

J. Vehicle signs

Signs placed on vehicles or trailers parked on public or private property primarily for the purpose of displaying the sign, as determined by the Plan Administrator, or his or her designee. Prohibited vehicle signs do not include those displayed on vehicles parked for the purpose of lawfully making deliveries, or sales or service calls. Prohibited signs do not include vehicles which are customarily used for transporting persons or properties, or vehicles parked at a driver's place of residence during non-business hours.

K. Poster signs

Posters, placards and other similar signs attached to light poles, gas station canopy supports, trees, and elsewhere outdoors that are not included as permitted temporary or permanent signs as described by this subchapter.

L. Permanent roof-mounted signs

Signs that are mounted to the roof of a structure or are mounted to the wall of a structure and extend higher than the wall of the structure.

M. Inflatable signs

Inflatable signs are hereby expressly prohibited from locating within the jurisdiction of the Plan Commission.

N. People signs

Signs which are held by people, and not attached to a building or the ground, that are within the right-of-way are expressly prohibited.



8.2 Exempt Signs

The following signs are exempt from all provisions of this Ordinance if in compliance with the conditions specified for each. A sign permit shall not be required.

A. **Minor wall signs**

Permanent wall signs constructed using stone, concrete, bronze, precious metals, brick, or other similar material and made an integral part of the structure shall be permitted. No more than one such sign shall be permitted per frontage, per building. The maximum size shall be four square feet in a commercial, industrial, or Courthouse Square zoning district, and one square foot in a residential zoning districts.

B. **Minor ground signs**

Minor ground signs, which shall be permanent in manner, are permitted in commercial and industrial zoning districts. Such signs are limited to no more than two and one-half square feet of sign area and three and one-half feet in height, as measured from grade. Such signs may be non-illuminated or internally illuminated. Internally illuminated signs shall only illuminate sign content, not the entire sign cabinet. Such signs shall be no closer than two feet from any existing or planned right-of-way. No property, parcel, or lot shall have more than three minor ground signs.

C. **Public signs**

Public signs erected by or on the order of public official(s) in the performance of public duty, such as signs to promote safety, no trespassing, or traffic signs; memorial plaques; signs of historical interest; and signs directing people to public facilities. All such public signs shall require approval of the Plan Administrator, or his or her designee.

D. **Utility marker signs**

Utility signs necessary to mark cables and lines for public and private utilities unless such signs are determined to be a hazard by the Plan Administrator, or his or her designee.

E. **Emergency signs**

Emergency signs, such as those used and authorized by the Plan Administrator , Town Departments, or those places of employment that are required by law to display emergency information for their employees.

F. **Window signs**

No window sign shall exceed 10% of the window area, nor shall any individual letter be greater than three inches in size.

G. **Yard signs**

Each property in any residential zoning district and the Courthouse Square zoning district is entitled to yard signage. Such signage shall be limited to four square feet in sign area, and no more than four feet in height, as measured from grade level. Such sign shall be allowed to be displayed no more than three times per calendar year. Each time the sign is displayed is limited to no more than 35 consecutive days. All such signs shall be placed outside of the right-of-way line. In no instance shall such a sign be placed within an existing or planned right-of-way or private street. Such sign shall not be illuminated. Additionally, any residential property that is for sale/lease is permitted an additional yard sign, in compliance with the area and height standards noted above, until the transaction closes. Only the owner of the property may be allowed to place signs on their property.

H. **Political Advertisement signs**

Political advertisement signs, on private property, may be erected no more than thirty (30) days prior to the election and are to be removed within ten (10) days after said election.



I. Traffic signs and pavement marker

Private directional traffic signs and pavement markings intended to direct and control the movement of traffic into, out of, and on the property shall comply with the Manual on Uniform Traffic Control Devices as published by the Indiana Department of Transportation.

J. Pond warning sign

Permanent pond safety signs are required for all ponds constructed after the effective date of this chapter. The minimum size is one square foot and the maximum size is two square feet. Such signs shall be placed no more than 500 feet apart, with no less than four signs per pond. A sign must be placed at all public access areas to the pond. Signs must be constructed of wood, composite wood, or metal. At a minimum such signs shall have the words "No Swimming" and "No Ice Skating," along with the "No Swimming" symbol. Such signs shall be installed by the developer and the subsequent maintenance of such shall be the responsibility of the homeowners' association or property owners' association. "No Swimming" and "No Ice Skating" signs shall be posted at all detention and retention ponds in all developments. In instances where a pond will be stocked with fish or where fishing may otherwise be possible, a sign shall be installed warning that "anyone under the age of 18 must be accompanied by an adult."

K. A-frame signs

One A-frame sign may be permitted for each occupied tenant space located on a property in a commercial, industrial, or Courthouse Square Commercial zoning district, provided the sign area does not exceed six square feet, and the height does not exceed four feet, as measured from grade level. Such signs are to be displayed outside only between the hours of business. A-frame temporary signs may be located within the right-of-way, provided the sign is at least five feet from the nearest roadway's travel or parking lane. Under no circumstance can any A-frame sign be located more than ten feet from a primary structure. A-frame signage cannot be displayed at the same time other temporary signage is displayed.



8.3 General Sign Standards

Except as otherwise expressly provided for by this Ordinance, it shall be unlawful for any property owner(s) to erect, construct, enlarge, move or convert any sign within the jurisdiction of the Plan Commission, or cause the same to be done without first obtaining a sign permit as required by this Ordinance. The following general sign standards apply to all signs within the jurisdiction of the Plan Commission.

A. Measuring Sign Area & Height

The sign area shall be calculated by multiplying the maximum vertical dimension by the maximum horizontal dimension including the extreme limits of characters, lettering or figures. The sign height shall be measured from the grade at the edge of the adjacent right-of-way to the highest point of the sign, and include any poles or other supports unless otherwise specified in this Section. In no case shall sign height be measured from the top of any berm or other artificial grade.

B. Inspection

Signs for which a permit is required may be inspected periodically by the Plan Administrator, or his or her designee, for compliance with this Ordinance.

C. Removal of Sign

The Plan Administrator, or his or her designee, may order the removal of any sign erected or maintained in violation of this Ordinance, at the cost of the property owner(s), consistent with the provisions of this Ordinance.

D. Maintenance

All signs and their components shall be kept in good repair and in safe, neat, clean, attractive, and structurally sound condition as determined by the Plan Administrator, or his or her designee. Owners shall repair or otherwise cause any sign not found to be in good repair and in safe, neat, clean, attractive and structurally sound condition to comply with this Section within 10 days of notice of violation by the Plan Administrator. Owners shall, within 30 days of the removal of a sign, and at the Owner's expense, patch and paint damaged areas when signs are removed.

E. Abandoned Sign Structures

A sign structure, including all poles, frames, supports, and other structural, electrical, mechanical, and other elements, shall be removed by the owner(s) of the premises, at the owner's expense, upon which it is located if it is unused for a period of six months or longer. A sign face is also considered abandoned when the use to which it relates is no longer in existence or operational for a period of at least 30 days. In such a scenario the owner(s) of the sign structure shall have the sign area noting the use no longer in existence or operational removed from the sign structure and replaced with another sign, a sign blank, or a sign bag. Under no circumstances shall a sign face be removed and the inside of a cabinet sign be exposed.

F. Illuminated Signs

Internally and externally illuminated signs shall be permitted, provided the illuminated sign complies with the following provisions:

- (1) All illuminated signs shall meet the standards as specified in the National Electrical Code. Signs that are only partially illuminated shall meet all electrical requirements for that portion that is illuminated.
- (2) All electrical wiring shall be in conduit and not exposed to the elements or external stress.
- (3) The full number of illuminating elements shall be kept in satisfactory working condition or immediately repaired or replaced.



(4) Neither the direct nor reflected light from an illuminated sign shall create a traffic hazard to operators of motorized vehicles on any roadway.

(5) The light from any illuminated sign in any zoning district shall be shaded, shielded, or directed to prevent spillage onto adjacent properties. In no instance shall the light intensity or brightness exceed three-tenths (0.3) foot-candles at the property line of any adjacent property located in a residential zoning district, or five-tenths (0.5) foot candles at the property line of any adjacent property located in a nonresidential zoning district.

(6) All illuminated signs shall have a disconnecting switch located in a readily accessible place.

(7) See additional limitations set forth for changeable copy and electronic message board signs in this Ordinance.

(8) No exterior sign shall be permitted to display flashing, intermittent, revolving, rotating or animated lighting or illumination, nor any illumination, which simulates or displays motion.

G. Enforcement

The enforcement of violations of the provisions of this Section shall be as provided by this Ordinance.

H. Vacant land

Properties without a primary structure shall not be permitted a permanent sign.

I. Sign tags/stickers

The Plan Administrator and/or his or her designee may place tags/stickers indicating a sign is approved and, if the sign is temporary or exempt, the applicable expiration date on any sign within town limits.



8.4 Sign Design and Construction Requirements, General

A. Design

All signage shall be designed to be an integral part of the architectural and landscaping plans.

B. Compatibility

The colors, materials, and style of signage shall be architecturally compatible and accentuate the buildings and landscaping on the site. The colors, materials, and lighting of every sign shall be restrained and harmonious with the building and site to which it principally relates. In no instance shall a sign compete with or obstruct the visibility of the signage of an adjacent property so long as the signage of the adjacent property is also in compliance with this Ordinance.

C. Scale & Proportion

Every sign shall be designed so as to be proportionate with the scale and design of the principle building to which it relates as well as the surrounding area, as determined by the Plan Administrator, or his or her designee. No part of any sign, which is attached to the exterior wall of a building, shall be erected to a height above the roof or parapet line of such building or beyond the wall line.

D. Graphic Elements

The number of graphic elements on a sign shall be held to the minimum needed to convey the sign's major message and shall be composed in proportion to the area of the sign face.

E. Sign Components

All sign components shall meet or exceed Underwriters Laboratories (UL) specifications.

F. Double-faced sign

Unless otherwise prohibited by this subchapter, all signs permitted by this subchapter may be constructed as a double-faced sign. In these instances, only the sign area of one of the two sides shall be used to calculate sign area, provided that the two sides are identical and placed back-to-back, and that the maximum distance between the two sides does not exceed two feet at any point.

G. Wall sign dimension

All wall signs using letters shall utilize individually mounted letters affixed directly on a wall or raceway. A wall sign may incorporate the use of a cabinet sign; however, the cabinet is limited to 25% of the permitted sign area.

H. Sign removal

When a wall sign is removed from the façade of a building all previous mounting holes and ghosting images shall be removed and the façade shall match the existing condition of the building. The property owner shall be responsible for the maintenance and restoration of the building façade at the time the existing sign is removed.



8.5 Temporary Signs

In addition to the signs permitted by this Section, but without regard to exempt signs, one temporary sign for each non-residential use may be permitted. A permit shall be required each time a temporary sign is to be used, and the sign shall meet the following requirements:

- A. The following temporary signs are permitted in all **Commercial**, **Industrial** and **Agricultural** zoning districts:

(1) **Illumination**

Temporary signs shall not be illuminated.

(2) **Number of signs**

a) No property, lot, or parcel shall be permitted more than one temporary ground sign.

b) **Exception.** For properties greater than ten acres, one temporary ground sign may be permitted per frontage. Occupied tenant space shall be permitted no more than one temporary wall sign.

(3) **Ground sign height and area**

No temporary ground sign shall exceed 32 square feet or six feet in height, as measured from grade level.

(4) **Wall sign height and area**

No temporary wall sign shall exceed 24 square feet, and must be attached to the façade of the primary structure. Such signage shall not be located on any portion of a roof, and must be located between the eaves, cornice, or other roof element and the top of the windows.

(5) **Setback**

All temporary signs shall be placed a minimum of ten feet from any planned right-of-way and any other property line.

(6) **Time limits**

Temporary ground signs shall be permitted up to 12 months. A one time extension of 6 months may be granted by the Plan Administrator. Any further extensions would need approval of a development standards variance from the Board of Zoning Appeals. Temporary wall signs shall be permitted up to two times per calendar year. In no such instance shall a wall sign be up for more than 30 consecutive days.

(7) **Types of temporary signs**

The types of temporary sign permitted in commercial, industrial, and agricultural zoning districts are temporary ground and temporary wall signs meeting the requirements of this section.

(8) **Conversion to a permanent sign**

No sign manufactured, designed, and otherwise intended for use as a temporary sign shall be used as a permanent sign.



8.6 Signs for Ground Floor Uses

The signs for ground floor uses shall meet the following standards. These standards shall also apply to any business use occupying multiple floors, and including ground floor uses. A permit shall be required unless otherwise specified in this Section.

A. Sign Area

The aggregate sign area shall be equivalent to one and one-half square feet for every one linear foot per tenant/business use with frontage on a public right-of-way or private street.

(1) In no instance shall the aggregate sign area for any tenant/business use exceed 100 square feet.

(2) The number of graphic elements per sign shall be held to the minimum needed to convey the sign's primary message and shall be composed in proportion to the overall sign area.

B. Number of Signs

Only one sign, selected from the list of permitted sign types below, shall be allowed per tenant/business use.

C. Sign Types Permitted

Any combination of the following signs may be used for each ground floor use provided they are consistent with the total area allowed per use, the total number of signs permitted per use, and the other development standards listed in this Section:

- (1) Wall sign,
- (2) Awning sign,
- (3) Projecting sign,
- (4) Free-standing/Unified Development Sign,
- (5) Ground/monument sign,
- (6) Changeable Copy,
- (7) Electronic Message Board,
- (8) Time & Temperature Sign Component, or
- (9) Fuel station LED pricing component



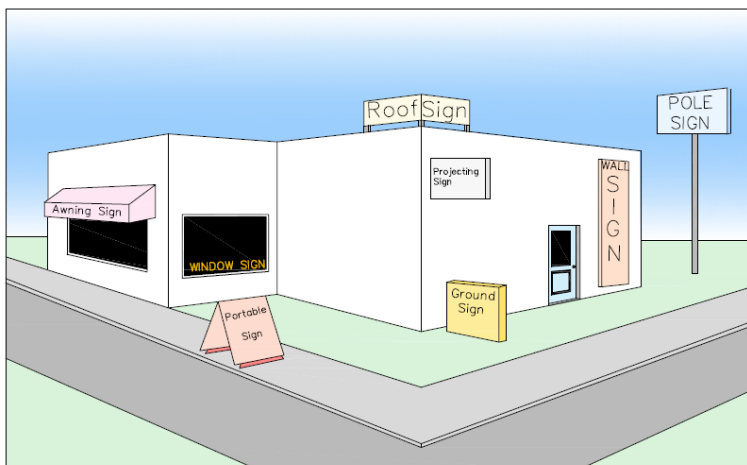
8.7 Signs for Upper Floor Uses

A. Signage for an upper-floor use may be permitted provided:

- (1) The upper-floor of the structure is occupied by a single use that is separate and distinct from the use located on the ground floor,
- (2) there is only one square foot of sign area for every one linear foot of building frontage, and
- (3) the total square footage of the upper-floor sign does not exceed 50 square feet in total area.

In the event that the upper-floor sign is a wall sign, said wall sign shall be located on the structure between the eaves, cornice or other roof element and the top of windows on the uppermost floor.

8.8 Sign Design & Construction Requirements, by Type



- A. Below are the permanent sign standards for **Commercial**, **Industrial** and **Agricultural** zoning districts. Only the sign types below are permitted.

(1) Unified development sign

All freestanding unified development signage shall be permitted in lieu of other ground signage. Unified developments must be of a size of at least five acres to erect a unified development sign for the purpose of allowing several businesses the ability to use the sign on a single sign structure. All other signage for the development shall be as prescribed by this chapter; however, as noted above unified development signage is only permitted in lieu of other ground signage. All free-standing unified development signs shall comply with the following provisions:

a) Free-standing unified development signs

Free-standing unified development signs shall be ground-mounted monument style signs and meets the following minimum standards:

1. The maximum height of a free-standing unified development sign shall be ten feet for all unified developments greater than five acres and less than 20 acres. The maximum height of a free-standing unified development sign shall be 16 feet for unified developments equal to or greater than 20 acres. In no instance shall a free-standing unified development sign exceed the height of the tallest building.
2. The maximum surface area of all free-standing unified development signs shall be 100 square feet for all unified developments greater than five acres and less than 20 acres. The maximum surface area of all free-standing unified development signs shall be 150 square feet for all unified developments greater than 20 acres.

(2) Ground sign

A maximum of one ground sign per public roadway frontage is permitted for each lot, property, parcel, or site provided it does not exceed 36 square feet in sign area or six feet in height as measured from grade level. Ground signs shall be no closer than ten feet from any existing or planned public right-of-way. All ground sign structures shall be constructed of decorative brick, stone, or other masonry, stucco, wood or metal, with the base of the



structure constructed of decorative brick or stone. Landscaping consisting of shrubs and perennial groundcover shall be provided at the base of all ground/monument signs with a minimum of two square feet per one square foot of sign area. Under no circumstance shall any lot, parcel, property, or site have more than two ground signs.

(3) Wall sign

A maximum of one wall sign per public roadway frontage is permitted for each primary structure or occupied tenant space (within a primary structure). Wall signs shall be located on the façade of the primary structure facing a public street. In no instance shall a wall sign exceed 50% of the maximum sign area, nor shall a wall sign project more than 12 inches from the wall. Additionally, no sign shall be placed in or on an architectural designed area of a structure that is created for the sole purpose of gaining more signage or additional height for the wall sign. Wall sign area shall be limited as follows:

- a) The aggregate sign area shall be equivalent to one and one-half square feet for every one linear foot per tenant space with frontage on a public right-of-way street.
- b) In no instance shall the aggregate sign area for any tenant space exceed the aggregate sign area noted in *Appendix F, Sign Standards*.
- c) The number of graphic elements per sign shall be held to the minimum needed to convey the sign's primary message and shall be composed in proportion to the overall sign area.

(4) Awning sign

Awning signs shall be considered as a type of wall sign and shall count toward the total number and total area of wall signs permitted by this subchapter. Awning signs shall be limited to those printed or sewn on awnings mounted on the façade of the principal structure. In no instance shall an awning sign be backlit, nor shall the awning itself be closer than eight and one-half feet from grade level.

(5) Projecting sign

No projecting sign shall, at its lowest point with the exception of the supporting building, structure, or column, be less than eight and one-half feet above grade level. A maximum of one such sign per business or building shall be permitted. In no instance shall a projecting sign exceed 24 square feet, nor protrude more than four feet from the building. Proof of insurance shall be required for all projecting signs. For the purpose of administering and enforcing this provision, proof of insurance shall mean proof of insurance with liability limits in amounts subject to the Plan Administrator's approval or as established by the Board of Zoning Appeals. Projecting signs shall be considered wall signs.

(6) Changeable copy

Changeable copy signs are permitted provided the changeable copy does not change more than once in 60 seconds time and does not exceed 50% of the aggregate permitted sign area. For the purposes of administering and enforcing this chapter, changeable copy signs shall display a static message rather than a message that imitates movement and shall not be interpreted as electronic message boards.

(7) Electronic message boards

Electronic message boards are permitted provided they meet the following requirements:



a) Location

In any district, an EMB shall be located on the site of the use identified or advertised by the sign. EMBs shall only be permitted in commercial and Courthouse Square districts. In no instance shall an EMB be located within 125 feet of a signalized intersection.

b) Setback from residential districts

The leading edge of any EMB shall be a minimum distance of 300 feet from any single-family residential district or use and 200 feet from any multi-family residential district or use unless the multi-family district or use is part of a mixed use development.

c) Setback from other electronic message boards

An EMB shall be separated from all other EMBs by at least 300 feet.

d) Orientation

When located within 500 feet of a single-family residential use wherein the residential use is located within a residential district, all parts of the electronic message board shall be oriented so that no portion of the sign face is visible from any existing or permitted principal structure on the residential lot.

e) Duration and Hours of Operation

The sign's content will remain static, or stationary from 10 PM until sunrise each day, and will remain stationary for 1 hour prior to school starting, and 1 hour at the time school ends each day. Typical bell times for the school dictate that the school will remain stationary from 7:30 AM to 8:30 AM, and from 3:00 PM to 4:00 PM. On days of late start due to inclement weather, the sign should also remain stationary one hour prior to school starting, and one hour at the time school ends each day. Per INDOT requirements, the sign shall have a minimum of 8 seconds between messages, or transitions during the times it is allowed to scroll.

f) Brightness

In no instance shall an EMB exceed 460 foot-candles during daylight hours or 46 foot-candles for the time period between one-half hour before sunset and one-half hour after sunrise. For the purposes of administering and enforcing this provision, all EMBs shall be equipped with an ambient dimmer control and a black background.

g) Size

The maximum EMB sign area shall be 24 square feet.

(8) Fuel station pump decals

In addition to the signage permitted elsewhere in this chapter, fuel stations may incorporate the following into their fuel pumps:

- a) Fuel stations may place a maximum of two square feet of signage on each vehicle fuel dispenser (double-sided) having a maximum of two square feet per side of each dispenser.



B. Below are the permanent sign standards for **Residential** zoning districts:

(1) Types of signs

One double-faced or two single-sided ground type signs shall be permitted at each entrance to a platted subdivision, apartment complex, or other residential development from a public roadway that is classified as a collector or arterial, as identified on the Town's Traffic Map. However, under no circumstance shall any subdivision, apartment complex, or other residential development be permitted more than three double-faced or six single-sided ground mounted type signs. The sign structure, or structures, shall require a sign permit. Subdivision entrance signs, landscaping, and decorative walls shall be shown on development plans, site plans, and subdivision plats.

(2) Sign area

In no instance shall the sign area of a subdivision entry ground sign exceed 32 square feet.

(3) Height

In no instance shall the height of a subdivision entry ground sign exceed six feet as measured from grade level. In no instance shall mounding or other alterations of the natural grade level be used as a point of reference for measuring sign height.

(4) Setback

With the exception of subdivision entry ground signs placed within a median of a boulevard, each sign structure shall be set back a minimum of two feet from any planned right-of-way of any public street. In no instance shall a subdivision entry ground sign be placed within a required sight visibility area per 7.4, *Sight Visibility Standards*.

(5) Features

Ground mounted subdivision entry signs shall incorporate design features into the structure such as decorative brick or stone walls, lighting and landscaping.

(6) Landscaping

A minimum of two square feet of landscaping consisting of shrubs and perennial ground cover at the base of the sign structure shall be required for every one square foot of sign area.

SECTION 9:
PLANNED UNIT DEVELOPMENTS





SECTION 9: PLANNED UNIT DEVELOPMENTS

Section 9.1	Purpose, Intent, Uses and Standards
Section 9.2	General Application
Section 9.3	Preliminary Plan & Rezoning
Section 9.4	Final Detailed Plan
Section 9.5	Written Commitments
Section 9.6	Covenants
Section 9.7	Modifications
Section 9.8	Expiration, Abandonment and Extensions

9.1 Purpose, Intent, Uses and Standards

A. Purpose and Intent

The purpose of these regulations is to provide greater design flexibility in the development of land when consistent with the Comprehensive Plan and the intent of the Zoning and Subdivision Control Ordinances. Planned Unit Development regulations are intended to encourage innovations in land development techniques so that unique opportunities and circumstances may be met with greater flexibility. Planned Unit Developments should be used to address unique environmental concerns, provide a unique mix of land uses, and implement the Comprehensive Plan in ways not considered by the established zoning districts. A Planned Unit Development should not be used if the proposed development can be created using established zoning districts.

B. Uses

All uses are subject to the discretion and approval of the Plan Commission. Once uses are approved by the Commission, they are granted by right. All land uses proposed in a Planned Unit Development must be compatible with the intent of the Comprehensive Plan and the characteristics of surrounding land uses and zoning districts.

C. Development Requirements

Development requirements for all proposed Planned Unit Developments shall be created by the applicant as part of the Preliminary Plan submittal. All proposed development requirements are subject to the review and approval of the Plan Commission and the Town Council. Generally, the Planned Unit Development shall provide standards for the development that replace

(1) the lot standards established by Section 4, Zoning District Regulations, and

(2) each topic area regulated by Section 7, Development Standards.

D. Rules and Procedures

All proceedings brought under this Section are subject to the Rules and Procedures of the Plan Commission.

E. Limitation of Ordinance Amendments

Any initiative of the Plan Commission to amend this Ordinance that would affect an approved Planned Unit Development before its completion shall not be enforced on the Planned Unit Development. New amendments to this Ordinance shall only apply to Planned Unit Developments that have been declared abandoned, or for which an approval has expired.



F. Origination of Proposals

Any applicant may propose a Planned Unit Development district in accordance with the procedures established in this Section. A parcel or site proposed for a Planned Unit Development may or may not be under single ownership. However, if not under single ownership, the multiple owners must have a contractual agreement

- (1) not to develop the parcels separately, but in accordance with a single, unified plan, and,
- (2) in which the separate owners have given their express intentions to enter into such private agreements and to assure its completion as planned and to the satisfaction of the Plan Commission. The Town Council may grant an extension of such time for such a period as it deems in the public interest.



9.2 General Application Requirements

All applications may be obtained through the Plan Administrator's office. Fees shall be paid at the Plan Administrator's office at the time the applications are submitted.

A. Application Forms

All applications shall be made on forms provided by the Plan Administrator. All applicants shall submit original applications which are completed in their entirety in ink or typed.

B. Copies Required

All applicants shall submit copies of applications and necessary attachments as required by the adopted policies of the Plan Administrator and the applicable Rules and Procedures of the Plan Commission.

C. Review Schedule

All applications shall be assigned reference and/or docket numbers by the Plan Administrator, or his or her designee. Applications shall be scheduled by the Plan Administrator, or his or her designee, for the appropriate public hearings based on the completeness of the application consistent with the requirements of this Section and the adopted Calendar of Filing and Meeting dates for the Plan Commission.



9.3 Preliminary Plan and Rezoning

A. Purpose and Intent

The purpose of the Preliminary Plan is to provide a formal opportunity for the applicant and the Plan Commission to discuss the general elements of the proposed PUD. The Preliminary Plan prepares the Plan Commission for a future discussion of details and minimizes the risk incurred by the applicant in creating the Detailed Plan.

B. Pre-application Meeting Required

A Planned Unit Development Preliminary Plan shall only be filed after the petitioner has met with the Plan Administrator, or his or her designee, to discuss the request.

C. Application

The applicant shall submit a Planned Unit Development Preliminary Plan review application, an affidavit and consent of property owner(s) (if the owner is someone other than the petitioner), a copy of the deed(s) for the property involved, the required filing fee, the Preliminary Plan and Plat, and any other supporting information.

D. Preliminary Plan Data

The Preliminary Plan may take the form of a booklet of letter or legal sized paper, a set of 24 inch by 36 inch sheets, or a combination of these formats. The following shall be included in the Preliminary Plan submission:

(1) Cover Page & Index

The cover sheet shall indicate that it is the Preliminary Plan for that particular development and include the date of submittal, and an index identifying all sections included in the Preliminary Plan document, and references to any separate sheets of information.

(2) Site Description

A description of the property and applicants involved, including:

- a) The name, mailing address, e-mail address, and telephone number of the applicant;
- b) The name, mailing address, e-mail address, and telephone number of any land surveyors, engineers, or other professionals responsible for the Preliminary Plan design;
- c) The legal description of the subject property and common address of the site; and
- d) The proposed name of the development (if applicable).

(3) Common Holdings Map

A map of any property adjacent to the property subject to the Preliminary Plan owned or otherwise controlled by any or all of the petitioners. The Common Holdings Map shall be accompanied by a general description of the future development of that property and its relationship to the area included in the Preliminary Plan. The general description shall be in map form and shall include, at a minimum, general land uses, general street patterns and access points, and general drainage designs.

(4) Sewerage Verification

A letter verifying that proper waste disposal will be available to the property. A letter from the Albion Sewer Utility shall be included verifying that the proposed development shall be served.



(5) Existing Site Conditions

A description of all existing conditions on the subject property, including:

a) Built Features

All existing streets (including travel lanes, sidewalks, street trees, rights-of-way, etc.), established open spaces, structures, wells, utility lines and facilities, fire hydrants, and street lights.

b) Easements

All existing easements and an indication of their purpose.

c) Topography

A topographic survey of the area with contour lines a maximum of two feet apart.

d) Natural Features

The location of natural streams, regulated drains, 100-year floodplains and floodways, water courses, wetlands (as identified by IDNR, IDEM, or an individual with a US Army Corps of Engineers Regulation 4 Jurisdictional Wetland Certification), wooded areas, and isolated trees that are able to be preserved (with greater than an eight inch DCH).

e) Historic Features

An identification of any historic features, specifically those listed as Outstanding, Notable, or Contributing on the Indiana Historic Sites and Structures Inventory - Noble County Interim Report or listed in the National Register of Historic Places and/or Indiana Register of Historic Sites & Structures.

f) Other Significant Features

Any other significant feature(s) that may influence the design of the development.

(6) Proposed Development

A conceptual plan of the proposed development of the property, including:

a) Street Systems

The layout and design of proposed street systems (including on-street parking, sidewalks, and street trees);

b) Land Uses

The land use areas and number of acres within the development (including a specific list of the individual land uses permitted in each area and densities of any proposed residential uses);

c) Open Space

The proposed location, improvements to open space (including park facilities, natural areas, trail systems, and other common areas);

d) Landscaping

The conceptual design of landscaping, buffering, and/or screening proposed for the development, wooded areas to be preserved;

e) Natural Features

A description of the accommodation of natural streams, regulated drains, 100-year floodplains and floodways, water courses, wetlands (as identified by IDNR, IDEM, or an individual with a US Army Corps of Engineers Regulation 4 Jurisdictional Wetland



Certification), wooded areas, and isolated trees which are able to be preserved (with greater than an eight inch DCH).

f) Historic Features

A description of the accommodation of historic features, specifically those listed as outstanding, notable, or contributing on the Indiana Historic Sites and Structures Inventory - Noble County Interim Report or listed in the National Register of Historic Places and/or Indiana Register of Historic Sites & Structures.

g) Development Requirements

Detailed text documenting the development requirements that will apply to development (including general lot size and dimensions, building setbacks, off street parking requirements, lighting standards, sign standards, landscaping requirements, etc.).

h) Written Commitments

A description of any written commitments that are being proposed as part of the development.

i) Covenants

A description of any private covenants and restrictions that will be established for the development.

j) Drainage

A detailed drainage concept meeting the requirements of the Town Engineer.

k) Lighting Plan

A site lighting plan prepared by an electrical engineer licensed by the State of Indiana drawn to an appropriate scale with the scale clearly indicated and a graphic scale for reference, showing the type and location of all exterior lighting fixtures (site and building lighting). Said lighting plan shall include a photometric drawing.

l) Project Phasing

A statement of the proposed order of development of the major elements of the project, including phasing, if applicable, and the order and content of each phase.

(7) Supplemental Information

Any other information requested by the Plan Administrator or Plan Commission to aid in the review of the Preliminary Plan. This may include, but is not limited to: topic areas such as traffic; utilities; tree preservation; flood hazards; and architectural design standards.

E. Technical Review Committee Review

The preliminary plan shall be reviewed by a Technical Review Committee.

F. Preliminary Plan/Plat Requirements

Planned Unit Developments shall be required to comply with the Albion Subdivision Control Ordinance (per IC 36-7-4-1513) and the provisions of Section 10.09, Development Plan Review, or this Ordinance. In no instance shall the approval of a PUD be interpreted as waiving or modifying any Subdivision Control Ordinance or Site Development Plan processes. If a subdivision of land and/or Site Development Plan review is required for the development, the Preliminary Plat and/or Site Development Plan may be filed simultaneously as the Preliminary Plan for review by the Plan Commission.



G. Public Hearing Notification

Notification for the scheduled public hearing regarding the Preliminary Plan shall be completed consistent with the requirements of this Ordinance and the Rules and Procedures of the Plan Commission.

H. Plan Commission Public Hearing

The Plan Commission will, in a public hearing scheduled consistent with the adopted Calendar of Filing and Meeting Dates (but no later than 60 days following the receipt of the Preliminary Plan application), review the application and required supporting information.

(1) Representation

Either the applicant or a representative of the applicant must be present at the public hearing to present the application and address any questions the Commission may have.

(2) Presentations

The Plan Commission shall consider a report from the Plan Administrator and/or Technical Review Committee and testimony from the petitioner, remonstrators, and other interested parties at the hearing. The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the Rules and Procedures of the Plan Commission.

(3) Possible Action

The Plan Commission will in concurrence with established rules and procedure review the application and required supporting information. The Preliminary Plan shall be forwarded to the Town Council with a favorable recommendation, forwarded with an unfavorable recommendation, forwarded with no recommendation or continued by the Commission. Per IC 36-7-4-1512 the Plan Commission may impose conditions or require written commitments from the applicant.

a) Favorable Recommendation

The Preliminary Plan application shall be forwarded with a favorable recommendation if it is found to be consistent with the decision criteria listed below.

b) Unfavorable Recommendation

The application shall be forwarded with an unfavorable recommendation if it is found to be inconsistent with the decision criteria listed below.

c) No Recommendation

The application may be forwarded with no recommendation only if it is found that the application includes aspects that the Plan Commission is not able to evaluate.

d) Continued

The application may be continued based on a request by the Plan Administrator or petitioner. The application shall be continued in the case of an indecisive vote wherein the item is essentially tabled, a determination by the Plan Commission that additional information is required prior to action being taken on the request, or if an appropriate representative of the application fails to appear at the public hearing.

1. Additional legal notice shall not be required unless specified by the Plan Commission.

2. The continuing of all applications shall be consistent with the adopted Rules and Procedures of the Plan Commission.



(4) Certification of Recommendations

The Plan Commission shall certify its recommendation by resolution to the Town Council within five business days of its decision. The Plan Administrator, or his or her designee, shall forward to the Town Council appropriate copies of the Plan Commission certified decision, the original application and all supporting information, any staff reports regarding the petition, and a PUD district ordinance (rezoning) meeting the requirements of IC 36-7-4-1503 for the Town Council's consideration.

I. Town Council Meeting

The Town Council shall hold a meeting and vote on the proposed Planned Unit Development district ordinance (re-zoning) within 90 days of its certification by the Plan Commission.

(1) Legal Notice

Legal Notice of action on the ordinance shall be provided consistent with Indiana law.

(2) Possible Action

The Town Council may either approve or deny the PUD district ordinance (rezoning) consistent with the decision criteria provided by this Section. The Town Council also may approve with modifications per IC 36-7-4-1512: such as impose conditions, require written commitments from the applicant, and/or condition the release of Improvement Location Permits on the provision of adequate surety for any public improvements.

a) Failure to Act

If the Town Council fails to act within the 90 day time frame the ordinance shall become effective or be defeated consistent with the recommendation of the Plan Commission and the provisions for rezoning petitions of IC 36-7-4-608.

b) Denial

If a PUD district ordinance (rezoning) is denied by the Town Council a three month waiting period shall be imposed prior to the filing of a new Preliminary Plan for the same development.

c) Reject or Amend

If the Town Council rejects or amend the proposal, it shall be returned to the Plan Commission for its consideration, with a written statement of the reasons for the rejection or amendment. The commission has forty-five days in which to consider the rejection or amendment and report to the Town Council as follows:

1. If the commission approves the amendment or fails to act within the forty-five (45) day period, the ordinance stands as passed by the Town Council as of the date of the filing of the commission's report of approval with the Town Council or the end of the forty-five day period.
2. If the commission disapproves the rejection or amendment, the action of the Town Council on the original rejection or amendment stands only if confirmed by another vote of the Town Council within forty-five (45) days after the commission certifies its disapproval. If the Town Council fails to confirm its action, then the ordinance takes effect in the manner provided by IC 36-7-4-606(f).

d) Approval

If the Town Council approves the rezoning, the land is officially rezoned upon the recording of the rezoning ordinance and any written commitments. The Official Zoning



Map must be amended to reflect the zoning change, the date of approval by the Town Council, and the ordinance number.

J. Preliminary Plan Signatures & Filing

The implementation of an approved Preliminary Plan must be consistent with the following provisions:

(1) Preliminary Plan Signatures

When approved, the Preliminary Plan shall be signed by the Plan Commission President and Secretary.

(2) Preliminary Plan Filing

The approved Preliminary Plan, including all development requirements serving as the zoning requirements on the subject property shall be filed with the Plan Administrator by the applicant. The documents must clearly state that the development requirements and any written commitments in recordable form are enforceable by the Plan Commission.

(3) Covenant Recording

Any covenants for the development shall be recorded with the Noble County Recorder. The documents must;

- a) clearly distinguish covenants for development requirements and written commitments in recordable form and
- b) indicate that covenants are private agreements that are not enforceable by the Plan Commission. The petitioner shall provide one (1) copy of the recorded documents to the Plan Administrator for the records of the Plan Commission.

K. Preliminary Plan Decision Criteria

In reviewing the Planned Unit Development Preliminary Plan petition, the Plan Commission and Town Council shall pay reasonable regard to the following, consistent with IC 36-7-4-603:

(1) Requirements and Intent

The extent to which the proposal fulfills the requirements and intent of this Section and the Subdivision Control Ordinance.

(2) Planning Documents

The Comprehensive Plan and any other applicable, adopted planning studies or reports.

(3) Characteristics

The current conditions and the character of current structures and uses in each zoning district.

(4) Desired Use

The most desirable use of which the land in each district is adapted.

(5) Property Values

The conservation of collective property values throughout the Town of Albion.

(6) Growth Management

Responsible growth and development.

(7) Overlay Requirements

Consistency with the requirements of all applicable overlay districts.



L. Expiration of Preliminary PUD Plan

The Final Detailed Plan filing shall occur within 18 months of the date of Preliminary Plan approval. If no Final Detailed Plan filing has occurred within that period, the Preliminary Plan approval shall expire. An extension may be granted upon request to the Plan Commission at their discretion without the need for a public hearing. If the project is phased and was part of the preliminary plan, the petitioner may submit partial Final Detailed Plans which correspond to the phases involved.



9.4 Final Detailed Plan

A. Purpose and Intent

The purpose of the Final Detailed Plan Application is to establish the details of the proposed PUD, document those details, and obtain final PUD approval from the Plan Commission and the Town Council.

B. Pre-application Meeting Required

A Planned Unit Development Final Detailed Plan shall only be filed after the petitioner has met with the Plan Administrator, or his or her designee, to discuss the request.

C. Application

The Final Detailed Plan filing shall occur within 18 months of the date of Preliminary Plan approval. The petitioner shall submit a Final Detailed Plan review application, affidavit and consent of property owner(s) (if the owner is someone other than the petitioner), a copy of the deed(s) for the property involved, the required filing fee, the Final Detailed Plan, and any other supporting information.

D. Final Detailed Plan Data

The Final Detailed Plan may take the form of a set of 24 inch by 36 inch sheets. The Final Detailed Plan may include any graphics that will explain the features of the development. The following shall be included in the Final Detailed Plan submission.

(1) Cover Page & Index

The cover sheet shall indicate that it is the Final Detailed Plan for that particular development and include the date of submittal, an index identifying all sections/phases included in the Final Detailed Plan document, and references to any separate sheets of information.

(2) Site Description

A description of the property and petitioners involved, including:

- a) The name, mailing address, e-mail address, and telephone number of the applicant;
- b) The name, mailing address, e-mail address, and telephone number of any land surveyors, engineers, or other professionals responsible for the Final Detailed Plan design;
- c) The legal description of the subject property and common address of the site; and
- d) The proposed name of the development (if applicable).

(3) Vicinity Map

A vicinity map showing the use and zoning of all properties within 1,320 feet (1/4 mile) of the property subject to the Final Detailed Plan. A site location diagram shall also be included.

(4) Common Holdings Map

A map of any property adjacent to the property subject to the Final Detailed Plan that is owned or otherwise controlled by any or all of the applicants. The Common Holdings Map shall be accompanied by a general description of the future development of that property and its relationship to the area included in the Final Detailed Plan. The general description may be in either text or map form and shall include, at a minimum, general land uses, general street patterns and access points, and general drainage designs.



(5) Existing Site Conditions

A site survey of all existing conditions on the subject property, including:

a) Built Features

All existing streets (including travel lanes, sidewalks, street trees, rights-of-way, etc.), established open spaces, structures, wells, utility lines and facilities, fire hydrants, and street lights.

b) Easements

All existing easements and an indication of their purpose.

c) Topography

A topographic survey extrapolated from USGS data or otherwise meeting the requirements of the Town Engineer.

d) Natural Features

The location of natural streams, regulated drains, 100-year floodplains and floodways (extrapolated from FEMA maps), water courses, wetlands (general locations as indicated by the National Wetlands Inventory), and wooded areas.

e) Utilities

The general location of utilities serving the site, including sanitary sewer, water, electricity, natural gas, and data transmission.

f) Historic Features

An identification of any historic features, specifically those listed as outstanding, notable, or contributing on the Indiana Historic Sites and Structures Inventory - Noble County Interim Report or listed in the National Register of Historic Places and/or Indiana Register of Historic Sites & Structures.

g) Other Features

Any other significant feature(s) that may influence the conceptual design of the development.

(6) Proposed Development

A description of the proposed development of the property, including:

a) Street Systems

The general plan, profile, and description of proposed street systems.

b) Land Uses

The general land use areas within the development, including proposed densities of residential uses.

c) Open Space

The general location of open space.

d) Landscaping

Detailed plan areas of landscaping, buffering, and/or screening proposed for the development.



e) Lighting

A site lighting plan prepared by an electrical engineer licensed by the State of Indiana drawn to an appropriate scale with the scale clearly indicated and a graphic scale for reference, showing the type and location of all exterior lighting fixtures (site and building lighting). Said lighting plan shall include a photometric drawing.

f) Natural Features

A description of the general accommodation of natural streams, regulated drains, 100-year floodplains and floodways, water courses, wetlands, and wooded areas identified above.

g) Historic Features

A description of the general accommodation of historic features, specifically those listed as outstanding, notable, or contributing on the Indiana Historic Sites and Structures Inventory - Noble County Interim Report or listed in the National Register of Historic Places and/or Indiana Register of Historic Sites & Structures.

h) Written Commitments

A description of any written commitments that are being proposed as part of the development.

i) Covenants

A general description of any private covenants and restrictions that may be established for the development.

j) Drainage

A drainage plan meeting the requirements of the Town Engineer.

(7) Supplemental Information

Any other information requested by the Plan Administrator or Plan Commission to aid in the review of the Final Detailed Plan. This may included, but not be limited to, topic areas such as traffic, utilities, tree preservation, flood hazards, and architectural design standards.

E. Administrative Review by Staff

Upon review, the Plan Administrator, or his or her designee, shall approve, approve with modifications, or deny the Final Detailed Plan application.

(1) Approve

The application may be approved if it is found to be consistent with all applicable requirements and the intent of this Ordinance and the Albion Comprehensive Plan. Staff may accept or require written commitments in recordable form from the petitioner as part of the approval. The Plan Administrator may require certain additional written commitments to be lettered on the plat of record.

(2) Approve with Modifications

The application may be approved with modifications if it is generally consistent with all applicable requirements of this Ordinance. Staff may impose conditions on the approval of the Final Detailed Plan, which shall become written commitments in a recordable format of the applicant. The Plan Administrator may require certain additional written commitments to be lettered on the plat of record.



(3) Deny

The application may be denied if it is found to be inconsistent with any applicable requirements and/or the intent of this Ordinance and/or the Comprehensive Plan.

(4) Continue

The application may be continued and referred back to the Plan Commission based on a request by the Plan Administrator, the petitioner, or the Town Council. The application shall be continued in the case of an indecisive vote wherein the item is essentially tabled, a determination by the Commission that additional information is required prior to action being taken on the request, or if an appropriate representative of the applicant fails to appear at the public hearing.

a) Additional legal notice shall not be required unless specified by the Plan Commission.

b) The continuing of all petitions shall be consistent with the adopted Rules and Procedures of the Plan Commission.

(5) Re-Filing Following Denial

If Staff determines that there is not compliance with the ordinance, the applicant may re-file a revised Final Detailed Plan within 90 days of the date of denial. The revised Final Detailed Plan shall be reviewed as if it were a new application. Final Detailed Plan applications that have been denied and not re-filed within the specified deadline shall not be re-filed for a period of one year from the date of the denial.

F. Recording

All approved Final Detailed Plans and modifications thereof shall automatically expire and become null and void unless recorded in the office of the Noble County Recorder within two years of approval.

(1) Failure to Record

Failure to record the plans and modifications in the time provided for above shall automatically void the approval of the Final Detailed Plan.

(2) As-Built Drawings

If, upon completion of all development, the exact measurements as to the location of buildings or structures erected during the development are deemed desirable for public record by recording thereof, the developer shall submit a copy of the approved Final Detailed Plan to the Plan Administrator as an amended approved Final Detailed Plan with the exact measurements thereon shown, and upon being satisfied that the measurements are substantially the same as indicated on the original approved Final Detailed Plan, the Plan Administrator shall re-approve, date, and sign the amended approved Final Detailed Plan, which the developer shall then record.

G. Improvement Location Permit

Final Detailed Plan approval is required prior to the issuance of an Improvement Location Permit. An Improvement Location Permit (consistent with this Ordinance) is required prior to any construction activity occurring on the subject property.

(1) Plat Approval Required

If a subdivision plat is required, plat approval consistent with the Subdivision Control Ordinance must also be obtained prior to the receipt of any Improvement Location Permits.

(2) Supporting Information

The Plan Commission may require any additional supporting information not already stated by this Section to be provided prior to the issuance of an Improvement Location



9.5 Written Commitments

The applicant in any Planned Unit Development may make written commitments in recordable form regarding the characteristics of the proposed future use of, or the resolution of outstanding issues in existence on, the subject property consistent with IC 36-7-4-615. Commitments made by the applicant and conditions of approval established by the Plan Commission or Town Council shall be considered written commitments for the purpose of this Section.

A. Commitment Proposals

Written commitments may be proposed by the applicant as an element of the initial submittal of application materials, as a response to comments made by the Plan Administrator, or in response to any modifications requested by the Plan Commission or Town Council.

B. Consideration of Commitments

Any commitments shall be considered by the Plan Commission and Town Council if they have been established at the time of the review. Written Commitments shall be included as an element of the PUD district ordinance (rezoning) establishing the PUD zoning and shall be recorded in the office of the Noble County Recorder by the petitioner. A copy of the recorded commitments shall be provided to the Plan Administrator.

C. Enforcement of Commitments

The written commitments shall be considered part of this Ordinance binding on the subject property.

(1) Applicability

The written commitments shall be binding on the owner(s) of the subject property, any subsequent owners of the subject property, and any property owner(s) or entity that acquires an interest in any portion of the subject property.

(2) Enforcement

The written commitments shall be enforceable by the Plan Commission or Board of Zoning Appeals consistent with the adopted provisions for the enforcement of this Ordinance.

(3) Modification

The recorded written commitments may be modified only through the Planned Unit Development process described by this Section.



9.6 Covenants

Covenants shall be set forth in detail. The Plan Commission may review covenants that pertain to any written commitments, development requirements and/or common areas, swales, or drainage systems. A copy of the recorded covenants shall be provided to the Plan Administrator by the petitioner for the records of the Plan Commission.

A. Lot Owner's Association

Adequate provision shall be made for a private organization (i.e., Lot Owner's Association) with direct responsibility to, and control of, the lot owners involved. The lot owner's association shall provide for the operation and maintenance of all common facilities, such as any common areas and ponds, in the best possible manner. Legal assurances shall be provided which show that the private organization is self-perpetuating.

B. Service Access to Common Areas

The covenants shall state that all common facilities and drainage systems not dedicated to the public shall be maintained by the private lot owner's organization in such a manner that adequate access is provided for fire, police, health, sanitation, and public utility vehicles to service them. All streets, roadways, and common facilities not dedicated to the public shall be operated and maintained at no expense to any governmental unit.

C. Enforcement

Covenants shall be distinguished from written commitments and development requirements. Written commitments and development requirements are elements of the PUD approval and are enforceable by the Plan Commission. Covenants are private agreements that are not enforceable by the Plan Commission.



9.7 Modifications

A. Minor Modifications

(1) Administration

The Plan Administrator may from time to time approve minor modifications of the Preliminary Plan and/or Final Detailed Plan without a public hearing consistent with IC 36-7-4-1511(i). The modifications shall be consistent with the purpose and intent of the overall development and the approved Preliminary Plan. Such modifications shall not include any change in type of use, any increase in density, any lessening of aesthetic treatments, any alteration of frontage or building location, any change in access points, or any alteration of the development requirements.

a) Procedure

To request a minor modification, the property owner(s), developer, or applicant shall provide the Plan Administrator with a letter that identifies the PUD and the requested minor modification. The letter shall be accompanied by any necessary supporting drawings or other materials. The Plan Administrator, or his or her designee, shall provide a written response within 15 business days informing the applicant if the minor modification has been approved. All materials relating to the minor modification shall be kept on file with the other PUD materials in the office of the Plan Commission.

b) Public Notice

In addition to that which may be required by the Rules & Procedures of the Plan Commission, notice to adjacent property owners shall be required for the review or approval of minor modifications. Said notice shall be as prescribed by Section 10.2, Notice of Public Hearing, of this Ordinance.

(2) Appeal

Any affected party may appeal any minor modification decision by the Plan Administrator to the Board of Zoning Appeals within 30 days of the determination.

(3) Rules and Procedures

The Plan Commission may, through its Rules & Procedures, establish rules governing the nature of proceedings and notice required to make a minor modification under this Section.

B. Major Modifications

Major modifications that may include any change in type of use, any increase in density, any lessening of aesthetic treatments, any alteration of frontage or building location, any change in access points, or any alteration of the development requirements shall require a public hearing to be conducted in the same manner as that for initial approval of either the preliminary plan or detailed plan, whichever is being modified. Notice of the hearing must be given as prescribed by this Ordinance.



9.8 Expiration, Abandonment and Extensions

A. Expiration

Approval of a final Detailed Plan shall expire after a period of five years from the approval of the Preliminary Plan, unless the development is 50% completed in terms of improvements including streets, parks, walkways, utility installations, and sanitary sewers. Determination of the amount of completion shall be made by the Plan Commission upon a recommendation by the Plan Administrator. Following expiration of a Final Detailed Plan, the Town Council or the Plan Commission may declare the bond to be in default and cause all public improvements to be installed according to the Final Detailed Plans.

B. Abandonment

The Planned Unit Development may be considered officially abandoned if, in the written opinion of the Plan Administrator, the development is incomplete and no, or minimal, construction activity has occurred for a period of five consecutive years. Any outstanding surety for the project may be utilized by the Town Council in any manner deemed appropriate and associated with the project.

C. Extensions

An extension, not to exceed six months, for accomplishing any processes required by this Section, or for resuming construction activity in an abandoned development may be granted by the Plan Commission upon a written request from the petitioner. All requests for extensions must occur a minimum of 30 days prior to the applicable deadline.

D. Plan Commission Rezoning

The Plan Commission may initiate a rezoning for any property included in a Planned Unit Development that has been abandoned or for which the Final Detailed Plan approval has expired. Any rezoning by the Plan Commission shall meet all applicable requirements for the rezoning process provided by this Ordinance.

SECTION 10:
NON CONFORMING SITUATIONS





SECTION 10: NON CONFORMING SITUATIONS

Section 10.1	Nonconforming Status
Section 10.2	Nonconforming Lots of Record
Section 10.3	Nonconforming Structures
Section 10.4	Nonconforming Site Features
Section 10.5	Nonconforming Uses
Section 10.6	Nonconforming Signs

Upon adoption of this Ordinance some structures, lots, and uses that were previously established and maintained consistent with all applicable requirements of ordinances past may no longer comply with the regulations of the zoning district in which they are located. For this reason, this Section has been written to provide the rules, policies and regulations that apply to all legal nonconforming structures, lots, uses and other legal nonconforming situations. This Section may be referred to as the "grandfather" clause. If a structure, lot, or use was established legally under a previous ordinance, it is described as "grandfathered" (legal nonconforming). These regulations are intended to inform property owner(s) about the options for using and modifying nonconforming properties and to support the eventual elimination of all nonconforming structures, lots and uses rather than encourage their survival.

10.1 Nonconforming Status

A. Illegal Nonconforming Described

With the exception of structures, lots and uses established when the Town of Albion enacted land use controls, a structure, lot, or use that is nonconforming and that was established or constructed prior to the adoption of this Ordinance and without an approved Improvement Location Permit or approval from the Board of Zoning Appeals or Plan Commission is considered illegal nonconforming. An illegal nonconforming situation shall be subject to actions and penalties allowed by this Ordinance and all other applicable ordinances, and shall be altered to be in compliance with all applicable standards and regulations of this Ordinance.

B. Legal Nonconforming Described

Legal nonconforming situations differ from illegal nonconforming situations in that the reason for the noncompliance is caused by the enactment of a Zoning Ordinance or a change to the Zoning Ordinance (including amendments to the Official Zoning Map). The structure, lot or use has not changed, but due to the Zoning Ordinance enactment or change, the property no longer complies with the standards of the zoning district in which it is located. When this situation occurs, the property is deemed legal nonconforming or "grandfathered". Legal nonconforming structures, lots and uses, may continue in the manner and to the extent that they existed or were used at the time the change in the Zoning Ordinance was enacted, provided they are in compliance with this Section.

C. Effect on past variances, special exceptions, or other approvals

Structures, lots and uses, and other property features that are nonconforming due to prior variance, special exception, or other approvals shall not be subject to the provisions of this Section, but shall be considered conforming as long as they continue to comply with the terms and conditions of their approval.

D. Effect on Repairs and Maintenance (*under Repairs and Maintenance*)

Work may be done for ordinary repairs or replacement of walls, heating, fixtures, wiring, plumbing, etc. provided that the nonconformities, such as setbacks, lot coverage, land use, etc., are not increased.



E. Effect on Unsafe Structures

Nothing in this Section shall be deemed to prevent the strengthening, repairing, or restoring to a safe condition of any structure that has been declared unsafe by the appropriate official.

10.2 Nonconforming Lots of Record

All lots legally established and recorded with the Noble County Recorder prior to the effective date of this Ordinance, as amended from time to time, that no longer meet an applicable provision of this Ordinance, such as minimum area, width, or depth, shall be deemed Legal Nonconforming Lots of Record. Legal Nonconforming Lots of Record may be built upon only if the proposed use is permitted and all development standards of the applicable zoning district, as prescribed by this Ordinance, are met.



10.3 Nonconforming Structures

Any structure, such as a primary structure, accessory structure, fence, etc., lawfully established prior to the effective date of this Ordinance, as amended from time to time, that no longer meets the development standards, such as setbacks, height, etc., shall be deemed a Legal Nonconforming Structure.

A. Continuation of Nonconforming Structures

The continuation and modification of nonconforming structures shall be consistent with the following requirements.

(1) Increases in Nonconformity

No legal nonconforming structure shall be enlarged or altered in a manner that increases its nonconformity without the approval of a variance by the Board of Zoning Appeals. Any structure may be altered to decrease its nonconformity.

(2) Intentional Alterations

Any legal nonconforming structure that is intentionally altered, moved for any distance, or replaced shall comply with the current regulations of the district in which it is located. Any legal nonconforming structure that is intentionally altered, moved for any distance, or replaced shall not have the discontinued legal nonconforming features resume.

(3) Accidental Alterations

Legal nonconforming structures that are required to be altered or removed due to government action or damage from fire, flood, other natural disaster, or criminal act may be restored to their legal nonconforming condition. Such structures, if rebuilt or restored, shall be identical or smaller in volume, height, setback, scale, and all other aspects to that which was altered or removed.

B. Effect on single-family residences in non-residential districts

A legal nonconforming single-family residence located in any non-residential zoning district may be expanded by up to 50% of the pre-expansion living area, one time in any five calendar year period provided the expansion is for the purpose of continuing the residential use of the property. For the purposes of administering and enforcing this Ordinance, compliance with this Ordinance shall only be required of the expanded portion of the residence. With respect to building setbacks, the minimum setbacks for the expanded portion of the residence shall be as established by the current zoning, unless a development standards variance is obtained from the Board of Zoning Appeals.



10.4 Nonconforming Site Features

Any site feature or improvement, such as landscaping, dumpster enclosures, parking space dimensions, etc., lawfully established prior to the effective date of this Ordinance, as amended from time to time, that no longer meets the development standards shall be deemed a Legal Nonconforming Site Feature. The continuation and modification of nonconforming site features shall be consistent with the following requirements.

A. Increases in Nonconformity

No legal nonconforming site feature shall be altered, removed, or otherwise modified in a manner that increases the features nonconformity. Site features may be modified in a manner that maintains or lessens the extent of the nonconformity.

B. Site Modifications

If building expansions or other changes to the property occur that require corresponding site feature improvements, the affected features shall only be required to be modified to the extent necessary to accommodate the property changes. The required installation of new site features shall not require the entire site to be brought into compliance with this Ordinance. For example, parking lot landscaping would only be required for new portions of a parking lot that was required to be expanded due to a change in the use of the property, to the extent that the amount of landscaping in the pre-existing parking areas will be unaffected.



10.5 Nonconforming Uses

Any lawful use of structures, land, or structures and land in combination established prior to the effective date of this Ordinance, as amended from time to time, that is no longer a permitted use in the district where it is located shall be deemed a Legal Nonconforming Use. A legal nonconforming use may continue provided that it remains otherwise lawful, subject to the following conditions:

A. Modification of Structures

No existing structure devoted to a legal nonconforming use shall be enlarged, expanded, increased, extended, constructed, reconstructed, moved, or structurally altered except as to change the use of the structure to a use permitted in the district in which it is located, or as otherwise specified in this Section.

B. New Structures

No new structure shall be constructed in connection with an existing legal nonconforming use of land.

C. Expansion within Structures

Any legal nonconforming use may be extended throughout any parts of an existing structure that were plainly arranged or designed for such use on or before the effective date of this Ordinance, as amended from time to time, but no such use shall be extended to occupy any land outside the structure.

D. Expansion on the Property

No legal nonconforming use of land shall be enlarged, increased, extended to occupy a greater area of land, or moved in whole or in part to any other portion of a lot that was occupied on or before the effective date of this Ordinance.

E. Expansion of Non-Conforming Residential Use

A legal nonconforming single-family residence located in any commercial or industrial zoning district may be expanded by up to 50% of the pre-expansion living area one time in any five calendar year period provided the expansion is for the purpose of continuing the residential use of the property. Required setbacks for the expansion shall be either those established by the zoning on the property, or those provided by the pre-expansion structure, whichever is less restrictive.

F. Change of Use (to another nonconforming use)

If no structural alterations are made, it is possible to change a nonconforming use to another nonconforming use. Nonconforming uses may be changed to another nonconforming use (similar or dissimilar) with the approval of the Board of Zoning Appeals. In addition to the statutory criteria for acting on a development standards variance request, the Board may approve the change of use if it finds that the proposed use is equally or more appropriate to the district in which it is located than is the existing use. The Board shall consider development standards applicable to the proposed use established by this Ordinance and may make reasonable conditions pursuant to this Ordinance.

G. Change in Use (to a permitted use)

When a legal nonconforming use is replaced by a permitted use, it shall thereafter comply with the regulations of the district in which it is located, and the legal nonconforming use may not be resumed.

H. Discontinuation of Use

If a legal nonconforming use is intentionally discontinued for six continuous months or longer, any subsequent use of such land, structure, or land and structure in combination shall comply to the provisions of this Ordinance, with the exception of uses that are required to be discontinued due to a governmental action that impedes access to the premises due to damage from fire, flood, other natural



disaster. Such exempt uses, if restored, shall be identical in scale, lot coverage, and all other aspects to that which was discontinued.

I. Nonconforming Structures and Land in Combination

Where legal nonconforming use status applies to a structure and land in combination, an intentional removal or alteration of the structure, or its use, that establishes conformity shall also eliminate the legal nonconforming status of the land. Legal nonconforming uses located in structures specifically constructed or modified to suit only such uses are exempt from this provision and may be resumed if the structure has not been intentionally altered to serve other uses, used to house a permitted use, or used to house another nonconforming use with the approval of a special exception by the Board of Zoning Appeals as specified in this Section.



10.6 Nonconforming Signs

Any sign, lawfully established prior to the effective date of this Ordinance, as amended from time to time, that no longer meets the requirements of this Ordinance shall be deemed a Legal Nonconforming Sign. For the purposes of this Section, a sign shall include the sign face and any supports, poles, frames, or other associated lighting, electrical, mechanical, and structural features. The continuation and modification of nonconforming signs shall be consistent with the following requirements:

A. Increases in Nonconformity

No legal nonconforming sign shall be enlarged or altered in terms of face area, height, or any other aspect that increases its nonconformity. For the purposes of administering and enforcing this ordinance, a change in the sign faces message or content shall not be considered to increase the signs nonconformity.

B. Intentional Alterations

Any legal nonconforming sign that is intentionally altered, moved for any distance, or replaced shall comply with the regulations of the district in which it is located, and the discontinued legal nonconforming features may not be resumed.

C. Accidental Alterations

Legal nonconforming signs that are required to be altered or removed due to government action or damage resulting from fire, flood, other natural disaster, or a criminal act may be restored to their legal nonconforming condition. Such signs, if rebuilt or restored, shall be in compliance with the requirements of this Ordinance, or shall be identical in scale and all other aspects to that which was altered or removed.

D. Sign Faces and Messages

The sign faces and/or message on a legal nonconforming sign may be altered, replaced, repainted, and repaired provided that the nonconformity of the sign is not increased, and that a static display is not converted to an electronic message board. Otherwise, nothing in this Section shall be interpreted as requiring a sign to be brought into compliance with this Ordinance if it is changed only to the extent that the face area is changed, but not increased in size or altered in shape or made to be an electronic message board.

E. Temporary Signs

Any signs in existence at the time this Ordinance becomes effective that were previously permitted as temporary signs may only remain in use consistent with the requirements of this Ordinance. Any temporary signs that are no longer permitted shall be removed within 30 days of the effective date of this Ordinance. Any nonconforming temporary signs shall be considered to be in violation of this Ordinance and shall be subject to the provisions of Section 12, Enforcement and Penalties.



SECTION 11:
PERMITS, PETITIONS and PROCEDURES





SECTION 11: PERMITS, PETITIONS and PROCEDURES

- 11.1 General Administration
- 11.2 Permit and Petition Applications
- 11.3 Notice of Public Hearing
- 11.4 Improvement Location Permit
- 11.5 Certificate of Occupancy
- 11.6 Site Development Plans
- 11.7 Signs
- 11.8 Other Required Permits
- 11.9 Variance
- 11.10 Special Exception
- 11.11 Appeal Process and Procedures
- 11.12 Zoning Map Amendment (Rezoning)
- 11.13 Annexation
- 11.14 Temporary Uses
- 11.15 Written Commitments

11.1 General Administration

A. Administrative Officer

The Plan Administrator will have the principal responsibility for the administration and enforcing and/or coordination of the enforcement of this Ordinance within the Plan Commission's planning jurisdiction. The duties of the Plan Administrator, and or his/her designee shall include, but not be limited to:

(1) Permits

Reviewing, approving, or disapproving all Permits and keeping permanent records of applications made and actions taken;

(2) Inspections

Conducting inspections of structures, and properties to determine compliance with the requirements of this Ordinance and all approvals granted by the Plan Commission, Town Council, and Board of Zoning Appeals;

(3) Record Keeping

Maintaining permanent and current records documenting the application of this Ordinance including, but not limited to, all maps, amendments, special exceptions, variances, and appeals;

(4) Plan Commission Applications

Receiving, processing, docketing, and referring to the Plan Commission all amendment applications;

(5) Board of Zoning Appeals Applications

Receiving, processing, docketing, and referring to the Board of Zoning Appeals all appeals, variances, special exceptions, and other matters upon which it is authorized to act under this Ordinance and Indiana State Code; and



(6) Clerical & Technical Assistance

Providing all such clerical and technical assistance as may be required by the Board of Zoning Appeals, Plan Commission, Town Council, or other body in the execution of its duties as established by this Ordinance and Indiana State Code.

B. Fee Schedule Established

The Plan Administrator shall maintain a schedule of fees for all applications, permits, and other processes outlined in this Ordinance.

(1) Fee Basis

All fees shall be intended to reimburse the Commission for the time and cost of processing the required materials. In no instance shall a fee be used as a means of discouraging or encouraging any particular types of petitions or applications. Fees will be waived for tax exempt entities providing they show proof of tax exempt status at time of permit application.

(2) Public Access

The fees schedule shall be made available to the public by the Plan Administrator.

(3) Establishment and Revisions

The fee schedule shall be prepared by the Plan Administrator, reviewed by the Plan Commission, and approved by Ordinance by the Town Council.

- a) The fees schedule may be amended by a recommendation submitted to the Town Council by the Planning Commission followed by the Council's approval of a revised fee schedule Ordinance.
- b) The Plan Administrator shall review the fee schedule annually and bring any necessary revisions to the attention of the Plan Commission and Town Council.

(4) Payment Required

Until all applicable fees have been paid in full, no final action shall be taken on any permit application, appeal, or petition.

(5) Fines for Failing to Obtain a Permit

Any person who initiates construction of a structure or the alteration of land prior to obtaining any required permit shall pay three times the amount of the normal permit fee listed on the fee schedule.

C. Schedule of Meeting and Filing Dates

The Plan Administrator shall maintain an annual calendar of meeting and filing dates separately for the Plan Commission, and Board of Zoning Appeals. The calendars of the Plan Commission shall be coordinated to ensure the efficient processing of petitions. All meeting and filing dates shall be based on the requirements of this Ordinance and the laws of the State of Indiana. The calendar of meeting and filing dates shall be prepared by the Plan Administrator and adopted by resolution by the Plan Commission and Board of Zoning Appeals. The calendar of meeting and filing dates shall be reviewed and updated annually by the Plan Administrator.



11.2 Permit and Petition Applications

A. Permit Applications Required

The Town of Albion requires that an application and subsequent fee be submitted for the following types of permits:

- (1) Improvement Location Permit
- (2) Certificate of Occupancy
- (3) Site Development Plan
- (4) Signs
- (5) Demolition
- (6) Right-of-Way Activity
- (7) Driveway Approach and Curb Cuts
- (8) Temporary Use

B. Petition Applications Required

The Town of Albion requires that an application and subsequent fee be submitted for the following types of petitions:

- (1) Variance (Use and Development Standards)
- (2) Special Exceptions
- (3) Zoning Map Amendment (Rezoning)
- (4) Administrative Appeals
- (5) Planned Unit Developments (PUD)
- (6) Annexation

C. Application Materials

All applications may be obtained from the Town Hall. Fees shall be paid to the Town of Albion at the time all petition applications are submitted and at the time all permits are issued.

(1) Application Forms

All applications shall be made on forms provided by the Town Hall and online. All applicants shall submit original applications that are completed in their entirety in ink or typed.

(2) Copies of Materials

All applicants shall submit copies of applications and necessary plans and attachments as required by the adopted policies of the Plan Administrator and the applicable Rules and Procedures of the Plan Commission and Board of Zoning Appeals.

(3) Scheduling

All applications shall be assigned reference and/or docket numbers by the Plan Administrator, or his or her designee.

a) Petition Applications

Petition applications shall be scheduled by the Plan Administrator, or his or her designee, for the appropriate public hearings based on the completeness of the application consistent with the requirements of this Section and the appropriate adopted Calendars of Filing and Meeting Dates for the Board of Zoning Appeals and/or Plan Commission.

b) Order of Action Taken

Action shall be taken on all applications in the order in which they were received.



11.3 Notice of Public Hearing

For all public hearings, the notice shall be provided to the public consistent with the requirements of this Ordinance and the Rules & Procedures of the Board of Zoning Appeals and Plan Commission. Required public notice shall include the following:

A. Legal Notice

The Plan Administrator, or his or her designee, shall prepare and submit a legal notice consistent with the requirements of IC 5-3-1 for publication in the local newspaper, and the American with Disabilities Act. The applicant shall pay for said legal notice. The legal notice shall appear in the newspaper no less than one time at least 10 days prior to the public hearing, not including the date of the hearing. Legal notices shall include each of the following:

(1) Property Location

The general location of the subject property, including its common address and a legal description of the included land.

(2) Available Plans

That the project plans are available for examination at the office of the Plan Commission.

(3) Hearing Information

That a public hearing will be held, giving the date, place, and hour of the hearing.

(4) Written Comments

That written comments on the application will be accepted prior to the public hearing and may be submitted to the Plan Administrator.

B. Notice to Interested Parties

The Plan Administrator shall prepare and mail written notice of the application to all interested parties. The written notice shall be mailed at least 10 days prior to the public hearing, not including the date of the hearing. In no instances shall streets, alleys, streams, or other features be considered boundaries for precluding notification.

(1) Notice Information

The notice shall contain the same information as the legal notice that is published in the newspaper as outlined in *Section 11.3(A)* above.

(2) Responsibility

The distribution and cost of the notice shall be the responsibility of the Plan Administrator.

(3) Notification Requirements

Notification shall be provided to owners of all parcels of land adjoining the subject property to a depth of two ownerships or 600 feet, whichever is less, from the exterior boundaries of the subject property. The most current list of property owners can be obtained from the County Auditor's Office. For the purposes of notification, where any adjacent parcels of land are owned by the applicant(s), subject property shall be deemed to include adjacent land owned by the applicants.

(4) Notification Certification

A copy of the materials shall be mailed to each property owner by Certified Mail.



11.4 Improvement Location Permit

No structure or site improvement shall be erected, moved, or added to on platted or unplatted land, without an Improvement Location Permit first being issued by the Plan Administrator, or his or her designee. No Improvement Location Permit (ILP) shall be issued unless the project is in compliance with the provisions of this Ordinance, the Subdivision Control Ordinance, and other applicable regulations of the Town of Albion.

A. Permit Required

The Town of Albion requires that an Improvement Location Permit be obtained for any of the actions listed below. A single Improvement Location Permit may be issued for a combination of these actions, if they occur together. The list below is not a complete list. The Plan Administrator may require an Improvement Location Permit for other land use activities as deemed fit.

- (1) New development, after rezoning or plat approval;
- (2) Adding or subtracting dwelling units or leased space in multifamily or commercial structures;
- (3) Any use that exceeds 200 square feet in area and/or has a permanent foundation (including structures other than buildings such as towers and antennas);
- (4) Any temporary use of land or temporary structure;
- (5) Signs;
- (6) Swimming pools with a depth greater than 30 inches (in-ground pools shall be required to obtain a permit, above ground pools less than 15 feet in diameter shall not be required to obtain a permit, but shall comply with this Ordinance);
- (7) Additions to all structures;
- (8) Changes of use;
- (9) Placement or replacement of manufactured or mobile homes;
- (10) Parking lot construction or alteration; driveway cuts
- (11) Removal of required trees and plants within buffer yards and landscaping areas required by this Ordinance;
- (12) Mineral extraction;
- (13) Telecommunication towers, buildings, and antenna;
- (14) Any exterior construction that adds to or alters the height of an existing structure;
- (15) HVAC units.

B. Application for an Improvement Location Permit

All applications for an Improvement Location Permit must be accompanied by the following items:

(1) Site Location Map

A site location map showing the subject property and the general features of property within 600 feet of the subject property.

(2) Site Plan

A detailed site plan, drawn to scale with the dimensions indicated showing the following: the entire property including all rights-of-way, easements, property lines, required buffer yards, and setbacks; all existing and proposed structures or other site improvements with the dimensions of such improvements; the distances from all existing and proposed improvements to the property lines; the location of any existing or proposed septic field; the location of any existing or proposed driveways and/or parking areas; elevations of all existing or proposed structures or alterations; natural, physical or hazardous conditions existing on the lot; the location of any required landscaping, labeled according to size and species; the location, type, and dimensions of any storm water structures, conduits, or detention/retention ponds; and finished floor elevations.



(3) Use Description

A detailed description of the existing or proposed uses of the property and any structures.

(4) Waste Disposal Verification (if applicable)

Either a septic permit from the Noble County Health Department or a sewer access permit from the appropriate public sewer provider.

(5) Driveway Approval (if applicable)

A driveway permit from the Town Manager.

(6) Dwelling Units/Tenant Spaces (if applicable)

An indication of the number of dwelling units, or tenant spaces the building is designed to accommodate.

(7) Flood Hazard Area Information (if applicable)

Any other information necessary to meet the Flood Hazard Area Requirements of the Zoning Ordinance.

The application shall include any other information as lawfully may be required by the Plan Administrator or his/her staff, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, the number of units, or rental units the building is designed to accommodate; conditions existing on the lot; building setback distances from property lines, and other matters as may be necessary to determine conformance with and provide for the enforcement of this Section. The plans shall be retained by the Plan Administrator.

C. Action by the Plan Administrator

Within thirty (30) days after the receipt of a complete application, or within such time as set forth above, the Plan Administrator shall either approve or disapprove the application. If the application is approved, the Plan Administrator shall issue a placard to the applicant. The placard is to be posted in a conspicuous place on the property in question and will attest to the fact that the plans for construction or alteration are in compliance with the provisions of this Ordinance. If disapproved, the Plan Administrator shall notify the applicant in writing indicating the reasons for the disapproval within five (5) days of the decision.

D. Expiration of Permits

(1) Initiation of Work

If the work described in any ILP has not begun within twelve (12) months from the date of issuance, the permit shall expire; and shall be canceled by the Plan Administrator or his/her staff. If visible work has not begun in one (1) year the permit is void.

(2) Completion of Work

The Plan Administrator may grant two (2) extensions for up to one (1) year each for work completion. Requests for extensions must be received within one (1) month of the expiration. No extension will be granted unless all appropriate extension fees, as defined by the adopted fee schedule, are paid to the Plan Administrator and the project continues to conform with all applicable requirements of the Town.

If the work described in any ILP has not been completed within two (2) years of the date of issuance, the permit shall expire and be canceled by the Plan Administrator and written notice shall be given to the persons affected, together with notice that future work as described in the canceled permit or an extension shall not proceed unless and until a new ILP has been obtained.



E. Exemptions

No Improvement Location Permit shall be required for the types of improvements listed below, provided any such improvement complies with the applicable requirements of this Ordinance, the Subdivision Control Ordinance, and any other adopted standards of the Town of Albion.

- (1) Routine maintenance, repair, or interior non-structural remodeling of existing buildings not involving any change of use, additional lot coverage, or increase in structure size.
- (2) Essential services, as defined in this Ordinance.
- (3) Lot and yard improvements such as drives, sidewalks, patios, decks, retaining walls, play equipment, gazebos less than 144 square feet in area, above ground pools less than 30 inches in depth and 15 feet in diameter, and landscaping.
- (4) Mini-barns and storage containers that are portable and less than 144 square feet or less in area.

F. Failure to Obtain an Improvement Location Permit

The failure to obtain an ILP as required by this Ordinance shall be deemed a violation of this Ordinance and subject to the provisions of *Section 12, Enforcement and Penalties*.

G. Records of Improvement Location Permits

Every ILP issued pursuant to this *Section 11.4 (Improvement Location Permits)* shall be kept on file by the Plan Administrator for the period as specified by the Indiana State Code and shall be available as public record.

H. Official Schedule of Fees

- (1) The Town Council shall maintain the Official Schedule of Fees, charges, and expenses, as set forth periodically. The Plan Commission or Plan Administrator shall establish collection procedures for permits, appeals, and other petitions pertaining to this Section. The Schedule of Fees shall be available to the public in the office of the Plan Administrator and may be altered or amended only by ordinance of the Town Council.
- (2) All applicable fees, charges, and expenses shall be paid in full, by the applicant or owner, when the placard is issued.
- (3) Any person or persons who shall initiate construction of a structure prior to obtaining an ILP or any other required permit shall be subject to the fines and penalties in *Section 12, Enforcement and Penalties*.

I. Special Exception Uses and Variances

(1) Improvement Location Permit Required

If the Board of Zoning Appeals grants a special exception or a variance, it shall direct the applicant to apply for an Improvement Location Permit. If such application complies with all requirements established by the Board and this Ordinance, an Improvement Location Permit for the execution of the approved special exception or variance shall be issued.

(2) Failure to Obtain an Improvement Location Permit or Complete Construction

A special exception or variance ceases to be authorized and is said to expire if the obtaining of an Improvement Location Permit, or the execution of the approval, has not been completed within one year of the date the special exception or variance is granted. The variance or special



exception shall also expire if the approved construction has not been completed and approved by the Plan Administrator as being consistent with all written commitments, conditions, the requirements of this Ordinance, and all applicable permits within two years of the date the approval was granted.

11.5 Certificate of Occupancy

The following procedure applies to the issuance of a Certificate of Occupancy Permit.

A. Purpose and Intent

The intent of the Certificate of Occupancy Permit procedure is to coordinate building, planning, and engineering related issues and approvals into a single process and to better ensure the public safety and general welfare.

B. Certificate Requirements

It shall be unlawful and in violation of this Ordinance for any builder or property owner(s) to allow any improvement that requires an Improvement Location Permit to become occupied or utilized prior to:

- (1) Legally obtaining an Improvement Location Permit;
- (2) Successfully completing all required inspections, including the final inspection; and
- (3) Obtaining a Certificate of Occupancy from the Plan Administrator.

C. Inspection

Upon the completion of the work approved through an Improvement Location Permit, the permit holder shall contact the Plan Commission Office and schedule a final inspection to verify the installation of improvements consistent with the requirements of this Ordinance.

D. Certificate Issuance

The Plan Administrator or designee shall issue the Certificate of Occupancy if the improvements comply with this Ordinance, the Subdivision Control Ordinance, and other applicable requirements. The Plan Administrator, or his or her designee, may also issue a limited or temporary Certificate of Occupancy at his/her discretion.



11.6 Site Development Plans

A. Purpose and Intent

The intent of this Section is to; provide for the adequate, consistent review of new development and ensure compliance with this Zoning Ordinance; accommodate traffic and utility systems; and address the unique characteristics of certain areas of development. Site Development Plan review is provided for by the Indiana Code 36-7-4-1400. The development plan review process is not intended to provide an alternative to rezoning, variance, special exception, platting, or other established procedures, but rather to allow for the administrative review of site conditions and development plans for consistency with applicable requirements prior to the issuance of permits. Generally, Site Development Plan review shall involve new non-residential and residential development and shall occur after rezoning and primary plat approvals. Site Development Plan review may occur before or after any necessary Board of Zoning Appeals applications based on the characteristics of each application.

B. Authority and Process Outline

(1) Exemptions

The following types of development shall be exempt from the requirements of this Section, but shall be required to obtain an Improvement Location Permit and/or any other permit or approval otherwise required by this Ordinance:

a) Sign Installation

The replacement or installation of any sign(s) not occurring as part of an improvement to any other aspect of the property.

b) Parking Lot Expansion

The expansion of an existing parking lot that does not result in (1) a greater than 25% or 2,000 square foot (whichever is greater) increase in the surface area of the parking previously available on the property (2) the demolition of any structure or (3) the need for modifications to street accesses.

c) Structural Expansion

The expansion of an existing structure or the construction of an accessory structure that does not result in a greater than 25% increase in the floor area of the structures that were previously existing on the property and does not require the provision of additional landscaping, parking, or other improvements regulated by this Ordinance.

d) Residential Use / Structure

The placement of an individual manufactured home or the construction or expansion of a single-family residential use and structure (ILP required).

(3) Review and Approval Authority

The Plan Administrator and the Plan Commission shall have the authority to review and approve Site Development Plans.

a) Revision Process

The procedure for the review of proposed amendments or revisions to previously approved Site Development Plans shall follow the process for the initial approval of Site Development Plans outlined in this Section.

(4) Pre-application Meeting Required

A preliminary informal meeting shall be held with the Plan Administrator prior to application submittal.



C. Application Materials

(1) General Requirements

All applications may be obtained from the Plan Administrator. Fees, as established by the Town Council, shall be paid to the Plan Administrator, or his or her designee, at the time the application is submitted.

a) Application Forms

All applications shall be made on forms provided by the Plan Administrator. All applicants shall submit original applications that are completed in their entirety either in ink or typed.

b) Copies Required

All applicants shall submit copies of applications and necessary attachments as required by the adopted policies of the Town and the applicable Rules and Procedures of the Plan Commission.

c) Review Schedule

All applications shall be assigned reference and/or docket numbers by the Plan Administrator, or his or her designee. Applications shall be scheduled by the Plan Administrator, or his or her designee, for the appropriate meetings and/or public hearings based on the completeness of the application consistent with the requirements of this Section and the appropriate adopted Calendar of Filing and Meeting Dates for the Plan Commission.

(2) Application

The applicant shall submit an application for Site Development Plan review, an affidavit and consent of property owner(s) (if the property owner is someone other than the applicant), a copy of the deed for the property involved, the required filing fee, and required supporting information to the Plan Administrator, or his or her designee.

a) Application Material Format

All documents and drawings shall be provided in both hard copy and digital format in a manner specified by the Plan Administrator. Each application shall include four (4) copies of all full sized documents and drawings. For all graphic and plan drawings, a scale of not less than one inch equals one hundred feet (1"=100') shall be used. Individual sheets or drawings shall not exceed twenty-four (24) inches by thirty-six (36) inches. The applicant shall also submit two (2) table top copies not to exceed eleven (11) inches by twenty-four (24) inches. Digital copies of all materials shall be sent to the Plan Administrator.

b) Supporting Information

Supporting information shall include, but not be limited to, that described by this Section. The Plan Administrator, County Surveyor, Town Manager, and/or Plan Commission may request additional supporting information, which shall be provided by the applicant.

(3) Required Materials

The following materials shall be submitted with all Site Development Plan applications.

a) Summary Statement

A summary statement of the characteristics and operation of the development, including the population densities, presence of any adult uses, and number of



potential employees. The statement shall include any written commitments being made regarding the Site Development Plan.

b) Site description

A general description of the site and its ownership including:

1. The name, street address, e-mail address, and telephone number of the applicant,
2. The name, street address, e-mail address, and telephone number of any land surveyors, engineers, or other professionals responsible for the Site Development Plan design,
3. The name, street address, e-mail address, and telephone number of the primary contact individual for the application (it shall be indicated if the primary contact person is the applicant or a contracted design professional).

c) Cover Sheet

All cover sheets shall contain the following information:

1. A conceptual drawing describing the future development of all contiguous holdings described above shall be provided by the applicant upon the request of the Plan Administrator, County Surveyor, Town Manager, and/or Plan Commission. At a minimum the conceptual drawings shall include a description of the general street access points, general land uses, and general drainage conditions and plans;
2. A vicinity map shall clearly identify the subject property, property that is contiguous to the subject property that is owned and/or otherwise controlled by the owner(s) or developer of the subject property, and the current zoning and use of all property within 600 feet of the subject property;
3. A site location map showing the subject property and adjacent streets;
4. The legal description of the subject property and common address of the site; and
5. The proposed name of the development (if applicable).

d) Property Survey

A property survey, drawn to an appropriate scale with the scale clearly indicated and a graphic scale for reference, bearing the seal of a land surveyor registered in the State of Indiana, and showing the following existing features for the subject property and all land within 100 feet of the property lines of the subject property, and illustrating the following:

1. The boundary lines and dimensions of the subject property;
2. All structures (specifically indicating any structures recognized as outstanding, notable, or contributing in the Indiana Historic Sites and Structures Inventory - Noble County Interim Report; and those listed in the National Register of Historic Places; and/or the Indiana Register of Historic Sites & Structures);
3. Topography interpolated from USGS sources and/or otherwise meeting the requirements of the Town Manager (topographic information shall tie into horizontal and vertical control points);
4. Significant wooded areas and other isolated trees and wetlands;
5. 100-year floodplain and 100-year floodway boundaries (including elevations);



6. Public and private streets (including street names), sidewalks and other pedestrian paths, rights-of-way, and easements;
7. Required building setbacks and any build-to lines and buffer yards;
8. All known drainage areas, tiles, pipes and structures;
9. Utility services (including fire hydrants) and easements;
10. Street accesses; and
11. Any other paved or otherwise improved areas.

e) Site Plan

A site plan, drawn to an appropriate scale with the scale clearly indicated and a graphic scale for reference, bearing the seal of a professional engineer or land surveyor registered in the State of Indiana, clearly showing all proposed aspects of the property and all features relevant to the site including:

1. All setbacks and buffer yards;
2. Topography (including elevation contour lines at two foot intervals, or otherwise meeting the requirements of the County Surveyor/Town Manager);
3. Preserved wooded areas and isolated trees and wetlands;
4. Existing and proposed structures (including buildings, fences, and walls);
5. All structure heights, dimensions, and floor areas;
6. Areas of outdoor storage;
7. Permanent dumpsters and trash areas;
8. Locations, dimensions, and design features (including all curb radii, tapers, and parking space dimensions) of road accesses, interior drives, parking lots, loading docks or areas, intersection sight visibility triangles, and interior sidewalks;
9. Open spaces and specific landscaped areas;
10. Locations and capacities of public and private utilities;
11. The location, width, and purpose of all easements;
12. The use of each structure and the amount of parking required and provided for the use;
13. Any public improvements including sidewalks, street trees, and existing or planned public right-of-way dedications;
14. Locations for temporary uses, such as seasonal sales areas; and
15. Locations of proposed signs (separate permit required).

f) Landscaping Plan

A landscaping plan, prepared by a landscape architect registered with the State of Indiana, drawn to an appropriate scale with the scale clearly indicated and a graphic scale for reference, showing the following:

1. Proposed landscaping, buffer yards, and street trees;
2. Topography (including elevation contour lines at two foot intervals, or otherwise meeting the requirements of the Town Manager);
3. 100-year floodplain and 100-year floodway boundaries (including elevations);
4. Existing and proposed public and internal sidewalks, multi-use paths, and other pedestrian ways;
5. The size and spacing of the plantings at the time of installation, height at maturity, and the botanical and common name of the species proposed to be used to meet the requirements of this Ordinance; and



6. All existing trees and vegetation to be preserved, and the drip lines for such trees (in which no construction activity shall occur).

g) Stormwater Drainage Plan

A site drainage plan, bearing the seal of a professional engineer or land surveyor registered in the State of Indiana, including all calculations required by the County Surveyor/Town Manager. The drainage plan shall comply with the Albion Stormwater Ordinance, as amended from time to time, and include the location of the following:

1. All natural streams, regulated drains, and watercourses,
2. 100-year floodways and 100-year floodplains (including elevations),
3. All marshes, wetlands, and wooded areas, and
4. All drainage area features as described in the drainage calculations.

h) Lighting Plan

A site lighting plan prepared by an electrical engineer licensed by the State of Indiana drawn to an appropriate scale with the scale clearly indicated and a graphic scale for reference, showing the type and location of all exterior lighting fixtures (site and building lighting). Said lighting plan shall include a photometric drawing.

i) Erosion Control/Sedimentation Plan

A site erosion control sedimentation plan, drawn to an appropriate scale with the scale clearly indicated and a graphic scale for reference, showing proposed erosion and sediment control measures.

j) Construction Plan

A site construction plan, drawn to an appropriate scale with the scale clearly indicated and a graphic scale for reference, showing:

1. The location of any proposed construction trailer and worker parking;
2. The location, height, and dimensions of any temporary construction related signs;
3. Any temporary site accesses to be used during construction;
4. All traffic control signs and devices (subject to the approval of the Town Manager and consistent with the Manual of Uniform Traffic Control Devices);
5. Any temporary utility connections; and
6. The location of any stockpiles of dirt, construction materials, and construction waste dumpsters or storage areas, wash off areas.

k) Street Plan and Profile

l) Sanitary Sewer Plan and Profile

m) Utility Plan (including sewer, water, gas and electricity)

n) Grading Plan

D. Administrative Procedures

(1) Application Filing

Applications shall be filed with the Plan Administrator or his designee in conformance with the regulations set forth in the Plan Commission's Rules of Procedure.



(2) Special Requests

In addition to the minimum data and information required by this Section, every applicant shall submit such other additional data, information, or documentation as the Plan Administrator or anybody before which its application is pending may deem necessary or appropriate to achieve a full and proper consideration of that application.

(3) Supplemental Data

Whenever supplemental data in connection with a previously filed application is required by the Town or offered by the applicant, it shall be submitted at least twenty-five (25) days prior to the date on which it is to be considered or acted upon in connection with such application. The filing of such data shall, in the discretion of the Plan Administrator and of the body hearing the application, because to delay a requested or scheduled hearing or decision date.

(4) Fees

From time to time the Town Council may contract with independent professionals for services related to the review of applications. If independent review of an application is needed, the applicant shall be responsible for the cost of the review. Such professional costs may include, but are not limited to the cost of newspaper publication, planning, engineering, legal, traffic analyses, environmental impact or other similar studies.

E. Review Process

(1) Plan Commission Preparation

The Site Development Plan shall be placed on the agenda for the next meeting of the Plan Commission consistent with the adopted Calendar of Meeting and Filing Dates. The applicant shall revise the Site Development Plan proposal consistent with any Plan Administrator comments and submit the revised plans to staff fourteen (14) days prior to review by the Plan Commission and shall provide such revision for review.

(2) Plan Commission Review

The Plan Commission shall review the Site Development Plan and any supporting information.

a) Representation

The applicant and/or a representative of the applicant must be present at the public hearing to present the Site Development Plan and address questions from the Plan Commission.

b) Presentations

The Plan Commission shall consider a staff report from the Plan Administrator describing the findings from the applicant and any interested parties in making its decision.

(3) Standards for Review

In reviewing and determining whether to approve or disapprove a Site Development Plan, the Plan Administrator and/or Plan Commission shall consider the following criteria listed below, as well as the criteria in the ***Site Development Plan Application Checklist***.

- a)** The application shall comply with the provisions of this ordinance and other Ordinances of the Town.
- b)** The plan shall be in reasonable conformity with the Comprehensive Plan.



- c) Reasonable provision shall be made to ensure that development will be served by essential public facilities and services such as highways, streets, parking spaces, police and fire protection, drainage structures, refuse disposal, water and sewers, or septic and schools.
- d) Any building or structure shall be reasonably accessible to fire, police, emergency and service vehicles. When deemed necessary for access, emergency vehicle easements shall be provided. The access for fire, police and emergency vehicles shall be unobstructed at all times.
- e) Adequate provision shall be made to ensure the compatibility of the proposed development, including mass, scale, site layout and site design with the character of the surrounding property and the neighborhood, including:

1. Relationships of Buildings to Sites

- a. The site shall be planned to achieve a desirable transition to the street, provide for adequate planting, safe pedestrian movement and off-street parking areas.
- b. Parking areas should include innovative ways to significantly screen the parking areas from views from public ways.
- c. Without restricting the permissible limits of the applicable zoning district, the height and scale of each building shall be compatible with its site and existing (or anticipated) adjoining buildings.

2. Building Design (See Section 7.6 Architectural Design Standards)

- a. Structures shall be in scale and harmonious with adjoining buildings.
- b. Materials shall be selected for their harmony of the building and adjoining buildings. Materials shall also be selected for suitability to the type buildings and the design in which they are used.
- c. Materials shall be of durable quality.
- d. Exterior lighting shall be part of the architectural concept. Fixtures, standards and exposed accessories shall be harmonious with the building design.

3. Signs (See Section 8 Sign Standards)

- a. Every sign shall be designed as an integral architectural element of the building and site to which it principally relates.
- b. The colors, material and illumination of every sign shall be compatible and harmonious with the building and site to which it principally relates.
- f) Open space provided is configured to make that open space usable, functional, and appropriate to the development proposed.
- g) Streets and sidewalks shall, insofar as reasonably practicable, provide access and good traffic circulation to and from adjacent lands, existing streets and sidewalks.
- h) Provision shall be made to ensure that adequate access roads or entrance or exit drives will be provided and will be designed and improved so as to prevent traffic hazards or problems and to minimize traffic congestion in public streets.



- i) Adequate provision shall be made to ensure that the vehicular circulation elements of the proposed development will not create hazards to the safety of vehicular or pedestrian traffic on or off the site, disjointed vehicular or pedestrian circulation paths on or off the site, or undue interference and inconvenience to vehicular and pedestrian travel.
- j) Adequate water mains and fire hydrants shall be provided in accessible places in accordance with good fire fighting and fire prevention practice.
- k) Adequate provision shall be made for the collection and disposition of all on- and off-site storm water and natural water, including but not limited to on-site drainage retention facilities.
- l) Adequate provision shall be made for the collection and disposition of sanitary sewage.
- m) Adequate provision shall be made to avoid an increase in hazard to adjacent property from flood, increased run-off or water damage.
- n) Adequate provision shall be made to clean, control and otherwise alleviate contamination or environmental hazards on land when the site is in an area found by the Plan Administrator to be contaminated by a toxic substance or otherwise to contain environmental hazards which are detrimental to the public health, safety and welfare.
- o) Adequate provision shall be made to avoid glare of vehicular and stationary lights that would affect the established character of the neighborhood, and to the extent such lights will be visible across from any property line, the performance standards for illumination shall be met.
- p) Adequate provision shall be made to ensure that the location, lighting and type of signs and the relationship of signs to traffic-control is appropriate for the site and will not have an adverse affect on any adjacent properties.

F. Possible Action

The Plan Commission may approve, approve with modifications, deny, or continue the Site Development Plan application.

(1) Approve

The Plan Commission may approve the Site Development Plan if it is consistent with all applicable requirements of this Ordinance.

(2) Approve with Modifications

The Plan Commission may approve the Site Development Plan with modifications if it is generally consistent with all applicable requirements of this Ordinance. The Plan Commission may impose conditions on the approval of a Site Development Plan if the conditions are necessary to satisfy the requirements and intent of this Ordinance. Accepted conditions shall become written commitments which shall be recorded by the Town with the Noble County recorder before any construction activity commences.

(3) Deny

The Plan Commission shall deny the Site Development Plan if it is not consistent with the applicable requirements of this Ordinance. Site Development Plan applications that have been



denied shall not be re-filed for a period of three months from the date of the denial, unless a different design, that addresses the reasons for denial, is submitted.

(4) Continue

The application may be continued based on a request by the Plan Administrator or the applicant; an indecisive vote wherein the item is essentially tabled; a determination by the Plan Commission that additional information is required prior to action being taken on the request; or if the applicant or an appropriate representative of the applicant fails to appear at the public hearing. Additional legal notice shall not be required unless specified by the Plan Commission. The continuing of all applications shall be consistent with the adopted Rules and Procedures of the Plan Commission.

G. Permits

Prior to any site work or construction activity, the applicant shall be required to obtain the appropriate Improvement Location Permit and any other required permits specified by this Ordinance.

H. Lapse of Plan Approval

Site Development Plans for approval shall lapse if neither site work nor building construction has commenced within one (1) year of the date the Plan Administrator has granted such plan approval.

I. Public Improvement Performance Guarantees

To ensure compliance with any condition(s) imposed under this Section, the Plan Administrator may require that a cash certified check, irrevocable bank letter of credit, or surety bond acceptable to the Town, equaling one hundred and ten (110%) percent of the Town's estimated cost of public improvements associated with a project for which site development plan approval is sought, be deposited with the Town to ensure faithful completion of the improvements and also be subject to the following:

(1) The performance guarantee shall be deposited prior to the onset of any construction, clearing of land or earth moving related to the site development plan. The Town may establish procedures whereby a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements will be made as work progresses. Any partial release of funds shall be less than ten (10%) percent which shall be retained by the Town until all work has been completed and subsequently inspected and approved by the Town or its agents. This does not relieve the applicant from satisfying all applicable maintenance warranties and/or guarantees necessary to ensure the proper functioning of said public improvements.

(2) As used in this Section, "improvements" mean those features and actions associated with a project which are considered necessary by the Town Council, to protect natural resources, or the health, safety, and welfare of the residents of the Town and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, landscaping, and surface drainage. Improvements do not include the entire project, which is the subject of development plan approval.

J) As-Built Plans and Required Certification

The developer or owner shall cause as-built drawings to be prepared and submitted to the Plan Administrator for all streets, drainage ditches and facilities, utility pipes and structures, and finished grade elevations for the project. The as-built plans shall be filed with the Plan Administrator prior to the release of any performance assurances. The as-built plans shall be accompanied by a certification of completion and compliance properly executed by the licensed engineer or surveyor preparing the site development plan and/or as-built plans in the form prescribed by the Plan Administrator.



11.7 Signs

The following procedure applies to Sign Permits only.

A. Application

Application for a sign permit shall be filed with the Plan Administrator and shall be accompanied by any information the Plan Administrator, or his or her designee, determines is necessary to assure compliance with this Ordinance, including but not limited to:

- (1) Clear and legible drawings with descriptions showing the location of the sign which is the subject of the permit.
- (2) An indication of all existing and anticipated signs on the same property and for the same business use.
- (3) A dimensioned drawing showing the size of the sign area and the height of the sign.
- (4) Description of sign materials and colors.
- (5) Type of illumination.
- (6) Mounting details.

B. Effect of Sign Permit Issuance

A sign permit issued under the provisions of this Section shall not be deemed to constitute permission or authorization to maintain an unlawful sign nor shall it be deemed as a defense in an action to remove an unlawful sign.

C. Expiration

A sign permit shall become null and void if work has not been started within 30 days of the date the permit is issued or completed within 180 days of the date the permit is issued.

11.8 Other Required Permits

The following activities will require permits in the Town of Albion and its zoning jurisdiction:

- A. Demolition**
- B. Right-of-Way Activity**
- C. Driveway Approach and Curb Cuts**
- D. Temporary Use**



11.9 Variance

In no case shall any variance to the terms of this Ordinance be authorized without the approval of the Board of Zoning Appeals. Further, no decisions on previous applications shall serve to set a precedent for any other application before the Board. The following procedure shall apply to all variance applications:

A. Pre-application Meeting Required

A petition for a variance shall only be filed after the petitioner has met with the Plan Administrator, or his or her designee, to discuss the request.

B. Application

The applicant shall submit a variance application, affidavit and consent of property owner (if the owner is someone other than the applicant), a copy of the deed for the property involved, the required filing fee, and required supporting information. Supporting information shall include, but not be limited to, the following:

(1) Site Plan

A site plan shall be signed and dated by the petitioner. The site plan shall be drawn to scale with the scale clearly indicated and a graphic scale for reference, and/or fully dimensioned to the satisfaction of the Plan Administrator and clearly show the entire layout of the property with all features relevant to the variance request.

(2) Statement of Intent

A statement of intent to the Board of Zoning Appeals describing the details of the variance being requested and stating how the request is consistent with the required statutory considerations. The statement should include any written commitments being made by the applicant.

(3) Health Department Approval (if applicable)

A letter from the Noble County Board of Health indicating that the variance will not negatively affect the operation of a septic system.

C. Notification

Notification for the scheduled public hearing regarding the variance request shall be completed consistent with *Section 11.3* of this Ordinance.

D. Public Hearing

The Board of Zoning Appeals will then, in a public hearing scheduled consistent with the adopted Calendar of Filing and Meeting Dates, review the variance application and required supporting information.

(1) Representation

The applicant and any representative of the applicant must be present at the public hearing to present the petition and address the findings of the BZA.

(2) Testimony

The Board of Zoning Appeals shall consider a report from the Plan Administrator and testimony from the applicant, remonstrators, members of the public and interested parties at the hearing.

(3) Procedures

The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the Rules and Procedures of the Board of Zoning Appeals.



(4) Possible Action

The Board of Zoning Appeals may approve, approve with conditions, deny, or continue the application in accordance with IC 36-7-4-918.4.

a) Approval

The application shall be approved if a determination is made consistent with the decision criteria listed in this Section.

b) Approval with Modifications

The application shall be approved with modifications if the Board of Zoning Appeals determines that the requirements of this Section may be met if certain conditions are applied to the application. The Board may make reasonable conditions related to the required decision criteria in this Section, part of its approval and/or accept written commitments from the applicant.

c) Denial

The application shall be denied if a determination is made that any requirement of this Section has not been met. Applications that are denied shall not be eligible for consideration again by the Board of Zoning Appeals for a period of 3 months from the date of denial, or as otherwise determined by the BZA.

d) Continued

The application may be continued by the Board of Zoning Appeals based on a request by the Plan Administrator or applicant; an indecisive vote wherein the item is essentially tabled; or a determination by the Board that additional information is required prior to action being taken on the request.

1. Additional legal notice shall not be required unless specified by the Board of Zoning Appeals.
2. The continuing of all applications shall be consistent with the adopted Rules and Procedures of the Board of Zoning Appeals.

E. Decision Criteria

In taking action on all variance requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements of the Indiana Code.

(1) Development Standards Variance

The Board of Zoning Appeals may grant a variance from the development standards of this Ordinance (such as height, bulk, area, etc) if, after a public hearing, it makes a determination (consistent with IC 36-7-4-918.5), that:

a) General Welfare

The approval will not be injurious to the public health, safety, morals, and general welfare of the community;

b) Adjacent Property

The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and

c) Practical Difficulty

The strict application of the terms of this Ordinance will result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.



(2) Use Variance

The Board of Zoning Appeals may grant a variance from the use requirements and limitations of this Ordinance if, after a public hearing, it makes a determination that:

a) General Welfare

The approval will not be injurious to the public health, safety, morals, and general welfare of the community.

b) Adjacent Property

The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.

c) Practical Difficulty

The strict application of the terms of this Ordinance will result in practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.

d) Unnecessary Hardship

The strict application of the terms of this Ordinance will constitute an unnecessary hardship as they are applied to the property for which the variance is sought.

e) Comprehensive Plan

The granting of the variance does not interfere substantially with the Comprehensive Plan.

F. Conditions

The Board of Zoning Appeals may impose such reasonable conditions upon its approval as it deems necessary to find that the decision criteria for approval have been met.

G. Commitments

The Board of Zoning Appeals may require the owner(s) of the property to make written commitments in recordable form concerning the use or development of the property as specified under IC 36-7-4-921. Such commitments shall be recorded in the Noble County Recorder's Office. A copy of the recorded commitments shall be provided to the Plan Administrator for inclusion in the petition file at the time of application for an Improvement Location Permit. No Improvement Location Permit shall be issued for a permit application which does not comply with the recorded commitments.

H. Limitation

A development standards variance granted by the Board of Zoning Appeals and executed in a timely manner as described in this Section shall run with the parcel until the property complies with this Ordinance as written.



11.10 Special Exception

In no case shall special exception uses be authorized without the approval of the Board of Zoning Appeals. Further, no decisions on previous applications shall serve to set a precedent for any other application before the Board. The following procedure applies to special exception applications:

A. Application

The applicant shall submit a special exception application, affidavit and consent of property owner(s) (if the owner is someone other than the applicant), a copy of the deed for the property involved, the required filing fee, and required supporting information. Supporting information shall include, but not be limited to, the following:

(1) Site Plan

A site plan shall be signed and dated by the petitioner, and clearly show the entire layout of the property and all features relevant to the special exception request.

(2) Statement of Intent

A statement of intent to the Board of Zoning Appeals describing the details of the special exception request including, but not limited to:

- a) The ways in which the special exception shall comply with the applicable development standards of this Ordinance,
- b) The ways in which the special exception shall be consistent with the required determination described by this Ordinance, and
- c) Any written commitments in a recordable format being made by the applicant.

(3) Waste Disposal Verification

A letter from the Noble County Board of Health indicating that the special exception will make acceptable use of an existing or proposed septic system, or a letter from a public sewer provider stating that the proposed special exception will be served by its utility.

(4) Fiscal Impact Study

A Fiscal Impact Study may be required in accordance with the Town of Albion Code.

B. Notification

Notification for the scheduled public hearing regarding the special exception request shall be completed consistent with this Ordinance and the Rules and Procedures of the Board of Zoning Appeals.

C. Public Hearing

The Board of Zoning Appeals will then, in a public hearing scheduled consistent with the adopted Calendar of Filing and Meeting Dates, review the special exception application and required supporting information.

(1) Representation

The applicant, or a representative of the applicant, must be present at the public hearing to present the application and address the findings.

(2) Testimony

The Board shall consider a report from the Plan Administrator and testimony from the applicant, applicant's representative, remonstrators, members of the public and interested parties at the hearing.



(3) Procedures

The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the Rules and Procedures of the Board of Zoning Appeals.

(4) Possible Action

The Board of Zoning Appeals may approve, approve with conditions, deny, or continue the application.

a) Approval

The application shall be approved if a determination is made consistent with the requirements of this Section.

b) Approval with Modifications

The application may be approved with modifications if the Board of Zoning Appeals determines that the required determination may be made only if certain conditions are applied to the application. The Board may make reasonable conditions related to the required determination, part of its approval and/or accept written commitments from the applicant.

c) Denial

The application shall be denied if a determination is made that any requirement of this Section has not been met. Applications that are denied shall not be eligible for consideration again by the Board for a period of 3 months from the date of denial, or as otherwise determined by the BZA.

d) Continued

The application may be continued by the Board based on a request by the Plan Administrator or applicant; an indecisive vote wherein the item is essentially tabled; or a determination by the Board that additional information is required prior to action being taken on the request.

1. Additional legal notice shall not be required unless specified by the Board of Zoning Appeals.
2. The continuing of all applications shall be consistent with the adopted Rules and Procedures of the Board of Zoning Appeals.

D. Decision Criteria

The Board of Zoning Appeals shall have the power to authorize special exceptions. In approving special exceptions, the Board of Zoning Appeals may attach any conditions to the special exception as it deems necessary to assure compliance with the purpose of this Ordinance. If the conditions of the special exception are not completely and continuously adhered to after the granting of the special exception, the special exception shall become null and void upon notice to the property owner from the Board of Zoning Appeals and completion of the termination process consistent with *Section 11.10(I), Termination* on the following pages. The following requirements shall be met:

- (1) The special exception shall be permitted by this Ordinance;
- (2) The special exception can be served with adequate utilities, access roads, drainage, and other necessary facilities;
- (3) The special exception shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the development standards of this Ordinance;



- (4) The special exception shall be sorted, oriented, and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties;
- (5) The special exception shall produce a total visual impression and environment which is consistent with the environment of the neighborhood;
- (6) The special exception shall organize vehicular access and parking to minimize traffic congestion in the neighborhood;
- (7) The special exception shall preserve the purpose of this Section.

E. Other Considerations

When considering a special exception the Board of Zoning Appeals may consider the following items as they relate to the proposed use:

- (1) Topography and other natural site features;
- (2) Zoning of the site and surrounding properties;
- (3) Driveway locations, street access and vehicular and pedestrian traffic;
- (4) Parking (including amount, location, and design);
- (5) Landscaping, screening, buffering;
- (6) Open space and other site amenities;
- (7) Noise production and hours of any business operation;
- (8) Design, placement, architecture, and building material of the structure;
- (9) Placement, design, intensity, height, and shielding of lights;
- (10) Traffic generation;
- (11) General site layout as it relates to its surroundings; and
- (12) Any other criteria deemed relevant by the Board.

F. Conditions

The Board may impose such reasonable conditions upon its approval as it deems necessary to find that the criteria for approval in this Section have been satisfied.

G. Commitments

The Board may require the owner(s) of the property to make written commitments in recordable form concerning the use or development of the property as specified under IC 36-7-4-921. Such commitments shall be recorded in the Noble County Recorder's Office. A copy of the recorded commitments shall be provided to the Plan Administrator for inclusion in the petition file at the time an application is submitted and prior to the issuance of any Improvement Location Permit. No Improvement Location Permit shall be issued for a permit application which does not comply with the recorded commitments.

H. Limitations

Unless otherwise specified by the Board, special exception approvals shall be limited to, and run with the applicant at the location specified in the application. The Board may also limit special exceptions to a specific time period and a specific use. Special Exceptions shall also be invalid if

- (1) the property is in compliance with the Ordinance as written, or
- (2) the special exception approval is terminated.

I. Termination

A special exception use may be terminated by the Board of Zoning Appeals under the following procedures:



(1) Public Hearing

Upon determination by the Plan Administrator that possible grounds for termination exist, the matter shall be placed on the Board of Zoning Appeals agenda for a public hearing. The Plan Administrator, or his or her designee, shall notify the applicant and all adjacent properties previously noticed, of the hearing via Certified Mail a minimum of ten days prior to the hearing.

(2) Grounds for Termination

At the public hearing the special exception use shall be revoked if a finding is made by the Board that one or more of the following is true:

- a) The execution of the approval is not consistent with any requirement of this Ordinance;
- b) The execution of the approval is not consistent with any condition of approval;
- c) The execution of the approval is not consistent with any written commitment; or
- d) The approved was the result of fraud or the misrepresentation of facts.

J. Special Exception Use Expansion

A use authorized as a special exception may not be expanded, extended, or enlarged unless reauthorized by the Board under the procedures set forth in this Section for granting a special exception.



11.11 Appeal Process and Procedures

A. Administrative Appeal

The Board of Zoning Appeals may grant an appeal of any decision, interpretation, or determination made by the Plan Administrator, other Plan Commission staff members, or any other administrative official or board charged with the duty of enforcing and interpreting this Ordinance. The following procedure shall apply to all appeals of administrative decisions:

(1) Application

The appellant shall submit an administrative appeal application within thirty (30) days of a decision along with the required supporting information. Supporting information shall include, but not be limited to, the following:

a) Original Submittals

Copies of all materials upon which the decision being appealed was based.

b) Notification

Notification for the scheduled public hearing regarding the variance request shall be completed consistent with *Section 11.3* of this Ordinance.

c) Written Decisions

Copies of any written decisions that are the subject of the appeal.

(d) Appeal Basis

A letter describing the reasons for the appeal noting specific sections of this Ordinance or other standards applicable in the Town of Albion upon which the appeal is based.

(2) Board Review and Action

The Board of Zoning Appeals will then, at a regularly scheduled meeting, review the administrative appeal application and supporting information.

a) Representation

The appellant, or applicant's representative, must be present at the meeting to present the appeal.

b) Testimony

The Board shall consider a report from the Plan Administrator and testimony from the applicant, or the applicant's representative, at the meeting.

c) Procedures

The presentation of reports and testimony and all other aspects of the meeting shall be consistent with the Rules and Procedures of the Board of Zoning Appeals.

d) Possible Action

The Board of Zoning Appeals may grant, grant with modifications, deny, or continue the appeal by a majority vote of the Board.

1. Granted

The appeal shall be granted if the determination is made consistent with the requirements of this Ordinance.

2. Granted with Modifications

The appeal shall be granted with modifications if the Board of Zoning Appeals determines that the proper interpretation of the provision(s) that are subject



to the appeal is consistent with neither the administrative decision nor the requested interpretation of the applicant.

3. Denied

The appeal shall be denied if the determination is made supporting the administrative decision.

4. Continued

The appeal shall be continued based on a request by the Plan Administrator or applicant; an indecisive vote wherein the item is essentially tabled; or a determination by the Board that additional information is required prior to action being taken on the request. The continuing of all applications shall be consistent with the adopted Rules and Procedures of the Board of Zoning Appeals.

(3) Decision Criteria

The Board of Zoning Appeals shall only grant an appeal of such an administrative decision based on a determination that the decision of the administrative staff or board was inconsistent with the provisions of this Ordinance.

B. Board of Zoning Appeals

Every decision of the Board of Zoning Appeals shall be subject to review by a court of competent jurisdiction (writ of certiorari) as prescribed by the 1000 Series of IC 36-7-4.



11.12 Zoning Map Amendment (Rezoning)

The following procedure shall apply to all zoning map amendments (rezoning) applications.

A. Application Initiation

Proposals for zoning map amendments may be initiated by either the Plan Commission, the Town Council, or through an application signed by property owners of at least 50% of the land involved.

(1) Town Council Initiation

The Plan Commission shall prepare the application for zoning map amendment if either the Commission or Town Council has initiated the application. The Plan Administrator shall serve as the representative of the applicant for such proposals.

(2) Property Owner Initiation

Any property owners requesting a zoning map amendment shall be the applicants and assume responsibility for preparing application materials.

B. Application

The applicant shall submit a rezoning application, affidavit and consent of property owner(s) (if the owner is someone other than the applicant), to the Plan Commission and/or the Town Council, a copy of the deed for the property involved, the required filing fee, and required supporting information. Supporting information shall include, but not be limited to the following:

(1) Site Plan

A conceptual site plan showing all features relevant to the application.

(2) Vicinity Map

A vicinity map showing the use and zoning of all properties within 600 feet of the property subject to the rezoning request.

(3) Letter of Intent

A letter of intent to the Plan Commission stating the reasons for the rezoning, including a detailed description of any proposed development for which the rezoning is sought. The letter should include any written commitments in recordable form being made by the applicant.

(4) Fiscal Impact Study

A Fiscal Impact Study (FIS) may be required in accordance with this Ordinance.

C. Plan Commission Public Hearing

The Plan Commission will then, in a public hearing scheduled consistent with the adopted Calendar of Filing and Meeting Dates (but no later than 60 days following the receipt of a complete application per IC 36-7-4-608 and all required materials), review the rezoning application and required supportive information.

(1) Notification

Notification for the scheduled Plan Commission public hearing regarding the rezoning request shall be completed consistent with the requirements of this Ordinance and the Rules and Procedures of the Plan Commission.

(2) Representation

The applicant and/or any representative of the applicant must be present at the public hearing to present the application and address any questions the Plan Commission might have.



(3) Testimony

The Commission shall consider a report from the Plan Administrator and testimony from the applicant, remonstrators, the public, and interested parties at the hearing.

(4) Procedures

The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of the Rules and Procedures of the Plan Commission.

(5) Possible Action

The Plan Commission shall either forward the application to the Town Council with a favorable recommendation, an unfavorable recommendation, or no recommendation; or continue the request.

a) Favorable Recommendation

The application shall be forwarded with a favorable recommendation if, by a majority vote of the Plan Commission, it is found to be consistent with the decision criteria listed in this Section. The recommendation may include commitments requested by the Plan Commission.

b) Unfavorable Recommendation

The application shall be forwarded with an unfavorable recommendation if, by a majority vote of the Plan Commission, it is determined by the Plan Commission to be inconsistent with the decision criteria listed in this Section.

c) No Recommendation

The application may be forwarded with no recommendation if, by a majority vote of the Plan Commission, it is determined that the application includes aspects that the Plan Commission is not able to evaluate.

d) Continued

The application may be continued by the Plan Commission based on a request by the Plan Administrator or applicant; an indecisive vote wherein the item is essentially tabled, or a determination by the Plan Commission that additional information is required prior to action being taken on the request.

1. Additional legal notice shall not be required unless specified by the Plan Commission.

2. The continuing of all applications shall be consistent with the adopted Rules and Procedures of the Plan Commission.

(6) Certification

The Plan Commission shall certify its recommendation by letter to the Town Council within 10 business days of its determination (per IC 36-7-4-608). The Plan Commission staff shall forward to the Town Council appropriate copies of the Plan Commission resolution, the original application and all supporting information, any staff reports regarding the application, and an ordinance for the Town Council's consideration.

D. Town Council Action

The Albion Town Council will review the rezoning application and the materials forwarded from the Plan Commission. The Town Council may then take action on the application.



(1) Notification

The Town Council shall provide notification of action on the ordinance consistent with Indiana State Code.

(2) Possible Action

The Town Council may either approve or deny the ordinance, or return the petition to the Albion Plan Commission. If the Town Council fails to act within the 90 days of the ordinances' certification to the Town Council, the ordinance shall become effective or be defeated with the provisions of IC 36-7-4-608. The Town Council may also seek modifications or additions to any written commitments in recordable form as described in this Section.

E. Decision Criteria

In reviewing the rezoning application, the Plan Commission and Town Council shall consider the following:

(1) Comprehensive Plan

The Albion Comprehensive Plan and any other applicable, adopted planning studies or reports.

(2) Current Conditions

The current conditions and the character of current structures and uses in each district.

(3) Desired Use

The highest and best use for which the land in each district is adapted.

(4) Property Values

The conservation of property values throughout the Town's planning jurisdiction.

(5) Responsible Growth

Responsible growth and development.

F. Written Commitments

The applicant in any rezoning application may make written commitments in recordable form regarding the characteristics of the proposed future use of, or the resolution of outstanding issues in existence on, the subject property consistent with IC 36-7-4-615.

(1) Origin of Commitments

Written commitments may be proposed by the applicant as an element of the initial submittal of application materials, or in response to any modifications requested by the Plan Commission or Town Council.

(2) Consideration of Commitments

All commitments shall be considered by the Plan Commission and the Town Council in the review of the application.

a) Commitments shall be included as an element of the rezoning ordinance prepared by the Plan Commission following action taken at the public hearing.

b) Any deletion, addition, or alteration of the written commitments proposed by the Town Council shall be referred back to the Plan Commission for consideration and included in a revised or affirmed recommendation regarding the application or may amend the written commitments and incorporate said written commitments in recordable form within the rezoning ordinance.



- c) Any rezoning application shall include a commitment to properly control weeds until the site is completely developed.

(3) Documenting Commitments

Following final action being taken on the rezoning application, the rezoning ordinance, with any written commitments included, shall be recorded in the office of the Noble County Recorder by the applicant and shall not be considered effective until so recorded. A copy of any recorded commitments shall be provided to the Plan Administrator at the time of application for any Improvement Location Permit. No Improvement Location Permit shall be issued for a permit application that does not comply with the written commitments.

(4) Enforcement of Commitments

The written commitments shall be considered part of the rezoning ordinance binding on the subject property and in recordable form.

- a) The written commitments shall be binding on the owner(s) of the subject property, any subsequent owners of the subject property, and any person or entity that acquires an interest in the subject property or portion thereof.
- b) The written commitments shall be enforceable by the Plan Commission, Board of Zoning Appeals, or Town Council consistent with the adopted provisions for the enforcement of any other aspect of this Ordinance, as described in *Section 12, Enforcement and Penalties*.
- c) The written commitments may be modified only through the Zoning Map Amendment process described by this Ordinance.



11.13 Annexation

A. Purpose

A petition for the annexation of property into the town is required to promote orderly development and redevelopment in the Town and to ensure that such development is in harmony with surrounding properties and consistent with the general welfare and the policies in the Comprehensive Plan. The procedures set forth in this Section are used for determining whether petitions for annexation of new property are in compliance with the standards of the Zoning Ordinance.

This Section provides standards by which submission and approval application and fiscal plans the following purposes:

- (1) Compatibility of land uses, buildings and structures;
- (2) Protection and enhancement of property values;
- (3) Efficient use of land;
- (4) Minimization of traffic, safety and use of land; and
- (5) Minimization of environmental problems.

B. Applicability and Authority

- (1) Annexation petition shall be required for any property outside of the town limits wanting to be annexed into the town limits and be subject to the towns rules and regulations.
- (2) Annexation applications and fiscal plans shall be reviewed by the Plan Commission in accordance with the procedural provisions of this Section. The Plan Commission shall follow the actions on annexation applications in accordance with *Section 11.13, D (2) (General Procedure for Plan Commission)*.

C. Initiation

Petitions for annexations may be initiated by either the property owner(s) or the Town Council or through a petition signed by property owners of at least 50% of the land involved. The Plan Administrator will prepare the fiscal plan for the annexation if either the property owner or the Town Council has initiated the request. Any property owner(s) requesting an annexation will be the petitioners and assume responsibility for preparing application materials.

D. General Procedure

(1) Petitioner

The following procedure shall apply to all Annexation applications that are considered "voluntary", meaning that they are signed by 100% of landowners who reside in the area to be annexed and therefore subject to the provisions of IC 36-4-3-5.1. All other annexations shall be processed by the Town consistent with the requirements of IC 36-4-3 et.al.

a) Application

The applicant shall submit, to the Plan Administrator for the Plan Commission, an Annexation application, affidavit and consent of property owner (if the owner is someone other than the applicant), a copy of the deed for the property(ies) involved, the required filing fee, and required supporting information.



Supporting information shall include, but not be limited to the following:

1. Legal Description

A legal description of the boundaries of the area to be annexed;

2. Contiguity Calculation

Calculations indicating that the area to be annexed meets the 1/8 contiguity requirements of IC 36-4-3-1.5;

3. Site Map

Prepare map of current municipal boundaries and proposed municipal boundaries and identify current zoning classifications of area to be annexed;

4. Landowner Petition

A petition requesting annexation signed by 100% of the property owners that reside in the area to be annexed;

5. Land Area

A statement of the approximate number of acres in the area to be annexed; and

6. Zoning Requested

A statement of the zoning district(s) being requested for the property.

b) Public Hearing Notification

Notice of Public Hearing for the Plan Commission meeting is to be completed as set forth in the Plan Commission Rules of Procedure. The procedures related to public hearings notification contained in this Application Package are provided for convenience purposes only.

1. Legal Notice

The Plan Administrator is responsible for posting a legal advertisement in a newspaper of general circulation in Noble County. The legal advertisement must run once, at least 10 days prior to the hearing.

2. Notice to Interested Parties

The petitioner is responsible for preparing and distributing written notice of the petition (including the same information found in the Legal Notice prepared by the Administrator) to all property owners within 2 ownerships or 660 feet of the boundaries of the subject property, whichever is lesser. Names and addresses of those property owners should be obtained from the Hendricks County Assessor's Office. The notices must be sent once, at least 10 days prior to the hearing. The mailing shall be via a Certificate of Mailing through the United States Postal Service.

(2) Plan Commission

The Plan Commission will then, in a public hearing scheduled consistent with the adopted Calendar of Filing and Meeting Dates review the annexation application and required supportive information.

a) Representation

The applicant and/or any representative of the applicant must be present at the public hearing to present the application and address any questions the Commission might have.

b) Testimony

The Plan Commission shall consider a report from the Plan Administrator and testimony from the applicant, remonstrators, the public and interested parties at the hearing.



c) Procedures

The presentation of reports and testimony and all other aspects of the public hearing shall be consistent with the requirements of the Rules and Procedures of the Commission.

d) Possible Action

The Plan Commission shall either provide the applicant(s) with a favorable recommendation, an unfavorable recommendation, or no recommendation; or continue the request.

1. Favorable or Unfavorable Recommendation

The Plan Administrator shall provide the applicant(s) a letter documenting the Plan Commission's recommendation within 5 business days of the date of the decision. The Plan Administrator will then forward the recommendation for the annexation request to the Town Council.

2. No Recommendation

The application may be provided with no recommendation if, by a majority vote of the Commission, it is determined that the application includes aspects that the Commission is not able to evaluate. The Plan Administrator shall provide the applicant(s) a letter documenting the decision of the Plan Commission within 5 business days of the date of that decision.

3. Continued

The application may be continued by the Commission based on a request by the Plan Administrator, applicant, remonstrator, or interested party; an indecisive vote; or a determination by the Commission that additional information is required prior to action being taken on the request.

e) Additional legal notice shall not be required unless specified by the Plan Commission.

f) The continuing of all applications shall be consistent with the adopted Rules and Procedures of the Commission.

(3) Town Council

After the Town Council receives the recommendation from the Plan Commission, the Town Council will review the annexation application, a fiscal plan for the area to be annexed (prepared by the Plan Administrator), and the materials from the Plan Commission.

The Town Council will then:

- a)** Introduce the annexation ordinance and set date for public hearing.
- b)** Publication of the notice of the public hearing to be held by the Town Council. (This notice must be published one time, at least 60 days prior to the date of the hearing, unless all property owners have provided written consent to the annexation, then only 14 days). Delivery of the notice of the public hearing to be held by the Town Council to all the owners of real property in the area to be annexed. (This notice must be sent by certified mail at least 60 days prior to the date of the hearing, unless all property owners have provided written consent to the annexation, then only 14 days.)

Notice of public hearing, must including the following:

- 1.** Legal description



2. Date, time, location and subject matter of hearing
3. Map showing current and proposed municipal boundaries
4. Current zoning classifications and any proposed changes for area
5. Detailed summary of fiscal plan
6. Location where fiscal plan may be inspected
7. Name and telephone number of municipal contact person

c) Town Council Public Hearing

1. Pass a resolution adopting the fiscal plan;
2. Council adopts annexation ordinance.

(4) Annexation Ordinance Publication

The annexation ordinance must be published one time, as soon as possible. (Note: the publication begins the 90 day waiting period for the filing and recording of the annexation ordinance which is the same period for the filing of remonstrance's, for "all voluntary" annexations the waiting period for filing and recording is 30 days.)

(5) Annexation Ordinance Filing

The Clerk-Treasurer shall complete the following before the 90 day expiration period:

- a) Record ordinance with county recorder
- b) File ordinance with:
 1. Secretary of State
 2. County auditor
 3. Circuit court clerk
 4. Board of voter registration, if one exists
 5. Office of census data
- c) Notify Secretary of State of the effective date of the annexation (date all filings and recording of ordinance have been completed)
- d) Confirm that county auditor has filed list of lots and lands with:
 1. County highway department
 2. County surveyor
 3. Each plan commission that gained or lost jurisdiction as a result of annexation
 4. Each township trustee that gained or lost jurisdiction as a result of annexation
 5. County Sheriff
 6. Secretary of State



11.14 Temporary Use

For all permitted temporary uses, the following information shall be required to be submitted with any request for a temporary use permit.

A. Application

- (1) Property owner(s) name and address, including a letter from the property owner(s) granting permission to operate the temporary use at the proposed location if the property owner(s) is someone other than the applicant;
- (2) Name and address of person, organization, or business requesting the Temporary Use Permit;
- (3) Purpose of Temporary Use;
- (4) Duration of the Temporary Use;
- (5) If restroom facilities will accompany the use and if so what kind;
- (6) If utilities are required, and if so what type;
- (7) Hours of operation;
- (8) If Temporary Use is intended to take place at night, a lighting plan for the site; and

B. Site Plan

- (1) Context map;
- (2) Location and footprint of the proposed Temporary Use on the lot;
- (3) All required setbacks;
- (4) Parking diagram, including number of spaces, points of ingress and egress, and overall traffic circulation; and
- (5) Any other pertinent information, as determined by the Plan Administrator, or his or her designee, to allow for the efficient and expeditious review of the application.

C. Commitments

The Board may require the owner(s) of the property to make written commitments concerning the use or development of the property as specified under IC 36-7-4-921. Such commitments shall be recorded in the Noble County Recorder's Office. A copy of the recorded commitments shall be provided to the Plan Administrator for inclusion in the petition file at the time an application is submitted and prior to the issuance of any Improvement Location Permit. No Improvement Location Permit shall be issued for a permit application which does not comply with the recorded commitments.



11.15 Written Commitments

A. Purpose, Intent, and Authority

This Section grants authority to the Plan Commission and the Board of Zoning Appeals to allow or require specific development commitments in connection with the following approvals or actions, in compliance with applicable state statutes:

- (1) IC 36-7-4-615 – Commitments in connection with Zoning Map changes pursuant to IC 37-4-608;
- (2) IC 36-7-4-613 – Commitments in connection with Site Development Plans under the IC 36-7-4-1400 Series;
- (3) IC 36-7-4-921 – Commitments in connection with Variances, Special Exception Uses, other actions by the Board of Zoning Appeals.
- (4) This Section also grants authority to the Plan Commission to adopt rules regarding commitments in connection with Site Development Plans, and to the Board of Zoning Appeals to adopt rules regarding commitments in connection with Board of Zoning Appeals actions.
- (5) The Plan Commission and the Board of Zoning Appeals have the authority to adopt the following types of rules, per IC 36-7-4-613 (which pertains to Site Development Plans under the 1400 series and I.C. 36-7-4-921 (which pertains to Board of Zoning Appeals Variances, Special Exception Use, etc.), as amended:
 - a) Rules governing the creation, form, recording, modification, enforcement, and termination of commitments; and
 - b) Rules designating which specially affected person and classes or specially affected persons are entitled to enforce commitments.

B. Application

- (1) When the Zoning Ordinance designates zoning districts in which a Site Development Plan is required, then when the owner of a parcel of real property within one of those districts or other applicant with the owner's consent submits a Site Development Plan, the Plan Commission may permit or require that real property owner to make a written commitment concerning the use or development of that parcel.
- (2) When an owner of a parcel of real property or other applicant with the owner's consent applies for a Special Exception Use or Variance from the terms of the Zoning Ordinance, then the Board of Zoning Appeals may permit or require the property owner to make a written commitment concerning the use or development of that parcel.

C. Commitments for Rezoning

- (1) The Town Council specifies the following for a written commitment required or allowed for a proposal to change the zoning maps incorporated by reference into the Zoning Ordinance (a rezoning proposal under IC 36-7-4-608).
- (2) The Plan Commission may require or allow a written commitment for a proposal for a zoning map change to the extent allowed by applicable law.



(3) If the Town Council adopts (as certified) the proposal, then the owner of the parcel shall record or cause the commitment to be recorded before the rezoning can become effective.

(4) Once the commitment is recorded, the commitment may be modified or terminated only by a decision of the Plan Commission made at a public hearing after notice as provided by the Plan Commission Rules of Procedure. The request for modification or termination may be initiated by the property owner or by the Plan Commission. The Plan Commission may approve or disapprove modification or termination to the extent allowed by applicable law. However, pursuant to IC 36-7-4-615(b), a commitment required or allowed for a rezoning terminates if the zoning for the parcel changes in the future.

(5) The enforcement provisions set forth in *Section 12, Enforcement and Penalties*, apply to commitments for proposals for zoning map change.

(6) The form of commitments for proposals for zoning map change shall be determined by the Plan Commission.

D. Standard Forms

(1) The Plan Commission may adopt written commitment forms as the standard forms for written commitments which are permitted or required by the Plan Commission, including written commitments for Site Development Plans, and Zoning Map changes.

(2) The Board of Zoning Appeals may adopt written commitment forms as the standard forms for written commitments, which are permitted or required by the Board of Zoning Appeals.

(3) The appropriate standard form shall be used whenever a written commitment is permitted or required by the Plan Commission or Board of Zoning Appeals. When necessary, the standard forms may be modified in order to form the type of commitment needed and not already provided for in one of the standard forms. However, the basis of the standard forms shall be used, with the content modified only as needed to conform to the type of commitment permitted or required. An otherwise modified form may be rejected by a majority vote of the Plan Commission or Board of Zoning Appeals (whichever body permitted or required the commitment).

E. Binding Effect

(1) A written commitment that is permitted or required by the Plan Commission or Board of Zoning Appeals is binding on:

- a) The owner of the parcel;
- b) A subsequent owner of the parcel; and
- c) A person who acquires an interest in the parcel.

(2) A written commitment that is permitted or required by the Plan Commission or Board of Zoning Appeals is binding on the owner of the parcel even if the commitment is unrecorded; however, an unrecorded commitment is binding on a subsequent owner or other person acquiring an interest in the parcel only if that subsequent owner or other person has actual notice of the commitment.



F. Effective Date of Commitment

(1) A written commitment permitted or required by the Plan Commission in connection with a site development plan or a written commitment permitted or required by the Board of Zoning Appeals shall take effect upon the approval of the site development plan, Special Exception Use, or zoning variance related to the commitment.

G. Covenant Running with the Land

A written commitment that is permitted or required by the Plan Commission or Board of Zoning Appeals shall be considered a covenant running with the land and shall bind all subsequent owners to its terms and conditions and any subsequent modification thereto made pursuant to this instrument, statutes of the State of Indiana, or Town of Lizton Zoning Ordinance.

H. Enforcement

Written Commitments permitted or required by the Plan Commission or Board of Zoning Appeals may be enforced jointly and severally by:

- (1) The Plan Commission or Board of Zoning Appeals (whichever body permitted or required the commitment); and
- (2) All persons with a legal interest in the property to be rezoned and all persons with real property abutting the property subject to a rezoning petition, and all owners of real property to a depth of two (2) ownership's or six hundred feet (600'), whichever is greater, are interested parties. The identity of such owners shall be determined from the records of the Office of the Noble County Auditor which list the current owners of record. For purposes of this paragraph, the cutoff date for such determinations shall be 12:00 noon on the date of filing for enforcement.

I. Recording

- (1) Commitments shall be signed by the president of the appropriate Board or Commission approving the commitment and the Plan Administrator, and shall be recorded in the office of the Noble County Recorder.
- (2) The Plan Commission or Board of Zoning Appeals shall require the owner of the parcel giving a written commitment to either record the commitment or authorize the Town to record the commitment at the owner's expense.
- (3) Commitments in connection with site development plans, special exception uses, or variances shall be recorded upon the granting of the approval. Commitments in connection with zoning map changes shall be recorded as soon as possible after such approval by the Town Council of the rezoning. Such ordinance will not take effect until the commitment has been recorded.

J. Modification and Determination

A written commitment that is permitted or required by the Plan Commission or Board of Zoning Appeals may be modified or terminated only by a decision of the Plan Commission or Board of Zoning Appeals (whichever body permitted or required the commitment) made at a public hearing after notice as provided by the Board or Commission's Rules of Procedure. The request for modification or termination may be initiated by the property owner or by the body that permitted or required the commitment. The body that permitted or required the commitment may approve or disapprove modification or termination to the extent allowed by applicable law. However, pursuant to IC 36-7-4-615(b), a commitment required or allowed for a rezoning terminates if the zoning for the parcel changes in the future.



K. Public Notice

When the Plan Commission or Board of Zoning Appeals is going to consider modification or termination of an existing written commitment, notice of a public hearing shall be given in the occurrence with the Board or Commission's Rules of Procedure.

L. Validity of Other Land Use Restrictions

This Section does not affect the validity of any covenant, easement, equitable servitude, or other land use restriction created in accordance with law.

SECTION 12:
ENFORCEMENT and PENALTIES





SECTION 12: ENFORCEMENT and PENALTIES

Section 12.1	General Provisions
Section 12.2	Construction Process Violations
Section 12.3	Immediate Public Risk Violations
Section 12.4	Violation Procedures

12.1 General Provisions

A. Authority

The Plan Commission, Board of Zoning Appeals, Building Official, Town Manager, Town Attorney and/or Plan Administrator (including their staff and/or designees) are designated to enforce the provisions, regulations, and intent of this Ordinance. All remedies and enforcement shall comply with the powers set forth in IC 36-7-4-1000 et.al. and all other applicable state laws.

B. Violations

Complaints made pertaining to compliance with provisions of this Ordinance shall be investigated by the Plan Administrator, or his or her designee. The Plan Administrator may include other officials, such as the Town Manager, Building Official, Police, or any of their designees in the investigation. Action may or may not be taken depending on the findings of the investigation. The degree of action will be within the sole discretion of the Plan Administrator, and should reflect both what is warranted by the violation as well as a consistent approach to the enforcement of this Ordinance.

C. Inspections

Investigations of property may be done by the Plan Administrator, or his or her designee, from a right-of-way, from adjacent property (with permission of that property owner(s)), or from the property suspected of a violation once he/she has described the purpose of the inspection to the owner(s), tenant, or occupant at the time of the inspection and has received their consent to the inspection.

D. Entry

In order to execute inspections, the Plan Administrator or inspectors shall have the right to enter upon any premises at any reasonable time for the purpose of carrying out his, her or their duties in the enforcement of this Ordinance, unless the owner(s) or occupant of the premises refuses to permit entry to the Plan Administrator or inspectors when entry is sought pursuant to this section. In the event of such a refusal, the Plan Administrator may petition any judge of a court of competent jurisdiction for the issuance of an administrative search warrant. The petition shall identify the premises upon which entry is sought and the purpose for which entry is desired. The petition shall state the facts giving rise to the belief that a condition which is in violation of this Ordinance on the premises, or that a violation in fact exists and must be abated, and that the condition or violation is not a lawful nonconforming use to the best of the affiant's belief. Any warrant issued pursuant to the petition shall order the owner(s) or occupant to permit entry to the Plan Administrator or inspectors for the purposes stated therein.

E. Responsibility

The property owner(s) shall be held responsible for all violations on his/her or their property.

F. Types of Violations

The following items shall be deemed violations of this Ordinance in response to which the Plan Administrator, or his or her designee, shall take all actions necessary to eliminate said violations using all authority granted to the Plan Administrator pursuant to this Section.



(1) Illegal Structures

The placement, erection, and/or maintenance of a primary structure, sign, accessory structure(s) or any other element determined by the Plan Administrator not to be in conformity with the provisions or explicit intent of this Ordinance.

(2) Illegal Use

Conducting a use or uses that do not comply with any element of the provisions or explicit intent of this Ordinance.

(3) Failure to Obtain a Permit

Failure to obtain an Improvement Location Permit or other permits and approvals required by this Ordinance.

(4) Violation of Stop-Work-Order

Proceeding with work after issuance of a Stop-Work-Order or in violation of a Memorandum of Agreement.

(5) Failure to Comply with Development Standards

Any failure to comply with any element of the development standards and/or regulations of this Ordinance.

(6) Failure to Comply with Commitments

Any failure to comply with commitments or conditions made in connection with a rezoning, special exception, or variance; or other similar and documented commitment whether recorded or not.

(7) Failure to Comply with Permit Requirements

Any failure to comply with the plans submitted and approved in order to obtain a permit.



12.2 Construction Process Violations

A. Stop-Work Orders

The Plan Administrator, or his or her designee, may place a Stop-Work-Order on any land/property improvement process.

(1) Procedure

Stop-Work Orders shall be issued by written letter that shall state the nature of the violation and that the work and/or any other illegal activity must stop immediately until the matter is resolved. If the property is occupied by someone other than the property owner(s), a copy of said Stop Work Order shall be provided to said occupant(s). This letter shall be posted in a conspicuous place and be delivered/mailed to the property owner(s).

(2) Reasons

Reasons for a Stop-Work Order include, but are not limited to:

- a) Not complying with any element of the development standards and/or any regulation of this Ordinance or the Subdivision Control Ordinance.
- b) Not obtaining an Improvement Location Permit or any other required permit or approval prior to the construction or installation of any improvement for which an approval or permit is required by this Ordinance.
- c) Not completing structures or other improvements consistent with any approved Improvement Location Permit, variance, special exception, or other approval.
- d) Not meeting the conditions or commitments of a special exception, variance, rezoning, or other approval whether recorded or not.
- e) Not meeting the conditions of a Site Development Plan, Planned Unit Development Final Detailed Plan, or any written commitment associated therewith.
- f) Illegal use or expansion of use of structures, or structures and land in combination.

B. Memorandum of Agreement

The Plan Administrator, or his or her designee, must meet with the property owner(s) served the Stop-Work Order notice within seven days of any such meeting being requested. A Memorandum of Agreement shall be drafted stating the conditions by which construction or action may be resumed. This Memorandum of Agreement must be signed by the Plan Administrator and the property owner(s) that is responsible for the violation.

C. Appeals

Any Stop-Work Order issued as a result of the enforcement of this Ordinance, may be appealed to the Board of Zoning Appeals. This appeal shall follow the provisions established for Administrative Appeals.

D. Resumption of Construction Activity

The Stop-Work Order shall be lifted and construction activity may resume upon either (1) the resolution of the violation(s) to the satisfaction of the Plan Administrator or (2) the execution of all tasks required by the Memorandum of Agreement.



12.3 Immediate Public Risk Violations

Any violation of this Ordinance that presents an immediate risk to the health, safety, or welfare of the public or to property within the Town may be corrected by the Plan Administrator, or a property owner(s), firm, or organization selected by the Plan Administrator without prior notice to the property owner(s) or other property owner(s) responsible for the violation.

A. Immediate Public Risk Violation Defined

Immediate public risk violations shall include but shall not be limited to:

(1) Obstructions

Signs, structures, landscaping or other materials placed in an easement, sight visibility triangle, or other public and/or private rights-of-way in violation of this Ordinance.

(2) Distractions

Any sign, structure, landscaping, or other material located on private property that serves to distract or inhibit operators of motor vehicles on adjacent public streets, pedestrians, or other members of the general public.

(3) Other Threats

Any other immediate threat to public welfare as determined by any representative of the Town of Albion or by the Board of Zoning Appeals based upon the advice and recommendation of the Plan Administrator.

B. Seizure Materials

Any sign, structure, landscaping or other material that constitutes an immediate public risk violation may be seized by the Plan Administrator, or his or her designee, in a manner that results in the least amount of damage to the material or the property on which it is located under the circumstances.

C. Notice of Violations

The Plan Administrator, or his or her designee, shall provide notice to the owner(s) of the property as listed in the records of the Auditor's Office upon which the violation was located or any discernible appropriate owner(s) of materials placed within the right-of-way in violation of this Ordinance, by placing a notice in a conspicuous place on the property and by mailing a letter to that property owner(s).

(1) Notice Time Requirements

All notice letters shall be sent to the property owner(s) via 1st Class certified mail within 24 hours of the seizure. Any notice that is to be posted on the property shall be posted at the time the material is seized.

(2) Notice Contents

The letter and posted notice shall include the following:

- a) A description of the materials seized;
- b) A citation of the section(s) of the Ordinance that were violated and the characteristic(s) of the violation that posed an immediate threat to public welfare;
- c) The address and phone number of the Plan Administrator and the name of the person to be contacted by the property owner(s) to discuss the violation and request the return of the seized item(s); and
- d) Instructions describing how, where, and when the seized items may be claimed.



D. Storage and Retrieval of Seized Materials

The Plan Administrator, or his or her designee, shall store any sign, structure, landscape materials or other items seized in a secure location for a period of no less than 30 days from the date notice was mailed to the property owner(s). The property owner(s) may claim the seized property at any time following its seizure upon the payment of the penalty/fine specified on the Fee Schedule and the establishment of a Memorandum of Agreement between the property owner(s) and Plan Administrator regarding the future use of the item in a manner consistent with this Ordinance. After 30 days, if the property has not been claimed, the Plan Administrator may dispose of the property in a manner deemed appropriate.

E. Liability

Neither the Plan Administrator, the Town of Albion, nor any other official or entity involved in the seizure shall be liable for any damage to the seized materials or the property from which they were taken.



12.4 Violation Procedures

A. General Procedures

The general procedure for all violations shall follow the minimum steps set forth below.

(1) Notice of Violation

The Plan Administrator, or his or her designee, shall issue a Notice of Violation to the property owner(s) committing, in whole or in part, a violation. The Notice of Violation is a warning to the violator(s) that a violation has been observed and that it must be corrected within a specified time frame from the date of the mailing. Additional notices of violation and extensions of time limits for compliance may be used by the Plan Administrator at his/her discretion.

(2) Notice of Penalty for Violation

The Plan Administrator, or his or her designee, shall issue a Notice of Penalty for Violation to the property owner(s) committing, in whole or in part, a violation. The Notice of Penalty for Violations is a citation that states the penalty/fine for the violation. The Notice of Penalty for Violation shall be mailed via 1st Class Certified Mail, Return Receipt Requested by the Plan Administrator, or his or her designee and/or personally delivered by law enforcement. The property owner(s) in violation will have a specified number of days from the date of the mailing to pay all applicable penalty/fine and must correct the violation within the time period specified by the Plan Administrator, or his or her designee, or face additional penalty/fine and/or any other enforcement action authorized by this Ordinance.

(3) Legal Action

If the property owner(s) in violation refuses to pay the penalty/fine, attorney's fees, court costs, and/or correct the violation within the time frame specified by the Notice of Penalty for Violation, the Plan Administrator may refer the violation to the Town Attorney in order to pursue court action through a court of competent jurisdiction. Additional penalty/fine, attorney's fees, and liens against the property may also be pursued until the matter is resolved.

B. Monetary Fines

Monetary fines may be imposed at the discretion of the Plan Administrator by issuance of the Notice of Fines for Violations as set forth above.

(1) Multiple Violations

Each day a violation exists shall constitute a separate offense.

(2) Fine Amount

Each separate offense shall be subject to a maximum fine specified by the adopted Fee Schedule assessed on a per day basis from the date of compliance requested by the Plan Administrator in the Notice of Violation.

- a) In addition to any fine imposed, any property owner(s) who initiates any activity that requires an Improvement Location Permit without first obtaining such permit may be required to pay two times (2x) the normal amount of the permit fee as an additional fine, consistent with the adopted Fee Schedule.
- b) The amount of any fine shall be as determined by the Plan Administrator.

(3) Payment

The payment of any violation shall be by cash, cashier's check, credit or debit card and shall be remitted to the Plan Administrator who shall forward the funds to the Clerk-Treasurer for deposit in the appropriate fund.



- a) The Plan Administrator, or his or her designee, shall issue a receipt to the person making the payment.
- b) The Plan Administrator may, at his/her discretion, waive the assessed fine for the timely correction of the violation.

C. Appeals

Any property owner(s) receiving a Notice of Violation and/or Fine(s) for Violation may appeal the violation and/or fine to the Board of Zoning Appeals. A written statement from the property owner(s) in violation, either filing an Administrative Appeal consistent with this Ordinance, shall be submitted to the Plan Administrator via Certified Mail at least three days prior to the date any fine and/or compliance is due.

(1) Fines

No additional fines shall accrue from the date of the appeal until the Board of Zoning Appeals has made a ruling as to the violation and/or fine.

(2) Additional Notices

No additional notices will be issued by the Plan Administrator, or his or her designee, if the property owner(s) in violation has (have) submitted an appeal.

D. Legal Remedies

The Plan Administrator via the Town's Attorney may bring an action in a court of competent jurisdiction to invoke any legal, equitable, or special remedy, for the enforcement of any ordinance or regulation created under IC 36-7-4, as amended from time to time.

(1) Enforcement

Implementation of the legal remedies set forth above may be used to prosecute violations of the following:

- a) The Zoning Ordinance, Subdivision Control Ordinance, and any other requirements adopted separately by the Town Council or adopted by their reference in the Zoning or Subdivision Control Ordinance;
- b) All agreements with the Plan Commission or its designees that have been established as written commitments in recordable form;
- c) All commitments made in accordance with IC 36-7-4 et al; and
- d) All conditions imposed in accordance with IC 36-7-4 et al.

(2) Injunction

The Plan Administrator may bring an action in a court of competent jurisdiction to enjoin a property owner(s) from violating IC 36-7-4 et al. or any ordinance adopted under IC 36-7-4 et al.

(3) Removal of Structures

The Plan Administrator may also bring an action in a court of competent jurisdiction for a mandatory injunction, directing the property owner(s) to remove a structure erected in violation of this Ordinance.

(4) Responsibility for Prosecution Expenses

A defendant/respondent shall reimburse the Town of all expenses associated with the prosecution of a violation of any provision of this ordinance, including but not limited to any fines, attorney's fees, photocopying charges, mileage, hours, or portions thereof, devoted to said



prosecution by the Plan Administrator or any employee of the Town of Albion and any other cost incurred directly or indirectly by any employee, contractor or elected official of the Town of Albion related to said prosecution. However, only those costs of enforcement that are documented by the Plan Administrator, and that have a relationship to the enforcement action shall be paid by the defendant/respondent.

(5) Other Parties Eligible to Seek Enforcement

An action to enforce a written commitment made in accordance with IC 36-7-4 et al. may be brought in a court of competent jurisdiction by:

a) Rules and Procedures Provisions

Any property owner(s) who is entitled to enforce a commitment made in accordance with IC 36-7-4 et al. under the Rules and Procedures of the Plan Commission or the Board of Zoning Appeals in force at the time the commitment was made.

b) Specified Parties

Any other specially affected property owner(s) who was designated in the written commitment.

SECTION 13:
DEFINITIONS





SECTION 13: DEFINITIONS

- 13.1 Intent**
- 13.2 Rules**
- 13.3 Definitions**

13.1 Intent

For the purpose of this Section of the Ordinance, certain terms or words used herein shall be interpreted according to the rules and definitions of this Section, except when the context clearly indicates otherwise. Whenever any words and phrases used herein are not defined but are defined in the State laws regulating the creation and function of various planning agencies, any such definition therein shall be deemed to apply to such words and phrases used herein except when the context otherwise requires. All other words not herein defined, shall be defined according to any recent edition of a dictionary of the American language.

13.2 Rules

- A.** Words used in the present tense include the future tense; words used in the future tense include the present tense; words used in the singular include the plural; and words used in the plural include words used in the singular.
- B.** The word "person includes an individual, firm, association, organization, partnership, trust, company, corporation, or any legal entity.
- C.** Words used in the masculine include the feminine; words used in the feminine include the masculine.
- D.** The word "shall" is mandatory; the word "may" is permissive, and the word "should" is a preferred requirement.
- E.** The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied."
- F.** The word lot includes the words plot or parcel.



13.3 DEFINITIONS

A

Abandonment

To intentionally stop the use or development of a property for a continuous period of time.

Abutting

Having a common border, including being separated from such a common border by a right-of-way, street, alley, easement, body of water, or other feature. In some cases, where specified by this Ordinance, abutting also includes lots or other features within a specific vicinity.

Access Point

A driveway or other means of physical connection for the movement of vehicles or persons between a property and an adjacent property or street.

Accessory Structure

A structure that is subordinate to a primary structure in area, extent, and/or purpose; contributes to the comfort, convenience, or necessity of occupants of the primary structure; does not alter or change the character of the property; and is located on the same lot as the primary structure.

Accessory Use

A use which is secondary to a primary use in area, extent, and/or purpose; contributes to the comfort, convenience, or necessity of occupants of the primary use; does not alter or change the character of the property; and is located on the same lot as the primary use.

Acre

A land area equal to 43,560 square feet.

Acre, Gross

The total area within a parcel of land.

Acre, Net

The usable or cultivatable portion of an acre of land; a remaining area expressed in acres after the dedication of land for: public rights-of-way; the reservation of common areas such as tennis courts, swimming pools, clubhouses, etc; or the preservation of open space, on which housing or commercial structures may be built.

Act

The Indiana Tall Structure Act IC 8-21-10, as amended from time to time.

Addition

Any construction that increases the size of a structure in terms of site coverage, floor area, volume, and/or height.

Address

The number or other designation assigned to a housing unit, business establishment, other structure, or lot for the purposes of mail delivery, emergency services, and general identification.

Adjacent

See Abutting

Adjoining

See Abutting



Administrator, Plan

The officer appointed by and/or delegated the responsibility for the administration of these regulations by the planning commission. The Planning and Zoning Administrator is hereby designated as the Plan Administrator for the purposes of implementing this ordinance and is the Town officer referred to herein wherever the term Plan Administrator appears.

Administrative/Professional Office

An office establishment primarily engaged in overall management and general supervisory functions, such as executive, personnel, finance, legal, and sales activities.

Adult Uses

See Sexual Oriented Business

Agricultural Crop Production

An operation which consists of the following uses, individually or in combination: the production of grain or livestock; stables; forest or tree production; pasture; setting aside land in a government set-aside reserve program; a farmstead; uses accessory to agricultural operations on the site; or, uses accessory to agricultural operations in the area. The phrase "agricultural crop production" includes the phrase "tree farm," and may include the phrase "roadside stand."

Agricultural Farm Implement Sales or Service

An operation that focuses on the sale or service of farm implements to the public wherein the primary use is engaged in the sale or rental of large farm implements, farm tools, machinery, grain, tack, animal care products and farm supplies. The phrase "farm implement sales and service" also includes food sales and farm machinery repair services that are incidental to a primary use whether located on-site if grown onsite or off-site if grown off-site.

Agricultural Industry, CAFO

The term concentrated animal feeding operation (CAFO) as defined by the National Pollutant Discharge Elimination System (NPDES) under the USEPA Clean Water Act (CWA) and administered by the Indiana Department of Environmental Management (IDEM) as sources of point sources of pollution and subject to permit requirements under 327 IAC 15-15, as amended from time to time.

Agricultural Industry, CFO

The term confined feeding operation (CFO) shall be as defined in IC 13-11-2-40, as amended from time to time.

Agricultural Products Sales, Distribution, and Storage

A primary use engaged in the sale or rental of farm tools and equipment, grain, tack, animal care products, and farm supplies. This excludes the sale of large farm implements, such as tractor and combines, but does include food sales and farm machinery repair services that are incidental to the primary use.

Agriculture

Farming, including dairying, pasturage, apiculture, aquaculture, agriculture, horticulture, floriculture, viticulture, forestry and animal and poultry husbandry, and the necessary incidental uses, all of which are directly related to the production of food. The operation of any incidental uses shall be secondary to that of the normal agricultural activities. Agriculture shall not include stock yards, the commercial feeding of garbage or offal to swine or other animals, or the raising of animals for medical tests or other experiments.

Agriculture Structure

A structure located on a farm and designed and constructed to house farm implements, livestock, hay, grain, fruit, and/or other agricultural products, supplies, and equipment used by the operators of the farm. An agriculture structure shall not include dwellings or structures used for the processing, treating, or packaging of agricultural products, or by the public.

**Airbnb**

The use of an online rental marketplace such as Airbnb and HomeAway which allows people to list their house, apartment, room, or other residential dwelling for rent as a short-term accommodation.

Airport

Any area of land designed and used for the landing and take-off of aircraft, including all necessary facilities for the housing and maintenance of aircraft.

Alley

A public right-of-way, whether improved or not, other than a street, road, crosswalk, or easement, that provides secondary access for the abutting property.

Alteration

Any change, addition, or modification in construction or use of an existing structure or property.

Amateur Radio Tower

A free-standing or building-mounted structure, including any base, tower or pole, antenna and appurtenances, intended for airway communication purposes by a person holding a valid amateur radio license from the Federal Communications Commission.

Amend or Amendment

Any repeal, modification, or addition to a regulation; or any new regulation.

Amphitheater

An open-air venue for spectator sports, concerts, rallies, and theatrical performances.

Animal

Any live vertebrate creature, domestic or wild, excluding human beings.

Animal Clinic or Hospital

An establishment for the treatment, care, observation or treatment of small domestic animals. This facility may have indoor or outdoor kennels.

Animal Grooming Facility

An establishment primarily engaged in providing pet care services, such as grooming and training, but does not include veterinary care or overnight boarding.

Animal Kennel

A facility whereby five or more dogs, cats, or other domestic animals over the age of four months are kept, raised, cared for, trained, sold, bred, boarded, shown, treated, or groomed either for commercial or non-commercial purposes. The phrase "animal kennel" may include "doggy daycare facilities."

Animal Shelter

A facility used to care for and house lost, stray, homeless, abandoned, or unwanted animals; including those found running at-large or otherwise subject to impoundment consistent with applicable laws. The phrase "animal shelter" includes facilities for adoption, emergency medical treatment, and cremation.

Animal Stables

The use of any structure with stalls or compartments and/or land where animals, excluding dogs and cats, are sheltered and fed.

**Animal, Domestic**

Any animal that has been adopted by human beings to live and breed in a tame condition. A domestic animal differs from a wild animal in that a wild animal means any animal not actually confined or cultivated by humans.

Animal, Exotic

Any animal not customarily confined or cultivated by man for domestic or commercial purposes but rather kept as a pet for display.

Animal, Farm

Any animal that customarily is raised for profit on farms and has the potential of causing a nuisance outside of rural areas or if not properly maintained.

Animal, Pet Store

A retail sales facility primarily involved in the sale of domestic animals, such as cats, dogs, fish, birds, and reptiles as well as domestic pet accessories. For the purpose of administering and enforcing this Ordinance, the phrase "pet shop" shall not include the retail sale of exotic or farm animals, nor the sale of animals for laboratory or other commercial purposes.

Animal, Riding Stable

The use of any structure with stalls or compartments and/or land where large animals are sheltered and fed and rode either by owners or involved with riding lessons.

Animal, Veterinary

An establishment for the treatment, care, observation or treatment of large animals by a licensed veterinarian. A veterinary facility may include indoor and outdoor areas.

Animal/Animal Products Processing

The processing or treatment of animals and animal material as a raw resource for refinement as food and non-edible products.

Antenna

Any system of wires, poles, rods, reflecting discs, or similar devices used for the purpose of receiving and or transmitting signals, images, sounds, or information of any nature by radio, visual, or electromagnetic waves, including but not limited to directional or omni-directional antennas, panels, and microwave or satellite dishes external to or attached to the exterior of any building.

Antique Shop

A retail store specializing in the sale of antiques.

Apartment

A dwelling unit in a structure, arranged, intended, designed, or occupied on a rental basis for the housing of a single family, an individual, group of individuals, or other single housekeeping unit.

Apparel, Alterations/Tailoring

A commercial business specializing in the custom creation, alteration, and/or tailoring of apparel intended for human use on a custom order basis for individuals or businesses.

Appliance Repair Shop

A commercial business specializing in the repair of home appliances and related accessories.

Appliance Store

A commercial business specializing in home appliance retail and the sale of home appliance accessories.

**Applicant**

The owner, owners, or legal representative of real estate who make application for action affecting the property.

Application

The completed form or forms, together with any other required materials, exhibits, and fees required of an applicant consistent with the procedures established by this Ordinance.

Appurtenance

A minor element of a larger structure, such as a bay window, stairs, light post, etc.

Arcade

A type of indoor commercial amusement/recreation establishment where more than four (4) amusement machines are available to the public.

Archery Range

A facility designed and/or used for target practice with bows and arrows.

Arterial Road

See Street, Arterial

Arterial Street

See Street, Arterial

Assembly Facility

A building or portion of a building in which facilities are provided for group civic, educational, political, professional, religious, cultural, or social functions.

Assisted Living Facility

A residential facility where assistance with daily activities, such as dispensing medication, dressing, grooming, and bathing are provided for the aged or infirm, or any other reasonably independent person in need of nursing care; and which does not contain equipment for surgical care or for treatment of disease or injury, and is not primarily designed for patients being treated for mental illness or alcohol or drug addiction.

Athletic Field

A wide stretch of open land used for outdoor games such as baseball, basketball, football, or soccer.

Auction Facility

A building or property used for the storage of goods and materials that are to be sold on the premises by public auction, and for the sale of the said goods and materials by public action on an occasional basis only.

Auditorium

A public or commercial facility where an audience sits and enjoys a performance. Auditoriums are generally small than theaters and used for live performances. For the purposes of administering and enforcing this Ordinance, the term "auditorium" does not include the term "amphitheater" or phrase "sexually oriented businesses."

Auto Oriented Uses, Large Scale

Uses such as sales and service of automobiles, motorcycles and/or recreational vehicles, and others listed under the heading of Auto-Oriented Uses, Large Scale by the Official Schedule of Uses included in this Ordinance.

Auto Oriented Uses, Medium Scale

Uses such as auto repair and body work, vehicle detailing/auto accessory sales and installation, oil change/lube shops, and others listed under the heading of Auto-Oriented Uses, Medium Scale by the Official Schedule of Uses

included in this Ordinance. This does not include any uses listed under the headings of auto-oriented uses large or small scale.

Auto Oriented Uses, Small Scale

Uses such as gas stations, car washes, and others listed under the heading of Auto-Oriented Uses, Small Scale by the Official Schedule of Uses included in this Ordinance. This does not include any uses listed under the headings of auto-oriented uses large or medium scale.

Automobile Parts Sales

The use of any structure and/or property for the display and sale of new or used parts for motor vehicles. This does not include any salvage yard or the storage of inoperable vehicles.

Automobile Repair

The use of a structure or property for the repair of motor vehicles, including noncommercial trucks, motorcycles, recreational vehicles and boats; including, but not limited to, the sale installation and servicing of equipment and parts. Automobile repair includes muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, body and fender shops, and similar repair and service activities, but excludes dismantling or salvage.

Automotive Parts Store

A commercial business specializing in the retail sales of automotive parts and which does not typically offer repair services on-site, except as an incidental use to the principle use. For the purposes of administering and enforcing this Ordinance, the phrase "automotive parts store" shall not include "salvage yards" or the outside storage of inoperable vehicles.

Automotive Recreational Vehicle Sales or Service

Any principal use of a premise for one or more of the following purposes: (a) sale or lease of new recreational vehicles; (b) purchase and sale of second hand recreational vehicles; (c) buying of second hand recreational vehicles for the purpose of remodeling, taking apart or rebuilding or selling the same, or the buying selling of parts of second hand recreational vehicles or tires, or the assembling of second hand recreational vehicles parts; or (d) repair and servicing of recreational vehicles provided said repair and servicing is conducted as an accessory use secondary to the principle use. For the purposes of administering and enforcing this Ordinance, the phrase "automotive recreational vehicle sales and service" shall not include "salvage yards" or the outside storage of inoperable vehicles.

Automotive Sales or Lease

Any principal use of a premise for one or more of the following purposes: (a) sale or lease of new motor vehicles; (b) purchase and sale of second hand motor vehicles; (c) buying of second hand motor vehicles for the purpose of remodeling, taking apart or rebuilding or selling the same, or the buying selling of parts of second hand motor vehicles or tires, or the assembling of second hand motor vehicles parts; or (d) repair and servicing of motor vehicles provided said repair and servicing is conducted as an accessory use secondary to the principal use. For the purposes of administering and enforcing this Ordinance, the phrase "automotive sales or lease" shall not include "salvage yards" or the outside storage of inoperable vehicles.

Automotive Storage

A facility whereby automobiles may securely be stored for an unspecified amount of time on a contract basis. For the purposes of administering and enforcing this ordinance the phrase "automotive storage" does not include establishments where automobiles are available as rentals.

Automotive, Major Repair

Any principal use of a premise for one or more of the following purposes: (a) muffler repair or installation, (b) brake repair or installation, (c) shock replacement, (d) transmission repair, (e) tire recapping, (f) motor overhaul, or (g) body or fender repair work, but excluding the dismantling or wrecking of motor vehicles, or the storage of inoperable, damaged or wrecked vehicles, other than those awaiting immediate repair.



Automotive, Minor Repair

Any principle use of a premise for one or more of the following purposes: (a) tune-ups, (b) oil changes, (c) sale and installation of lubricants, tires, batteries, or (d) other minor maintenance operations, but excluding major repairs.

Automotive, Truck, or Bus Rental, Sales or Service

Any principal use of a premise for one or more of the following purposes: (a) sale or lease of new or used automobiles, trucks and buses; or (b) repair and servicing of motor vehicles provided said repair and servicing is conducted as an accessory use secondary to the principal use.

Awning

A roof-like cover, often of fabric, metal, or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure over a window, walk, or door. Awnings include those that may be retracted or folded against the face of a supporting building.

B

Bakery, Commercial

A principle use for one or more of the following purposes: (a) preparation of large quantities of baked goods for sale or distribution; or (b) on-site storage of delivery vehicles with or without a loading dock(s), in which the baked goods are intended for off-site distribution and consumption.

Bakery, Retail

An establishment primarily engaged in the retail sale of baked products for consumption on- or off-site, wherein the products are prepared either on- or off-site.

Balcony

A platform that projects from the wall of a building and is surrounded by a railing or parapet.

Bank

A facility for the custody, loan, or exchange of products, typically money. Also included is the extension of credit and facilitating the transmission of funds.

Banner

A sign composed of a logo or design on a lightweight material either enclosed or not enclosed in a rigid frame and secured or mounted to allow motion caused by the atmosphere.

Banquet Hall

A building, facility, room, or portion thereof, which is rented, leased or otherwise made available to any person or group for a private event or function, that is not open to the general public, whether or not a fee is charged. A catering facility differs from a banquet hall in that a catering facility is typically where the food is prepared whereas a banquet hall is typically where catered food is intended to be consumed. In the event that a facility both prepares and serves the food, it shall be considered a catering facility.

Bar

A building or part thereof where, in consideration for payment therefore, liquor, beer, wine or any combination thereof are served primarily for consumption on the premises, with or without food. The term "bar" includes the term "tavern," but shall not be interpreted to include the phrase "package liquor store."

Barber Shop

Any establishment or place of business within which the practice of cutting hair is engaged in or carried on by one or more employees. The term "barber shop" may include a facility where apprentices are trained under regulations of the Board of Health.

**Basement**

The portion of a building located below the first level, a majority of the height of which is located below the average finished grade of the building perimeter.

Batching Plant

A facility for the manufacture or mixing of concrete, cement, and concrete and cement products, including any apparatus, equipment, and uses incidental to such operations.

Beauty Salon

Any commercial establishment or place of business wherein cosmetology is offered or practiced, for compensation, on a regular basis. The term "beauty shop" may include a facility where apprentices are trained under regulations of the Board of Health.

Bed and Breakfast Establishment

A property providing overnight accommodations to guests operated by an owner and/or operator, with premises designed primarily as a commercial enterprise; a dwelling occupied by a family and used incidentally to provide accommodation and meals to transient travelers, including tourist homes. For the purposes of administering and enforcing this ordinance the phrase "bed and breakfast establishment" does not include boarding house, rooming house, domiciliary hostel, group home, hotel or motel.

Berm

A man-made mound of earth of definite height and width used for landscaping and screening purposes.

Bicycle, Sales, Rental or Service

A principle use of a premise for one or more of the following purposes: (a) purchase and sale of new and used non-motorized bicycles; (b) buying of used bicycles for the purpose of remodeling, taking apart or rebuilding; or (c) repair and servicing of bicycles.

Billiard Hall

A business establishment containing more than six billiard tables for use by patrons.

Block

Property abutting one side of a street and lying between the two nearest intersecting streets (either crossing or terminating), railroad right-of-way, lake, river, stream, or other physical boundary.

Board

The Albion Board of Zoning Appeals

Board of Zoning Appeals

The Albion Board of Zoning Appeals established consistent with the 900 Series of IC 36-7-4.

Boarding House

A building or part of a building that contains accommodation facilities for lodging for definite periods of time, typically with meals served from a single kitchen. Boarding houses do not include bed and breakfasts, multi-family dwellings, hotels, or motels.

Boat or Boat Trailer Sales or Service

A principle use of a premise for one or both of the following purposes: (a) purchase and sale of new and used boats and boat trailers; or (b) on-site repair of boats or boat trailers.

Boat Storage Facility

A structure or area designed for the indoor or outdoor storage of watercraft or marine equipment.

**Bond**

See Surety

Bookstore

A retail establishment that, as its primary business, engages in the sale, rental, or other charge-for-use of books, magazines, newspapers, greeting cards, postcards, videotapes, computer software and/or any other printed or electronically conveyed media. For the purposes of administering and enforcing this Ordinance, the phrase "book store" shall not include "sexually oriented businesses."

Bottle Gas Storage and Distribution

The storage and distribution of bottle gasses including propane, carbon dioxide, helium, oxygen and other commercially used gases.

Bottling Facility

An industrial enterprise whose output is the bottling of beverages, alcoholic or non-alcoholic, for distribution.

Bowling Alley

An establishment that devotes a majority of its gross floor area to bowling lanes, equipment, and playing areas. A bowling alley may include other incidental uses, such as a pro shop, other recreation activities, a restaurant, or a bar.

Brewery, Industrial Brewery or Distillery

An industrial facility utilized primarily for the brewing or distilling of alcoholic beverages to be distributed commercially. This facility may also serve as a temporary storage/distribution center for wholesale goods produced on-site as an incidental use.

Brewery, Micro-Brewery

A facility for the production and packaging of malt beverages for distribution, retail, or wholesale, on- or off-premise, with a typical capacity of not more than fifteen thousand (15,000) barrels per year. A Micro brewery establishment may be comprised of other complimentary uses such as a standard restaurant, bar, or combination thereof.

Buffer

A strip of land, a fence, and/or area of landscaping between one use and another designed and intended to separate and screen those uses.

Buffer Landscaping

Any trees, shrubs, walls, fences, berms, or related landscaping features required under this ordinance to be placed on private property and privately maintained or in public rights-of-way for the purpose of buffering lots from adjacent properties, for aesthetic purposes, and/or for creating sound barriers and/or visual privacy.

Buffer Yards

An area adjacent to front, side and/or rear property lines, measured perpendicularly from adjacent property lines and/or right-of-way lines, intended to screen incompatible uses from each other. Buffers yards are also used to help maintain existing trees or natural vegetation; to block or reduce noise, glare or other emissions; and to maintain privacy. Buffer yards are in addition to (separate from) front, rear, or side yard setbacks.

Building Area

The horizontal projected area of the buildings on a lot, excluding open areas or terraces, unenclosed porches not more than one story high, and architectural features that project no more than two feet.

**Building Code**

The locally adopted Indiana Building Code establishing and controlling the standards for constructing mechanical equipment, all forms of permanent structures, and related matters within the Town of Albion. Also referred to in this Ordinance as the Albion Building Code.

Building Height

See Structure Height

Building Official

The person responsible for the enforcement of the Albion Building Code.

Building Permit

An official certification issued by the Building Official authorizing the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving, or repair of a building or other structure.

Building Supply Store

A large warehouse-style establishment that offers retail and wholesale site development, building, and hardware supplies, including various basic hardware lines, such as tools, builder's hardware, plumbing and electrical supplies, paint and glass, housewares and household appliances, and garden supplies and cutlery. A lumberyard may be included as an incidental use to the building supply retail sales.

Building, Attached

A building that is structurally connected to another building by a foundation, wall, or roof line.

Building, Detached

A building which is surrounded by open space and located on the same lot as another building.

Build-to-Line

A line parallel to the front property line indicating the distance from the front property line at which primary structures must be built. A built-to line is neither a minimum nor a maximum, but rather a specific requirement.

Bus/Mass Transit Terminal

A centralized and/or primary community facility for the transient housing or parking of motor driven buses, and the loading and unloading of passengers.

Business

A commercial endeavor to engage in the purchase, sale, lease, barter, or exchange of goods, wares, merchandise, and/or the provision of services.

Business District

A geographic area used for commerce and the operation of a business or businesses.

Business/Financial Services Office

Any office where the primary occupation is concerned with such federal or state-regulated businesses as banking, savings and loans, loan companies, and investment companies.

BZA

See Board of Zoning Appeals



C

Campground

Any public or private site, lot, field, or tract of land designed with facilities for short term and/or seasonal occupancy by recreational vehicles and other camping equipment, but not including mobile homes.

Campus

An area of land constituting and making up the grounds of an institution, such as a college or university, a business complex, or a manufacturing park.

Car Wash

The use of a property for the washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment.

Carport

A permanent structure, which includes a roof and roof-supports but not enclosed by walls, which is used as an accessory to a dwelling unit for the purpose of providing shelter to one or more vehicles.

Catering Facility

A facility primarily engaged in the preparation of food on a custom order basis for individuals or businesses. For the purposes of administering and enforcing this Ordinance, the phrase "catering facility" shall include "restaurant." A catering facility differs from a banquet hall in that a catering facility is typically where the food is prepared whereas a banquet hall is typically where catered food is intended to be consumed. In the event that a facility both prepares and serves the food, it shall be considered a catering facility.

Cemetery

Land used or dedicated to the burial which includes any columbarium, crematory, mausoleum, or mortuary operated in conjunction with and on the same tract as the cemetery.

Certificate of Occupancy

A certificate issued by the Town certifying that a newly constructed or modified structure and/or property is completed in its entirety and is in complete compliance with all applicable regulations of the Town of Albion, and therefore may be occupied.

Change of Use Permit

See Improvement Location Permit

Child Care Center

As defined by IC 12-7-2-28.4, as amended from time to time; child care center means a non-residential building where at least one (1) child receives child care from a provider: (a) while unattended by a parent, legal guardian, or custodian; (b) for regular compensation; and (c) for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays.

Child Care Home

As defined by IC 12-7-2-28.6, as amended from time to time, child care home means a residential structure in which at least six (6) children (not including children for whom the provider is a parent, stepparent, guardian, custodian, or other relative or any child who is at least fourteen (14) year of age and does not require child care) at any time receive child care from a provider: (a) while unattended by a parent, legal guardian, or custodian; (b) for regular compensation; and (c) for more than four (4) hours but less than twenty-four (24) hours in each of ten (10) consecutive days per year, excluding intervening Saturdays, Sundays, and holidays. Consistent with IC, the phrase "child care home" shall include Class I child care homes and Class II child care homes.



Child Care Home, Class I

As defined in IC 12-7-2-33.7, as amended from time to time, Class I Child Care Home means a child care home that serves any combination of full-time and part-time children, not to exceed at any one (1) time twelve (12) children plus three (3) children during the school year only who are enrolled in at least grade one (1). Except as provided in IC 12-17.2-5-6.3(b), the addition of three (3) school age children may not occur during a break in the school year that exceeds four (4) weeks. A child: (a) For whom a provider of care in the child care home is a parent, stepparent, guardian, custodian, or other relative and who is at least seven (7) years of age; or who is at least fourteen (14) years of age and does not require child care; shall not be counted in determining whether the child care home is within the limit set forth above.

Child Care Home, Class II

As defined by IC 12-7-2-33.8, as amended from time to time, Class II Child Care Home means a child care home that serves more than twelve (12) children but not more than any combination of sixteen (16) full-time and part-time children at any one (1) time. A child: (a) for whom a provider of care in the child care home is a parent, stepparent, guardian, custodian, or other relative and who is at least seven (7) years of age; or (b) who is at least fourteen (14) years of age and does not require child care; shall not be counted in determining whether the child care home is within the limit set forth above.

Child Care Home, Institution

As defined in IC 12-7-2-29, as amended from time to time, a child caring institution means an establishment that: (a) operates under a license issued under IC 31-27; (b) provides for delivery of mental health services that are appropriate to the needs of the individual; and (c) complies with the rules adopted under IC 4-22-2 by the department of child services.

Children's Home

A facility that houses not more than ten (10) children which are either: (a) in need of service under IC 31- 34.1; or (b) children who have committed a delinquent act under IC 31-37-2.2, IC 31-37-2.3, or IC 31-37- 2.5, as amended from time to time.

Church

See Religious Institution or Other Place of Worship.

Circus or Carnival

A temporary outdoor amusement center, bazaar, or fair, either involving use of special purpose equipment or conducted by professional operators, or both, and where activities include such things as rides, exhibitions, food service, sales, or small-scale games.

Clinic

Any facility in which human patients are admitted for medical, psychiatric, surgical, or dental study or treatment on an out-patient only basis, and in which the services of at least two physicians or dentists are provided.

Club

Public or private facilities owned or operated by a person or group of people for social, educational, or recreational purposes, but not primarily for profit nor to render a service which is customarily carried on as a business. The term "club" shall include the term "lodge."

Cluster Housing

Developments in which dwelling units are clustered close to their access streets or drives in order to permit aggregation of yard space into larger common recreational spaces.

**Collection Center, Donations and Retail Sales**

Buildings and facilities owned and operated by a group to enable the collection of donated goods and the retail selling of household goods donated to the group. It should be noted that this use does not denote a primary use as a for-profit business and is primarily geared toward philanthropic or job training efforts.

Collection Point, Recycling

A site where individuals bring household recyclable materials to either drop off without compensation, or, to redeem the materials for monetary compensation. Beyond any limited sorting, no other processing of the materials takes place at the site. All materials are stored completely within an enclosed structure while awaiting periodic shipment to a processing facility. While these collection points may be developed as freestanding sites, they typically are incidental uses sharing the site of a larger principle use, such as a discount store. Possible structures for this type of operation are recycling containers such as igloos "reverse vending machines", trailers, or similar Structures.

CMU

Concrete masonry unit.

Collector Road

See Street, Collector

Collector Street

See Street, Collector

College

See University

Commercial District

See Business District

Commercial Recreational Uses

An occupation, employment, or enterprise that is carried on to provide recreational services for profit by an owner, lessee, or licensee.

Commission

Albion Plan Commission

Common Area

Land within a development which is not individually owned or dedicated to the public, but which is designed and intended for the use, enjoyment, and maintenance of the property owners within that development or other specific area. The common area may include complimentary structures and/or other improvements.

Common Ownership

Ownership by the same person, corporation, firm, entity, partnership, or unincorporated association, including ownership by different corporations, firms, partnerships, entities, or unincorporated associations with at least one common stockholder, partner, or associate.

Communications Service Exchange

A telecommunications facility that houses one or more computer systems and related equipment dedicated to building, maintaining, and/or processing data. Such a facility would likely include a telephone service exchange, a data center, and a server farm.

**Community Center**

A building available to the public for community activities, meetings, banquets, projects, gatherings, and the similar functions.

Compatible

Having harmony and consistency in design, function, and/or appearance.

Comprehensive Plan

A document, consistent with the requirements the Indiana Code that is a compilation of policy statements, goals and objectives, standards, maps, and statistical data for the physical, social, and economic development of the community.

Concrete/Asphalt Production Facility

A facility where raw materials are processed into concrete or asphalt for sale and/or immediate use. Facilities typically include all necessary equipment for both transport and application of the finished product.

Condition of Approval

Stipulations or provisions set forth as a prerequisite for approval of an application.

Condominium

Real estate lawfully subject to the IC 32-25 series, the Horizontal Property Law, by the recording of condominium instruments, in which undivided interests in the common areas and facilities are vested in the condominium unit owners.

Confectionery, Commercial

Buildings and facilities operated to manufacture confectionery items for distribution, wherein some goods may be sold on-site through an incidental retail component of the facility, such as a candy factory.

Confectionery, Retail

Buildings and facilities operating and engaged in confectionery retail to the general public with limited onsite production of goods, such as a candy shop.

Conference Center

A facility used for service, business and professional organizations for seminars and training activities. Conference centers may include limited accommodations for conference attendees, such as sleeping, dining, and exercise. Conference centers are not typically designed to be utilized by the general public for any purpose.

Confined Feeding

See CFO and CAFO

Contiguous

See Abutting

Contractor, Commercial

A facility used primarily as an office, showroom and storage facility for a person who executes the construction or improving of buildings; a person or company that performs specific tasks such as electrical or plumbing work in construction projects; or a person or company hired to maintain existing facilities like air conditioning systems or grounds keeping.

Construction Activity

Any disturbance to the land that results in a change in the topography, or the existing soil cover, both vegetative and non-vegetative; any disturbance of an acre or more of land. Examples of construction activity include, but are



not necessarily limited to: clearing, grading, filling, excavating, construction of a new structure, enlargement of a structure, or conversion of a structure.

Convenience Store

A facility comprised of a small retail establishment that offers for sale a limited line of groceries, convenience goods, tobacco products, periodicals, and other household products. This facility may offer the sale of automobile fuels, oils, and accessories, without any repair service.

Country Club

A facility functioning as a private club, having set membership fees. This facility may offer a variety of recreational sports and fitness facilities and is typically an incidental use to a golf course. This facility may or may not be located in conjunction with a housing development.

County

Noble County, Indiana.

Covenants

Private and legal restrictions of various kinds on the usage of lots, typically within a subdivision and applied by the subdivider, that are recorded with the plat and deed. Covenants are enforceable in civil court by interested or affected parties.

Craft/Fabric Store

Any business that produces on the premises Sections for sale of artistic quality or handmade workmanship, or businesses that primarily sell items and materials used in the creation of crafts and other such handiwork.

Crop Processing and Storage

The processing of harvested crops, as well as the storage of both the raw and processed crops. Processing includes any or all of the following or similar activities as they relate to crop produce: cleaning, shelling, drying, cooking, and packaging.

Crop Production

The production and management of agricultural crops, including planting, cultivation, and harvesting.

Cul-De-Sac

See Street, Cul-de-sac

Curb Cut

The providing of vehicular ingress and/or egress between property and an abutting public street.

D**Data Processing Center**

Facilities where employees process electronic data, including data entry, storage, conversion, or analysis; subscription and credit card transaction processing; telephone sales and order collection; mail order and catalogue sales; and mailing list processing.

Day Care Center

See Child Care Center

Day Care Home

See Child Care Home

**Deciduous Tree**

See Tree, Deciduous

Deck

A platform, either freestanding or attached to building that is supported by pillars or posts.

Dedication

The intentional setting apart of land or interests in land for use by Town of Albion.

Deli (Delicatessen)

An establishment where food is sold for consumption either on or off premises, excluding groceries and supermarkets.

Density

The number of dwelling units per acre.

Density, Gross

The numerical value obtained by dividing the total number of dwelling units in a development or area by the gross size of the area (in acres), including all non-residential land uses, rights-of-way, streets, and other features included in the area.

Density, Net

The numerical value obtained by dividing the total number of dwelling units in a development or area of the actual tract of land (in acres) upon which the dwelling units are located, or proposed to be located, including common open space and excluding non-residential uses, rights-of-way, and streets.

Department Store

A large retail establishment with an extensive assortment of goods and services and which is organized into separate departments for the purposes of buying, promotion, customer service, and control; A store which sells products at prices lower than those asked by department stores and other traditional retail outlets; or establishments that specialize in such merchandise as jewelry, electronic equipment, or electrical appliances. The phrase "department store" includes the phrase "discount store."

Design

A planned arrangement of forms, shapes, massing, colors, and materials intended to serve a useful purpose or be decorative or artistic. The essence of a design resides not in the elements individually, nor in their method of arrangement, but in the ensemble that awakens sensation in the observer's mind.

Design Review Committee

A panel established by the Town to provide technical services to the Plan Commission in the administration of this ordinance.

Designated Enforcement Entity

The Albion Board of Zoning Appeals.

Detached Structure

A building that has no structural connection with the primary structure.

Detention Area

An area that is designed to capture specific quantities of stormwater and to gradually release the stormwater at a sufficiently slow rate to avert flooding.

**Developer**

An individual, partnership, corporation (or agent thereof), or other entity that undertakes the responsibility for land development, particularly the designing of a subdivision plat or site development plan showing the layout of the land and the public improvements involved therein. In as much as the subdivision plat is merely a necessary means to the end of assuring a satisfactory development, the term “developer” is intended to include the term “subdivider”, even though the personnel involved in successive stages of the project may differ.

Development

Any man-made change to improved or unimproved real estate including but not limited to: (1) construction, reconstruction, or placement of a structure or any addition to a structure; (2) installing a manufactured home on a site, preparing a site for a manufactured home or installing recreational vehicle on a site for more than 180 days; (3) installing utilities, erection of walls and fences, construction of roads, or similar projects; (4) construction of flood control structures such as levees, dikes, dams, channel improvements, etc.; (5) mining, dredging, filling, grading, excavation, or drilling operations; (6) construction and/or reconstruction of bridges or culverts; (7) storage of materials; or (8) any other activity that might change the direction, height, or velocity of flood or surface waters.

Development Plan

Dimensioned plans showing the entire on-site distribution of all elements for a proposed construction project, which would normally include architectural, engineering, landscape architectural, lighting and signage plans.

Development Standards

Regulations provided by this Ordinance that provide specific conditions for the development and use of buildings and property.

Distribution Center

A facility that stores inventory and ships finished goods to customers for a specific geographic area. Its stock is replenished on a periodic basis by manufacturing plants or other distribution centers, and it may process customer returns but typically lacks production capabilities. In general, distribution centers do not sell items directly to the public.

District

An area with common social, physical, economic, or land use characteristics.

Domestic Pets

Animals commonly used as household pets, protection, companions, and for the assistance of disabled persons. Domestic pets shall include animals that are cared for and treated in a manner acceptable for pet dogs, cats, and birds. Domestic pets shall include, but not be limited to, dogs, cats, parakeets, parrots, finches, spiders, guinea pigs, hamsters, gerbils, rats, mice, rabbits, aquarium fish, pot belly pigs, ferrets, and snakes if cared for in the manner described above.

Dormitory

A structure specifically designed to provide sleeping and living quarters for long-term stay by students of a college, university, or other institution. A common kitchen and common gathering rooms may also be provided.

Drainage

The outflow of water or other fluids from a site through either natural or artificial means.

Drainage System

All facilities, channels, and areas which serve to convey, filter, store, and/or receive stormwater, either on a temporary or permanent basis.

Drip Line

An imaginary vertical line that extends from the outermost branches of a tree's canopy to the ground.

**Drive, Private**

See Street, Private

Drive-thru Service

An opening or openings in the wall of a building or structure designed and intended to be used to provide for sales and/or service to patrons, who remain in their vehicles, products that are used or consumed offsite.

Drive-thru/Drive-up facility

A small scale establishment developed so that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle, rather than within a building or structure.

Driveway

A private roadway providing access for vehicles to a parking space, garage, dwelling, or other structure.

Driveway, Common

An access shared by adjacent property owners.

Driving Range

An area equipped with distance markers, clubs, balls, and tees for practicing golf drives and putting, which may or may not include a snack-bar and pro-shop, but does exclude golf courses and miniature golf courses.

Dry Cleaners/Commercial Launderer

A large scale establishment that cleans fabrics, textiles, wearing apparel, or Sections of any sort by immersion and agitation in volatile solvents, and all related processes. Commercial cleaners typically serve businesses and clean uniforms, generally with the cleaners picking up and delivering the clothing to its business clients.

Dry Cleaners/Laundromat

An establishment that allows for individuals to walk-in and drop off/pick up clothing fabrics, textiles, wearing apparel, or other Sections that have been cleaned at some other location.

Dumpster

A receptacle container that has a hooking mechanism that allows it to be raised and dumped into a sanitation truck, including dumpsters for trash, compacted materials, and recycling.

Duplex

See Dwelling, Two-Family

Dwelling

A structure or portion thereof, conforming to all requirements applicable to the district in which it is located, all Building Codes, and that is used exclusively for residential occupancy, including single-family dwelling units, two-family dwelling units, and multiple-family dwelling units, but excluding hotels, motels, and boarding houses.

Dwelling Site

A site within a manufactured home park and/or mobile home park with required improvements and utilities that is leased for the long term placement of manufactured homes and/or mobile homes.

Dwelling Unit

A room or group of rooms designed and equipped exclusively for use as living quarters for only one (1) family, and including eating, lawful cooking, sleeping space and sanitary facilities reserved solely for the occupants thereof. The phrase "dwelling unit" includes "mobile dwellings", "modular dwellings" and "manufactured dwellings" but does not include vehicles or "recreational vehicles".

**Dwelling, Accessory**

A separate and complete secondary dwelling unit established in conjunction with and clearly subordinate to another dwelling which serves as the primary use and/or structure on the property.

Dwelling, Detached

A dwelling unit which does not share a common wall with any other dwelling.

Dwelling, Farm

A single-family dwelling that is located on, and used in connection with farm operations.

Dwelling, Manufactured Home (includes Single Wide, Double Wide and Modular)

A single-family dwelling unit designed and built in a factory, installed as a permanent residence, which bears a seal certifying that it was built in compliance with the federal Manufactured Housing Construction and Safety Standards Law (1974 (U.S.C. 5401 et seq.), and which also complies with the following specifications:

1. Shall have been constructed after January 1, 1981 and must exceed nine hundred fifty (950) square feet of occupied space per LC. 36-7-4(d);
2. Is attached to a permanent foundation of masonry construction and has a permanent perimeter enclosure;
3. Has wheels, axles and towing chassis removed;
4. Has a pitched roof with a minimum rise of 4/12; and,
5. Consists of two (2) or more sections which, when joined, have a minimum dimension of 20' x 47.5' in length or width enclosing occupied space.

Dwelling, Mobile Home

A structure without motive power designated by the manufacturer or maker with hitch and undercarriage to permit attachment of axles and wheels, and so designed to permit its being used as a conveyance upon public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a single-family dwelling and not qualifying under the definition of manufactured home.

Dwelling, Multi-Family

A structure designed for and occupied by three (3) or more families or other single units of housekeeping, with the number of families and housekeeping units in residence not exceeding the number of dwelling units provided.

Dwelling, Single-Family

A structure designed for and occupancy by one (1) family or other single unit of housekeeping and therefore including no more than one (1) dwelling unit.

Dwelling, Two-Family

A structure designed for occupancy by two (2) families or other single units of housekeeping and therefore including no more than two (2) dwelling units; a dwelling comprised of two attached units situated side-by-side or on two separate floors.

E**Easement**

A grant by a property owner to specific persons, the general public, corporations, utilities, or others, for the purpose of providing services or access to the property.

Educational Institution

See School

Egress

An exit.

**Electronics Store**

An establishment that has for sale goods relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities. For the purposes of administering and enforcing this Ordinance the phrases “department store” and “discount store” are exclusive of the phrase “electronics store,” meaning that they are not intended to be one and the same.

Elevation

One of the faces, for example the front, side, or rear, of a building.

Emergency Response Facility

An outpost station that serves as an office of operation for police, fire, and/or rescue services. Such stations include personnel, equipment, vehicles, and training facilities.

Emergency Services Facility or Station

A facility providing operational space for essential fire, police, and/or other emergency response services within and around the Town of Albion.

Employment Service

An establishment that seeks and identifies available jobs for patrons seeking employment.

Equipment Sales and Rental

Establishments primarily engaged in the sale or rental of tools, trucks, construction equipment, agricultural implements, and similar industrial equipment.

Equine Services

Operations involved in the shelter and care of horses, as well as breeding, training, and for giving lessons, including stables, stud farms, and other related uses.

Equipment, Mechanical

Equipment installed for a use appurtenant to the primary use. Such equipment may include heating and air conditioning equipment, solar collectors, parabolic antennas, and power generating devices.

Erosion

The detachment, movement, and wearing away of soil and rock fragments by flowing surface or subsurface water or by wind.

Essential Services

The erection, construction, alteration, or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, telephone, sewer, or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduit cables, fire alarm boxes, police call boxes, traffic signals, hydrants, street signs, and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate services by public utilities or municipal or other governmental agencies or for the public health, safety, or general welfare, but not including buildings.

Evergreen Tree

See Tree, Evergreen.

Existing Manufactured Home Park or Subdivision

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 before the effective date of this Ordinance.



Expansion of an Existing Manufactured Home Park or Subdivision

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).

Explosive Manufacturing and Storage

The manufacture and storage of any chemical compound, mixture, or device of which the primary and common purpose is to function by explosion with substantially simultaneous release of gas and heat, the resulting pressure being capable of producing destructive effects.

External Illumination

Illumination of a sign that is affected by an artificial source of light not contained within the sign itself.

F

Fabrication Facility

An establishment where employees and machinery are used to assemble product components created offsite.

Façade

The portion of any exterior elevation on a building, extending from grade level to the top of the parapet, wall, or eaves for the entire width of the building.

Fairgrounds

An area of land used for agricultural related office buildings, animal shows and judging, carnivals, circuses, community meeting and recreational facilities, concerts, food booths and stands, games, rides, rodeos, sales and auctions, storage, and theaters.

Family

One or more persons occupying a dwelling unit as a single housekeeping unit and therefore using common facilities for cooking, sanitation, and gathering. A family does not include any society, club, fraternity, sorority; or group living in a boarding house, hotel, motel, bed and breakfast facility, lodging house, rooming house, or club; any group of individuals whose association with each other is seasonal or any individuals who are in a group living arrangement as a result of criminal activity.

Family Child Care Home

See Child Day Care Home

Farm (confined feeding)

Any livestock operation that meets one or more of the following characteristics: (1) Any confined feeding of at least 300 cattle, or 600 swine or sheep, or 30,000 fowl, such as chickens, ducks and other poultry; (2) Any animal feeding operation utilizing a waste lagoon or holding pits; (3) Any animal feeding operation where the operator elects to come under the provisions of IC 13-18-10; or (4) Any animal feeding operation that is causing a violation of IC 13-18-10 as determined by the Stream Pollution Control Board. See also Confined Feeding.

Farm (dwelling)

See Dwelling, Farm

Farm (general)

A property that is used primarily for agriculture (such as the production and storage of vegetables, fruit trees, or grain, as well as the raising of farm animals, such as poultry or cattle, on a limited basis). A farm shall include all related structures and the storage of equipment and materials used on-site for the farm operation. A farm shall not include the commercial raising of animals, confined feeding, or the commercial feeding of garbage or offal to swine or other animals.

**Farm (commercial)**

Farming for a profit, where food is produced by advanced technological means for sale in the market. Often very few workers are employed.

Farm Animals

Animals commonly used for transportation, food, skins, and other by-products. Farm animals include, but are not limited to, horses, cattle, pigs, sheep, goats, mules, donkeys, miniature horses, miniature donkeys, camels, emu, ostrich, llamas, alpacas, rabbits, mink, fox, buffalo, chickens, turkeys, quail, pheasants, and other animals or fowl of similar characteristics.

Farm Equipment Sales and Service

An establishment that services farm implements, as well as offers for sale new and used farm implements.

Farmer's Market

A periodic market held in an open area or under a structure where groups of individual sellers holding the proper town permit offer for sale to the public such items as fresh produce, seasonal fruits, fresh flowers, arts and crafts items, and food and beverages (but not to include second-hand goods) dispensed from vehicles or temporary stands located on-site.

Fast Food Restaurant

See Restaurant, Fast Food

FBFM

Flood boundary and floodway map; an official map delineating the floodway, floodway fringe, 100-year floodplain, and 500-year floodplain which is prepared in conjunction with a flood insurance study.

FEMA

Federal Emergency Management Agency.

Fence

Any structure, solid or otherwise, which is a barrier and is used as a boundary or means of protection, confinement, or concealment.

Fence, Barbed-Wire

One or more strands of wire or other material having intermittent sharp points of wire or metal that may puncture, cut, tear, or snag persons, clothing, or animals.

Fence, Stockade

A fence constructed of vertical wood strips, with no intervening spaces, providing a complete visual barrier.

Fertilizer Sales, Distribution, and Storage

An establishment that stores, distributes, and sells fertilizers primarily for agricultural crop production use.

FHBM

Flood Hazard Boundary Map.

Final Plat

See Plat, Secondary.

Financial Institution

A facility such as a bank or credit union, concerned with providing Federal or state regulated banking, savings, loans and/or investments. For the purposes of administering and enforcing this Ordinance, the term "financial institution" does not include payday loan establishments.

**Finished Floor Area**

See Floor Area, Finished

Fireworks Sales

A permanent establishment where the primary business is the retail sale of devices defined as fireworks by the State of Indiana.

FIRM

Flood insurance rate map; the official map on which FEMA has delineated both the areas of special flood hazard and risk premium zones.

Fitness Center

A facility where passive or active exercise and related activity is performed for the purpose of physical fitness, improved circulation or flexibility, and/or weight control. A fitness center may provide facials and other skin care treatments, massage, exercise, yoga, and other wellness related activities with or without such equipment or apparatus as an incidental use(s).

Flat Roof

The silhouette formed by a roof line. While the name infers a roof with no pitch, the actual roof structure is required to have a slope for drainage purposes. The roof line can be stepped or flat in appearance by using architectural elements such as cornices, mansards, and parapets.

Flea Market

An occasional or periodic market held in an open area or structure where goods are offered for sale to the general public by individual sellers from open or semi-open facilities or temporary structures. The phrase "flea market" shall not include informal garage or yard sales.

Flood

A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

Flood Hazard Area

Those flood plains which have not been adequately protected from flooding caused by the regulatory flood, and are shown on the zoning map and/or on the Flood Hazard or Floodway-Flood Boundary Maps of the Federal Insurance Administration or maps provided to the Commission from the Indiana Natural Resources Commission.

Floodlight

Reflector type light fixture that produces unshielded and undirected illumination.

Floodplain

The relatively flat area or low land adjoining the channel of a river or stream which has been or may be covered by the regulatory flood. The flood plain includes the channel, floodway, and floodway fringe. Floodplain boundaries are to be determined by using the Floodway-Flood Boundary Maps of the Federal Insurance Administration/Federal Emergency Management Administration (FEMA).

Floodway

The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flood flow of the regulation flood of any river or flooding stream.

Floodway Fringe

Those portions of the floodplain lying outside the floodway. The floodway fringe is not necessary for carrying and discharging peak flood flow, but is subject to flooding.

**Floor Area**

The sum of all horizontal surface areas of all floors of all roofed portions of a building enclosed by and within the surrounding exterior walls or roofs, or to the centerline(s) of party walls separating such buildings or portions thereof. Floor area of a building shall exclude exterior open balconies and open porches.

Floor Area, Finished

That portion of floor area constructed, completed, and usable for living purposes with normal living facilities which includes sleeping, dining, cooking, working, entertainment, common space living rooms, areas for personal hygiene, or combination thereof. Floor area or portion thereof used only for storage purposes and not equipped for the facilities mentioned above shall not be considered Finished Floor Area. The Finished Floor Area of a primary structure does not include a garage, carport, deck, unfinished storage, patio, or open porch.

Floor Area, Ground

That portion of Finished Floor Area located on the first (or nearest ground level) floor of the dwelling unit exclusive of open porches, breezeways, terraces, garages, and exterior stairways.

Florist, Retail

An indoor facility whose primary purpose is to offer for sale fresh or artificial flowers and related products and services directly to consumers. Retail florists may include greenhouse operations, and incidental sales of small gardening equipment and accessories.

Florist, Wholesaler

A facility offering for sale bulk flowers and related supplies to professionals in the trade. See also greenhouse, commercial.

Food and Beverage Production

The large scale processing of raw ingredients and materials to create finished or unfinished foods and beverages.

Foundation

The supporting member of a wall or structure.

FPG

Flood protection grade; the elevation of the regulatory flood plus two feet at any given location in the Special Flood Hazard Area (SFHA).

Fraternity, Educational

A club or social activity officially associated with and recognized and supervised by an institution for higher education whose membership is limited exclusively to students of the institution.

Fraternity, Social

A private club of individuals organized around a civic, social, or intellectual goal or pursuit. See also Private Club.

Front Line

With respect to a building, the foundation line that is nearest the front lot line.

Front Lot Line

For an interior or through lot, the line marking the boundary between the lot and the abutting street right-of-way. For a corner lot, the line marking the boundary between the lot and each of the abutting street rights-of-way.

Front Yard

See Yard, Front

Frontage

See Lot Frontage



Funeral Home

A facility used for the preparation of the deceased for display and burial and the conducting of rituals and religious programs associated with burial. See also Mortuary.

G

Gallery, Art or Photo

A facility used primarily for the exhibition and sale of art, usually visual art, painting, sculpturing, jewelry making, weaving or other similar function defined as a fine art. For the purpose of administering and enforcing this Ordinance, the phrase "art or photo gallery" is not intended to include "tattoo or piercing parlors".

Garage, Private

A garage whose principal use is to house motor vehicles for the accommodation of related dwelling units or related business establishments.

Garage or Yard Sale

A public or private sale conducted by the owner or occupier of a premise, and conducted within a residence, garage, other accessory buildings or outside thereof, which sale is of six or more items of personal property owned or in the possession of the owner or occupier of the premises, which personal property was not acquired by the owner or occupier for the purpose of resale.

Gas Station

Any building, structure, or area of land used for the retail sale of automobile fuels, oils, and accessories.

Golf Course

An area of terrain on which the game of golf is played. A golf course typically includes greens, fairways, and natural areas. A golf course may also include a driving range when integrated with the golf course operations and hours. A golf course may also include a country club as an incidental use.

Government Facility

A building, group of buildings, and/or piece of property operated or occupied by a governmental agency to provide a governmental service to the public. Government facilities may include the storage and service of government vehicles, equipment, and supplies. The term "government" in this instance is the appropriate municipal authority, officer or body charged with the care, custody and control of the land on which the facility is located.

Grade

The finished surface of the ground adjacent to the exterior walls of a building.

Grade, Existing

The vertical elevation of the ground prior to any excavation, filling, or other construction activity.

Grade, Finished

The final elevation of the ground surface after man-made alterations have been completed.

Grandfathered

A description of the a status of certain properties, uses, activities, and conditions that were legally existing prior to the effective date of this Ordinance.

Granny Flat

See Dwelling, Accessory

Grazing and Pasture Land

A fenced area used for the feeding and upkeep of livestock.

**Greenhouse**

A building or structure constructed primarily of translucent materials which is devoted to the protection or cultivation of flowers and other tender plants.

Greenhouse, Commercial

A building used for the growing of plants, all or some of which are sold at retail or wholesale either on or off-site.

Grocery Store

Large-scale retailers offering for sale food and other household goods and services. Grocery stores typically house flower shops, pharmacies, bakeries, branch banks, and other complementary and incidental uses. For the purposes of administering and enforcing this Ordinance, the phrase "grocery store" shall not include "grocery departments" that are typically found in "department stores" or "discount stores".

Gross Density

Density determined by dividing that total acreage within the site by the total number of dwelling units.

Ground Floor Area

See Floor Area, Ground

Group Home

As defined by IC 12-7-2-98.5, as amended from time to time, group home means a residential structure in which care is provided on a twenty-four (24) hour basis for not more than ten (10) children.

Gymnastics Center

An establishment where patrons learn and practice gymnastics, and where gymnastics competitions and meets may occur.

H

Hard Surface

See Paved Surface.

Hardship

A difficulty with regard to one's ability to improve land stemming from the application of the requirements of this Ordinance, which may or may not be subject to relief by means of variance. In and of themselves, self-imposed situations and claims based on a perceived reduction of, or restriction on, economic gain shall not be considered hardships.

Hardware Store

A small or medium-scale facility primarily engaged in the retail sale of various basic hardware lines, such as tools, builder's hardware, plumbing and electrical supplies, paint and glass, housewares and household appliances, and garden supplies and cutlery. A lumberyard may be included as an incidental use to the hardware retail sales.

Hazardous Material

Any substances or materials that by reason of their toxic, caustic, corrosive, abrasive, or otherwise injurious properties, may be detrimental to the health of any person handling or otherwise coming into contact with such material or substance.

Hazardous Material Storage/Processing Facility

All structures, other appurtenances, and any improvement to the land used for treating, storing, processing, or disposing of hazardous materials.

**Health or Day Spa**

An establishment that offers professional services and signature treatments provided by licensed aestheticians and therapists, and which typically offer massage, body and face treatments, professional spa products, and nutritional/weight counseling. See also "Fitness Center."

Hedge

A row of closely planted shrubs, bushes, or any other kind of plant used as a compact, dense, living barrier that protects, shields, separates, or demarcates an area.

Height

The vertical distance to the highest point of any roof for structures which have roofs, and the vertical distance to the highest point of all other structures, measured from adjacent grade level.

Heliport

An area used for the landing and take-off of helicopters, including any structures, buildings, and equipment associated with that use.

Historic Site

All structures and other features identified as contributing, notable, or outstanding by the Indiana Historic Sites and Structures Inventory - Noble County Interim Report, or listed in the National Register of Historic Places or the Indiana Register of Historic Sites & Structures, as well as any subsequent amendments and/or additions to any of these publications.

Home Electronics/Appliance Store

An establishment that primarily sells home appliances, electronics, and related accessories.

Home Improvement, Retail

A small or medium-scale facility, such as a hardware store or garden shop, primarily engaged in the retail sale of various basic hardware lines, such as tools, builder's hardware, plumbing and electrical supplies, paint and glass, house wares and household appliances, and garden supplies, plants, landscaping materials, and related accessories. A lumberyard may be included as an incidental use to the hardware retail sales.

Home Occupation

An occupation carried on in a dwelling unit by a resident thereof which is limited in extent, and incidental and secondary to the use of the dwelling unit for residential purposes, and therefore does not change its residential character.

Home Owner's Association

See Lot Owner's Association

Hospital

An institution where sick or injured persons are given medical care and, during the course of that treatment, are housed overnight, fed, and provided nursing and related services. Related services include diagnostic facilities, laboratories, hospices, outpatient facilities, treatment facilities, and training facilities. Hospital does include institutions operating for the treatment of insane persons and persons suffering addictions, but does not include nursing homes, retirement facilities, shelters, or boarding houses.

Hotel

A building in which temporary lodging or board and lodging are provided 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 furnishes customary services such as maid service and laundering of linen, telephone, secretarial, or desk service, and the upkeep of furniture. As such, it is open to the public. Compensation is usually assessed on a day-to-day basis.



Hotel, Extended Stay

A building in which lodgings are provided and offered, for compensation, to the public for periods greater than seven (7) consecutive days, 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. An extended stay hotel may furnish customary services such as maid service and laundering of linen, telephone, secretarial, or desk service, and the upkeep of furniture. This type facility caters to the longer term stays which may be incurred in business travel. Special accommodation such as kitchenettes may be provided. In this instance, compensation is typically assessed on a contractual basis.

Housekeeping Unit

A group of individuals functioning as a single household, making common use of a single kitchen and other family quarters. See also Family.

I _____

Impervious Surface

Any hard-surfaced, man-made area that prevents absorption of stormwater into the ground.

Improvement

Any building, structure, bridge, work of art, area, parking facility, public facility, fence, gate, wall, landscaping, or other object constituting a physical addition to real property.

Improvement Location Permit

A document issued permitting a person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure within its jurisdiction, or cause the same to be done or to change the use or condition of the land, or otherwise cause any change to occur that is subject to the requirements of this Ordinance and/or the Albion Subdivision Control Ordinance.

Incidental

A minor occurrence or condition that is customarily associated with a permitted use and is likely to ensue from normal operations.

Incidental Sales

See Sales, Incidental.

Incinerator

A facility that uses thermal combustion processes to destroy or alter the character or composition of medical waste, sludge, soil, or municipal solid waste (not including animal or human remains).

Indecisive Vote

A vote which fails to receive a majority of the votes of the entire membership of the body, either in favor or opposed.

Industrial Business Park

Small scale manufacturing, construction, production, and assembly uses, as well as other light industrial uses. This district is specifically intended to provide appropriate setbacks and standards for small-scale businesses, entrepreneurial operations, start-up businesses, and similar operations.

Industrial District

The use of a property or area for the manufacture, fabrication, processing, reduction, or destruction of any Section, substance, or commodity, including related storage facilities and warehouses.



Industrial, Heavy

Manufacturing, processing, extraction, heavy repairing, dismantling, storage, or disposal of equipment, raw materials, manufactured products or wastes, in which some operations, other than transportation, are performed in open area.

Industrial, Light

Light production, assembly, warehousing, research & development facilities, and similar land uses. This district is intended to accommodate only industrial uses that are completely contained within structures and do not involve the outdoor storage of materials or the release of potential environmental pollutants.

Infrastructure

Facilities and services needed to sustain industry, residential, commercial, and all other land use activities, including utilities and streets.

Inoperable Motor Vehicle

A motor vehicle which meets one or more of the following conditions: (1) Any motor vehicle from which there has been removed the engine, transmission, or differential or that is otherwise partially dismantled or mechanically inoperable; or (2) Any motor vehicle which cannot be driven on a public street without being subject to issuance of a traffic citation by reason of its operating condition or not displaying a valid and current license plate.

Inoperable Vehicle Storage

The outdoor storage of inoperable motor vehicles from which there has been removed the engine, transmission, or differential or that is otherwise partially dismantled or mechanically inoperable. Any motor vehicle which cannot be driven on a Town street without being subject to the issuance of a traffic citation by reason of its operating condition or not displaying a valid and current license plate.

Inspectors

Employees of the Advisory Plan Commission authorized by the Administrator to enter, examine, and survey all lands within the Town to accomplish the enforcement of this Ordinance and any other land use regulations of the Town.

Institutional Facility for the Developmentally Disabled

An institutional facility that provides care, supervision, and protection for persons with developmental disabilities consistent with the provisions of Indiana Code. See also Residential Facility for the Developmentally Disabled.

Institutional Facility for the Mentally Ill

An institutional facility that provides care, supervision, and protection for mentally ill persons consistent with the provisions of Indiana Code. See also Residential Facility for the Mentally Ill.

Interested Parties

Those parties who are owners of properties adjoining or adjacent to the property for which a zoning change is being sought.

Interior Greenbelt

That portion of the front yard of a lot that is immediately adjacent and parallel to the right-of-way of intersecting corridor streets having a minimum depth of 15 feet from the street right-of-way line.

Investment Firm

Any office where the primary occupation is concerned with businesses that buy and sell stocks, bonds, and other notes of purchase.



J _____

Jewelry Store

An establishment that primarily sells new jewelry, and may offer for sale used or consignment merchandise.

Junk

Scrap or waste material of any kind.

Junk Yard

A building, structure, or parcel of land, or portion thereof, used for collecting, storage, or sale of waste paper, rags, scrap metal, rubber tires, bottles, or discarded material; or any business and any place of storage or deposit, whether in connection with another business or not, which has stored or deposited farm implements or two or more unregistered or inoperable motor vehicles that are no longer intended or in condition for legal use.

Jurisdiction

Any area over which a unit of government exercises power and authority.

K _____

Kennel, Commercial

Any lot or premises which are kept for breeding, boarding, grooming, or training purposes, or for sale, five (5) or more dogs, cats, or other domestic animals more than six (6) months of age, not owned by the owner or occupant of the property.

Kennel, Private

Any building or land designed or arranged for the care of four (4) or more dogs or cats under four (4) months of age belonging to the owner of the principal use, kept for purposes of show, hunting, or personal enjoyment as pets.

L _____

Laboratory

A facility that provides controlled conditions in which scientific research, experiments, and measurements may be performed; a classroom where practical learning and demonstration take place in science, language, and other subjects.

Land Use

The occupation or use of land for any human activity or purpose.

Land Use Petition

A rezoning petition, variance petition, special exception petition, or any other petition permitted by rules of procedure adoption by the Albion Advisory Plan Commission.

Landing Area

The area of the airport used for the landing, take off, and taxiing of aircraft.

Landscape Buffer

See Buffer.

Landscaping

The improvement of a lot with grass, shrubs, trees, and other vegetation and/or ornamental objects. Landscaping may include pedestrian walks, flower beds, berms, fountains and other similar natural and man-made objects.

**Legal Nonconforming Lot**

Any lot which has been legally established and recorded prior to the effective date of this Ordinance, or its subsequent amendments, which no longer meets the lot-specific development standards.

Legal Nonconforming Use

Any continuous, lawful use of structures, land, or structures and land in combination established prior to the effective date of this Ordinance, or its subsequent amendments, that is no longer a permitted use in the zoning district in which it is located.

Letter of Map Amendment (LOMA)

An amendment to the currently effective FEMA map that establishes that a property, area, and/or structure is not located in a Special Flood Hazard Area (SFHA). A LOMA is only issued by FEMA.

Letter of Map Revision (LOMR)

An official revision to the currently effective FEMA map. It is issued by FEMA and changes flood zones, delineations, and elevations.

Library

A public facility for the use, but not sale, of literary, musical, artistic, or reference materials, with the exception of a not-for-profit group selling outdated or donated books.

Light Industrial Processing and Distribution

Processing and distribution of materials and products from processed or previously manufactured materials. Light industry is capable of operation in such a manner as to control the external effects of processing such as smoke, noise, odor, etc.

Linear Park

A park or other green, open space that forms a corridor, or is a part of a corridor along a body of water, street, abandoned rail line, or pedestrian/bicycle trail.

Liquor Store

A store that offers retail and/or wholesale liquor, including wine and beer.

Livestock Auction/Sales Facility

A commercial establishment where livestock is collected and auctioned and/or sold. Livestock at the facility are there on a temporary basis, for immediate sale only, and not housed long term.

Livestock Raising and Breeding

The production and upkeep of livestock for the purposes of sale, including the feeding, sheltering, grazing, and shipping of livestock, including the storage of all necessary materials and equipment.

Loading Berth

A space within a building or on the premises providing for the loading and unloading of merchandise and materials.

Local Street

See Street, Local

Lodge or Private Club

A membership organization that holds regular meetings and that may, subject to other regulations controlling such uses, maintain dining facilities, serve alcohol, or engage professional entertainment for the enjoyment of dues paying members and their guests. There are no sleeping facilities.

**Lodging House**

A building, not available to transients, in which lodgings are regularly provided for compensation.

Lot

A contiguous area of land separated from other areas of land by a separate description (including a recorded deed, a subdivision plat or record of survey map, or by metes and bounds) for purpose of sale, lease, transfer of ownership, or separate use.

Lot Area

The horizontal area within the exterior lines of a lot, including any easements, but excluding any rights-of-way or other similar dedications to the public.

Lot Coverage

The percentage of the lot area covered by buildings, structures, parking areas, driveways, walkways, and other paved or impervious surface.

Lot Depth

The horizontal distance between the front and rear lot lines.

Lot Frontage

The horizontal distance between side lot lines where a property abuts a street.

Lot Ground Level.

1. For a building having walls abutting (that is, generally parallel to and not more than five feet from) one street only, means the elevation of the sidewalk at the center of the wall abutting the street;
2. For a building having walls abutting more than one street, means the average of the elevations of the sidewalk at the centers of all walls that face streets; and
3. For a building having no wall abutting a street, means the average level of the ground adjacent to the exterior walls of the building.

Lot Line

The property lines which define the lot.

Lot of Record

A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder, or a parcel of land, the deed to which has been recorded in the office of the County Recorder prior to January 1, 2002, whether or not the property has been subsequently transferred, but must have been transferred by the same description that was of record prior to January 1, 2002.

Lot Owners Association

An incorporated non-profit organization operating under recorded land agreements through which each lot owner is automatically a member and each lot is automatically subject to a proportionate share of the expenses for the organization's activities, such as maintaining common property.

Lot Width

The horizontal distance between side lot lines measured at the required minimum front setback line or built-line affecting the property.

Lot, Buildable

Any lot upon which improvements are permitted to be constructed, or which is otherwise allowed to be occupied and used consistent with all applicable requirements of this Ordinance.

**Lot, Corner**

A lot located at the corner of two or more streets.

Lot, Developed

A lot upon which improvements have been made or is otherwise being used for human purposes.

Lot, Double Frontage

A lot having frontage on two or more non-intersecting streets.

Lot, Improved

See Lot, Developed

Lot, Interior (*under Interior Lot*)

Any lot which is not a corner lot or through lot.

Lot, Legal Nonconforming

See Legal Nonconforming Lot

Lot, Recorded

See Lot of Record

Lot, Through

A lot fronting on two parallel or approximately parallel streets and includes lots fronting on both a street and a watercourse or lake.

Lot, Undeveloped

A lot of record upon which no improvements exist.

Lot, Zoning

A single tract of land that, at the time of application for an improvement location permit, is designated by the applicant for the purpose of complying with this Ordinance as the tract to be used, developed, or built upon. A zoning lot or lots may coincide with one or more lots of record.

Lowest Floor

The lowest of the following: (1) the top of the basement floor; (2) the top of the garage floor, if the garage is the lowest level of the building; (3) the top of the first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings; or (4) the top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless: the walls are designed to automatically equalize the hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, by providing a minimum of two openings (in addition to doorways and windows) having a total area of one square inch for every one square foot of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one foot above grade; such enclosed space shall be usable for the parking of vehicles and building access.

Lumber Yard

An area designated for open-air storage, or a warehouse or other enclosed building, established for the storage, distribution or sale (for wholesale or retail purposes) of products and equipment needed in connection with the lumber industry.

Luminaire

A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.

**Luminaire, Cut-off Type**

A luminaire that emits less than 2.5% of lamp lumens, eliminating glare. The bulb is recessed into the housing.

Luminaire, Full Cut-off Type

A luminaire with no light emitted above the horizontal plane.

Luminaire, Semi Cut-off Type

A luminaire with less than 5% of the lamp lumens emitted above the horizontal plane.

M**Mail-order Store**

Similar to a distributor or wholesaler, a mail-order store offers for sale such things as magazines, catalogs, and music directly to the consumer via the mail and further avoiding the need for a retail store.

Mall, Shopping

A large scale retail use that typically serves a regional market, typically drawing relatively large volumes of traffic and comprised of a collection of independent retail stores, services, and parking areas constructed and maintained by a management firm as a single entity.

Maneuvering Aisle

A maneuvering space, which serves two or more parking spaces, such as the area between two rows of parking spaces and/or the driveway leading to those spaces.

Maneuvering Space

An open space in a parking area which is immediately adjacent to a parking space and is used for and/or is necessary for turning, backing, or driving a motor vehicle into the parking space, but is not used for the parking of or storage of motor vehicles.

Manufactured Home

See Dwelling, Manufactured Home.

Manufactured Home Park

A parcel of land containing two or more dwelling sites, with required improvements and utilities that are leased for long term placement of Mobile Home Dwellings and/or Manufactured Home Dwellings. A Manufactured Home Park does not involve sales of Mobile Home Dwellings or Manufactured Home Dwellings in which unoccupied units are parked for inspection or sale.

Manufactured Home Sales

The sale and incidental storage of single-family detached housing that includes mobile homes and manufactured homes Type I, II, and III.

Manufactured Home Site

The area of land in a manufactured home park for the placement of one manufactured home.

Manufacturing, Light

Enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment, or fabrication of materials and products, from processed or previously manufactured materials. Light industry is typically capable of operation in such a manner as to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration or odor.



Manufacturing, Medium

Enterprises in which goods are generally mass produced from raw materials on a large scale through the use of an assembly line or similar process, usually for sale to wholesalers or other industrial or manufacturing uses. Medium industry typically produces moderate external effects such as smoke, noise, soot, dirt, vibration, or odor.

Marker (survey)

A stake or any other object which is intended to mark a point on a lot or within a subdivision.

Masonry

Masonry is the building of structures from individual units laid in and bound together by mortar; the art, craft and practice of building with natural or artificial stone which involves stone quarrying, cutting, dressing, jointing and laying. Masonry materials allowable are the following: Standard brick, face-brick, veneer; cut-faced block/CMU; EIFS/dryvit (suggested for illusion of stone and other natural material); glass; limestone; native stone or veneers; wood or Hardy fiber cement siding (vinyl siding is excluded).

Massage Parlor

An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electric or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless the treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist or similar professional person licensed by the state.

Massing

The shape and form a building takes on through architectural design. There are 10 architectural design elements that create urban space; (1) building silhouette (similar pitch and scale to a roof line), (2) spacing between building facades (setbacks or notches between primary facades that frame the structure), (3) setback from property line (building setback and/or primary façade setback from the property line), (4) proportion of windows, bays, and doorways (vertical or horizontal elements tied together in bands across façade lengths), (5) proportion of primary façade (size of facades similar in area and height to width ratios), (6) location and treatment of entryway (important visual commonality between structures), (7) exterior materials used (similar materials and treatment add to detail and monumentality of a building), (8) building scale (similarity of building height and configuration), (9) landscaping (ties together buildings and defines space), and (10) shadow patterns from decorative features (the light and dark surfaces from materials used and projections from windows, bays, and setbacks create visual breaks). A specific project may not need to incorporate all 10 elements.

Meat Market (Butcher)

A market that primarily offers retail and/or wholesale meats, but may also sell related incidental products.

Mechanical Equipment

See Equipment, mechanical

Medical Hospital, Center or Complex

An institution licensed by the State Board of Health and providing health services primarily for in-patient medical or surgical care of the sick or injured and including related facilities such as laboratories, outpatient departments, training facilities, central service facilities, and staff offices which are an integral part of the facility, provided such institution is operated by or treatment is given under direct supervision of a licensed physician. Types of hospitals include general, mental, chronic disease and allied special hospitals such as cardiac, contagious disease, maternity, orthopedic, cancer and the like.

Medical or Dental Clinic

An establishment in which patients are admitted, or otherwise treated for medical or dental study or treatment and in which the services of at least two (2) physicians, dentists, optometrists or chiropractors and where other medical practitioners are available.

**Metes and Bounds**

A description of land prepared by a state-registered land surveyor providing measured distances and courses from known or established points on the surface of the earth.

Microbrewery (Brew-Pub)

A facility for the production and packaging of malt beverages of low alcoholic content for distribution, retail, or wholesale, on or off premise, with a capacity of not more than 15,000 barrels per year. The development may include other uses such as a standard restaurant, bar or live entertainment.

Miniature Golf Course

A theme-oriented recreational facility composed of a series of putting greens where patrons pay a fee to move in consecutive order from one green to the next.

Mining or Excavation

The extraction of metallic and nonmetallic minerals or materials from the earth for use off-site, including incidental uses and facilities such as rock crushing, screening, and the necessary storage and use of explosives.

Mini-Storage Facility

A storage structure containing separate storage spaces of varying sizes, each for individual purchase or rental for the storage of household goods.

Mixed-Use Development

An area, parcel of land, or structure developed for two or more different land uses.

Mobile Home

See Dwelling, Mobile Home

Mobile Home Park

A parcel of land with required improvements and utilities containing two (2) or more dwelling sites that are leased for more than sixty days. The phrase "mobile home park" may include the siting use of a "mobile homes sales office".

Modular Home

A factory-fabricated transportable building designed to be used alone or to be incorporated with similar units at a building site and designed and constructed with a perimeter frame to become a permanent structure on a site, with all outside walls supported by a permanent foundation. A modular home is a single-family dwelling for the purposes of this Ordinance.

Monument (survey)

A permanent physical structure which marks the location of a corner or other survey point.

Monument Sales

A retail facility whose primary use is to offer for sale engraving of funerary headstones, monuments, and cemetery markers, and may include on-site manufacturing of monuments.

Mortuary

An establishment under the care and control of a funeral director as licensed pursuant to M.G.L. Chap. 114, Sec. 49 with facilities for the preparation of the dead for burial or cremation, with repose rooms for the viewing of the body, and for funerals, and where final disposition of the body to be elsewhere in accordance with Indiana State Law and where the funeral home director(s) are licensed by the State of Indiana. The term "mortuary" includes the phrase "funeral home." A mortuary may also offer for sale, as an incidental use, accessory funeral items.

**Motel**

An establishment consisting of a group of attached or detached living or sleeping accommodations with bathroom and closet space, located on a single lot, and designed for use by transient automobile tourists.

A motel furnishes customary services such as maid service and laundering of linen, telephone, secretarial, or desk service, and the use and upkeep of furniture. See also Hotel.

Motor Home

See Recreational Vehicle

Motor Vehicle

Any passenger vehicle, truck, tractor, tractor-trailer, truck-trailer, trailer, or semi-trailer propelled or drawn by mechanical power.

Motor Vehicle, Inoperable

See Vehicle, Inoperable

Multi-Family Dwelling

See Dwelling, Multi-Family

Multi-Tenant Building

A grouping of two or more business establishments that either share common parking on the lot where they are located, or that occupy a single structure or separate structures that are physically or functionally related or attached.

Multi-Use Pathway

See Pathway

Museum

A building having public significance by reason of its architecture or former use or occupancy, or a building housing a specific collection of natural, scientific, or literary materials, objects of interest, or works of art, and designed to be used by the public with or without an admission charge. It may include as an accessory use the sale of goods to the public.

Music Store

A retail establishment specializing in the sale of musical instruments and equipment, sheet music, CD's, Vinyl Albums, equipment and other accessories. A music store may include, as an incidental use, vocal and musical instrument/equipment instruction to the public.

N

Natural Condition

The condition that arises from, or is found in nature unmodified by human intervention.

Natural Drainage

Drainage channels, routes, and ways formed over time in the surface topography of the earth prior to any modifications or improvements made by unnatural causes and/or human intervention.

Nature Center

A building, place, or grouping of buildings with a visual center designed to educate people about nature and the environment. A nature center is typically located within a protected open space (i.e. conservancy), or state or Town park designed to be used by the public with or without an admission charge. It may include, as an incidental use, the sale of goods to the public.

**Nature Reserve or Preserve**

A place designated as an area of importance for flora, fauna, or features of geological or other special interest, which is reserved and managed in their current natural condition for conservation purposes and further provides special opportunities for study or research, or preservation for the future. Nature reserves/preserves may be designated by government institutions, or by private landowners, such as charities and research institutions. The phrase “nature reserve/preserve” is intended to include “wildlife sanctuaries”.

Newspaper or Magazine Stand

An establishment that primarily offers for sale newspapers, magazines, and other periodicals. For the purpose of administering and enforcing this Ordinance, the phrase “newspaper or magazine stand” does not include “sexually oriented businesses”.

Night Club

A commercial establishment operated as a place of entertainment featuring live, recorded, or televised musical, comedy, or magic performances; dancing; and/or the serving of alcoholic beverages and/or food. For the purpose of administering and enforcing this Ordinance, the phrase “night club” does not include “sexually oriented businesses.”

Nonconforming Lot

A lot that does not comply with the regulations of the zoning district in which it is located.

Nonconforming Structure

A building or other structure that does not comply to the regulations of the zoning district in which it is located.

Nonconforming Use

A building, structure or use of land existing at the time of enactment of this ordinance, which does not conform to the regulations of the district in which it is situated. This will not include variances existing. Enactment of this ordinance shall remain a variance.

Novelty, Gift or Souvenir Store

An establishment that primarily sells novelty items, gifts and/or souvenirs to the general public. For the purpose of administering and enforcing this Ordinance, the phrase “novelty, gift or souvenir store” does not include “sexually oriented businesses.”

Nuisance

An interference with the enjoyment and use of property as defined by the Nuisance Ordinances of the Town of Albion Code.

Nursery

Any land used to grow fruits, vegetables, trees, shrubs, flowers, and other plants for sale. A nursery may not include the distribution or sale of materials that are not raised on the premises.

Nursing Home

A facility licensed by the State Board of Health, which provides nursing services amounting to 24-hour per day care on a continuing basis; admits the majority of the occupants upon the advice of physicians as ill or infirm persons requiring nursing services; provides for licensed physicians services or supervision; and maintains medical records. Such facilities may also provide other similar medical or health services, including physical therapy services with equipment uses in an on-going basis for patient rehabilitation provided that no occupant requires security restraint within the facility. This facility shall not contain equipment for surgical care or for treatment of disease or injury, and is not primarily designed for mental patients or alcoholics. Examples of nursing home facilities that provide health services typically include nursing homes, convalescent homes, maternity homes, rest homes, homes for the aged, and the like.



O

Objectionable Odor

Odors that are nauseating, noxious, or generally recognized as unpleasant.

Occupancy

The use of any land or structure.

Office Supply Store

A large establishment that offers retail and wholesale office supplies including items such as paper, writing utensils, computer equipment, and office furniture.

Office Use

Administrative, executive, professional, research, or similar organizations, and laboratories having only limited contact with the public, with no merchandise or merchandising services sold on the premises.

Office, Professional

See Professional Offices

Official Zoning Map

A map of Albion, Indiana that legally denotes the boundaries of zoning districts as they apply to the properties within the Advisory Plan Commission's jurisdiction.

Off-Premise Sign

Any sign or structure functioning to direct attention to an establishment or business that is not located on the same legal parcel as the advertising sign or structure.

Off-Street Parking

The provision of parking spaces which are not located on any public right-of-way.

Oil Change Shop

A facility that provides lubrication, checking, changing, and the addition of those fluids and filters needed for automobile maintenance. Generally such services are provided while the customer waits.

Open Space

An area of land not covered by structures or accessory uses except for those related to recreation. Open space may include nature areas; streams and flood plains; meadows or open fields containing baseball, football, and soccer fields, golf courses, swimming pools, bicycle paths, etc. Open space does not include street rights-of-way, platted lot area, private yards, patio areas, or land scheduled for future development.

Ornamental Shrub

See Shrub, Ornamental

Ornamental Tree

See Tree, Ornamental

Outdoor Storage

The keeping of items for sale, the products of manufacturing, materials used in production, vehicles, and other similar materials and/or equipment in an area outside of any building.

Outdoor Storage, Seasonal

The outdoor storage of items for retail sale that are, by their nature, sold during a peak season, such as fruits and vegetables, Christmas trees, lawn accessories, and bedding plants.

**Outlot**

A lot platted as part of a larger development that is intended for the development of uses and structures which are complementary too but of a smaller scale than the primary use or structure in the development.

Overlay Zoning District

A zoning district that extends across one or more other zoning districts which is intended to provide additional or alternate regulations for a specific critical feature or resource.

Owner

Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to, or sufficient proprietary interest in the land, or their legal representative.

Owners Association

See Lot Owners Association

P

Packaging Facility

A facility that packages supplies and products that are manufactured off site.

Parapet

The portion of a wall which extends above the roof line.

Parcel

See Lot

Park

Any public or private land and related structures, including athletic facilities, shelter houses, and maintenance facilities that are designed to provide recreational, educational, cultural, or aesthetic use to the community.

Parking Facility

A public or private area or parcel of land located outside of the public right-of-way and used for the storage of motor vehicles for limited periods of time. A parking facility includes all parking spaces, interior drives, and maneuvering areas, and may be an open parking lot or parking structure.

Parking Lot

An open off-street area to be used for the storage of motor vehicles for limited periods of time. A parking lot includes all parking spaces, interior drives, and maneuvering areas. Outdoor areas at facilities where motor vehicles, including uninstalled mobile and manufactured homes, are sold that are intended for the storage of such vehicles are also considered a parking lot.

Parking Space

An open space within a public or private parking area exclusive of maneuvering aisle and driveway for the parking of a motor vehicle.

Parking, Off-Street

A storage space for an automobile located outside of a street right-of-way.

Parking, On-Street

A storage space for an automobile that is located within the right-of-way of a street.

Parking, Shared

A parking space or lot used jointly by two or more uses or structures.

**Pathway**

A designated route for travel by pedestrians, bicycles, and other non-motorized methods of personal transportation and recreation which is surfaced with crushed rock, concrete, or asphalt and separated from streets by distance or striping.

Paved Surface

A durable surface for parking, driving, riding or similar activities that utilizes asphalt, Portland cement, concrete, brick, paving blocks, or other approved surfaces. Crushed gravel, street grindings, stone, rock, or dirt, sand or grass are not a paved surface.

Payday Loan Establishment

Any establishment where a short-term loan is offered with intent to cover a borrower's expenses until his or her next payday.

Penal Institution

Publicly or privately operated facilities housing persons awaiting trial or persons serving a sentence after being found guilty of a criminal offense. The phrase "penal institution" shall include the phrase "correctional institution."

Permanent Foundation

A structural system for transposing loads from a structure to the earth at a depth below the established frost line without exceeding the safe bearing capacity of the supporting soil.

Permanent Perimeter Enclosure

A permanent perimeter structural system completely enclosing the space between the floor joists of the home and the ground, except for necessary openings.

Person

A person, corporation, firm, partnership, association, trust, organization, unit of government, or any other entity that acts as a unit, including all members of any group.

Personal Services

An establishment or place of business primarily engaged in the provision of frequent and recurrent services of a personal nature, such as a beauty or barber shop, shoe repair shop, or tanning salon.

Pet Store

A retail sales facility primarily involved in the sale of domestic animals, such as cats, dogs, fish, birds, and reptiles as well as domestic pet accessories. A pet shop does not include the retail sale of exotic or farm animals.

Petitioner

See Applicant

Petroleum Processing and Storage

An establishment that processes and stores petroleum and its raw ingredients.

Pharmacy

A place where drugs and medicines are prepared and dispensed. Pharmacy also includes the incidental retail sale of medical accessories and convenience goods and services.

Philanthropic Institution or Facility

A building, place, or grouping of buildings used to provide humanitarian or charitable assistance contributing to the greater good of society. This facility may be utilized for office and administration purposes, community engagement, education, storage of goods, and other accessory uses.

**Photographic Studio**

A facility engaged in onsite photography, processing, and development, including limited retail sale, lease and service of photography equipment and supplies.

Place of Worship

See Religious Institution or Other Place of Worship

Plan

See Comprehensive Plan

Plan Commission

A planning commission serving a single local government jurisdiction established as defined under the IC 36-7-1-2 (1983) as amended. The Albion Plan Commission is an Area Plan Commission.

Planned Unit Development (*under Planned Development*)

A unified development meeting the requirements of this Ordinance. Generally a planned unit development provides design flexibility (e.g. mixed use) for a parcel or parcels to be developed as a single entity which does not correspond in size of lots, layout, bulk or type of buildings, density, lot coverage, and required open space to the regulations established in any zoning district of this Ordinance.

Planning Jurisdiction

The area over which a city, town or county has planning authority as drawn by each community in compliance with IC 36-7-4 et al.

Planting Season

The spring and fall time periods during which new plant material which is installed is most likely to survive the planting process. Generally these periods are from April 15 to June 15 in the spring and from October 15 to November 15 in the fall.

Plat

A map indicating the subdivision or resubdivision of land filed or intended to be filed for record with the County Recorder.

Plat, Primary

The primary plat, pursuant to IC 36-7-4-700 series, is the plat and plans upon which the primary approval of a proposed subdivision is based.

Plat, Secondary

The secondary plat, pursuant to IC 36-7-4-700 series, is the plat document of a subdivision meeting all of the requirements of the Town prepared in a recordable form.

Playground

A recreational area for use primarily by children.

Porch

A covered, but otherwise unenclosed structure projecting out from the wall or walls of a main structure.

Post Office

A facility operated by the United States Postal Service that houses service windows for mailing packages and letters, post office boxes, offices, and which also sorts and distributes the mail. A post office may include on-site storage of delivery vehicles.

**Power Generation Facility**

A facility that produces usable electricity by harnessing any array of resources including fossil fuels, water, wind, and solar sources.

Practical Difficulty

A difficulty with regard to one's ability to improve land stemming from regulations of this Ordinance. A practical difficulty is not a "hardship," rather it is a situation where the owner could comply with the regulations within the Zoning Ordinance, but would like a variance from the Development Standards to improve his/her site in a practical manner. For instance, a person may request a variance from a side yard setback due to a large tree which is blocking the only location that would meet the Development Standards for a new garage location.

Primary Plat

See Plat, Primary

Primary Structure

The building or structure in which the primary use of the lot or premises is located or conducted, with respect to residential uses, the primary building or structure shall be the main dwelling. For agricultural uses, the primary structure may be a barn or other agricultural structure.

Primary Use

See Use, Primary

Print Shop or Copy Center, Commercial or Industrial

A facility specializing in commercial or industrial scale reproduction of written or graphic materials on a custom order or contract basis. Typical processes include, but are not limited to: large scale plotting, photocopying, blueprint, and facsimile sending and receiving, offset printing, logo-printing, stationary and calendar production and other similar activities.

Print Shop or Copy Center, Retail

A facility for the custom reproduction of written or graphic materials on a custom order basis for individuals or businesses. Typical processes include, but are not limited to: large scale plotting, photocopying, and facsimile.

Printing/Publishing Facility

A large scale facility that specializes in the printing and publication of books, magazines, or newspapers for the purposes of sale or distribution. This use may require storage and or distribution facilities for goods and vehicles.

Private Club

A facility or property owned or operated by a corporation, association, person or persons for a social, educational, or recreational purpose and for which membership is required for participation.

Private Recreational Facility

A recreational facility for use by residents and guests of a particular residential development, church, private primary or secondary educational facility, or limited residential neighborhood, including both indoor and outdoor facilities and privately-owned golf courses open to the public.

Private Street

See Street, Private

Processing Plant

A building or an enclosed space used for the collection and processing of material. "Processing" means the preparation of material for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing.

**Professional Office**

A building or establishment for the provision of professional services. Professional services are typically provided by, but are not limited to: doctors, lawyers, architects, financial advisors, stockbrokers, and engineers.

Prohibited Trees

See Trees, Prohibited.

Property Owner

The person(s) identified as the property owner on the most recent list prepared and maintained by the Noble County Auditor's Office. See also Owner.

Public Art

Any visual work of art that is accessible to public view and located on public or private property.

Public Hearing

A formal meeting, announced and advertised in advance consistent with the requirements of this Ordinance, which is open to the public, and at which members of the public have an opportunity to participate.

Public Improvement

Any improvement, facility, or service which provides transportation, drainage, public utilities, or similar essential services which are typically or specifically required to be provided by a unit of government.

Public Street

See Street, Public

Public Utility Structure

Electric and telephone substations and distribution centers, filtration plants, pumping stations and water reservoirs; public or package sewer treatment plants, telephone exchanges; radio and television transmitting or relay stations; antenna towers and other similar public utility service structures.

Publishing Facility

Any facility that prints and/or assembles publications including books, magazines, and newspapers for the purposes of sale and/or distribution.

R**Racetrack**

Any measured venue for the sport of racing where animals or machines are entered in competition against one another or against time. A racetrack may or may not have areas for spectators. Racetrack includes, but is not limited to, oval track racing, drag racing, motorcross, tractor pulling, go-cart racing, remote control airplane flying, and similar uses.

Radio or TV Station

A facility primarily engaged in the production and broadcasting of television or radio programs. The size of this facility varies based on scale of operation. Broadcasting and transmission facilities are subject to municipal and FCC codes.

Rear Yard

See Yard, Rear

Record

The written documentation of the actions and expressions of a public body, such as the Advisory Plan Commission or Board of Zoning Appeals.



Record Shop (CD Shop)

An establishment that primarily deals with new and used audio recordings in an array of media formats. Some shops also include the sales of new and used video recordings as well.

Recreation

The refreshment of body and mind through forms of play, amusement, or relaxation. The recreational experience may be active, such as boating or swimming, or individual or team sports, or may be passive, such as enjoying the natural beauty of the shoreline or its wildlife.

Recreation Facility, Indoor

A public or private indoor facility designed to provide opportunities for recreation. The term "indoor recreation facility" typically includes structures for active and passive recreation similar to but separate from "fitness centers" and "community centers". Indoor recreational facilities typically include indoor tracks, indoor soccer facilities, paint-ball facilities, and facilities that house similar activities. This facility may include an accessory recreational area, provided as part of a development that is owned and maintained by the owners' association or property owner primarily for the use of the residents or employees of the development, and which may also be made accessible for use by the general public through associate membership subscription or user fees.

Recreation Facility, Outdoor

A public or private outdoor facility designed to provide opportunities for recreation. The term includes active and passive recreational structures such as: swimming pools, skating rinks, tennis courts, basketball courts, pavilions, picnic areas, and the like. This facility may include an accessory recreational area, provided as part of a development that is owned and maintained by the owners' association or property owner primarily for the use of the residents or employees of the development, and which may also be made accessible for use by the general public through associate membership subscription or user fees.

Recreational Use, Large Scale

Recreational uses that tend to serve a regional area and include establishments such as riding stables, seasonal hunting and fishing facilities, and outdoor shooting ranges.

Recreational Use, Medium Scale

Recreational uses that tend to serve a community-wide area and include establishments such as bowling alleys, theaters, assembly halls, miniature golf courses, indoor shooting ranges, swimming pools, and skating rinks.

Recreational Use, Small Scale

Recreational uses that tend to serve a local area and include establishments such as billiard rooms, arcades, nightclubs, brewpubs, and bars.

Recreational Vehicle

Any building, structure, or vehicle designed and/or used for seasonal living or sleeping and/or recreational purposes and equipped with wheels to facilitate movement from place to place (either under its own power or towed by another vehicle). Recreational vehicles are built on a single chassis and measure 400 square feet or less, including the largest horizontal projections. Recreational vehicles include automobiles when used for living or sleeping purposes, pick-up truck coaches, motorized homes, boats, jet skis, wave runners and other aquatic vehicles, travel trailers, snow mobiles, and camping trailers not meeting the definition of a manufactured or mobile home.

Recreational Vehicle Park

Any site, lot, field, or tract designed with facilities for the temporary use of recreational vehicles.

**Recreational Vehicle Sales or Service**

Any principal use of a premise for one or more of the following purposes: (a) sale or lease of new recreational vehicles; (b) purchase and sale of second hand recreational vehicles; (c) buying of second hand recreational vehicles for the purpose of remodeling, taking apart or rebuilding or selling the same, or the buying selling of parts of second hand recreational vehicles or tires, or the assembling of second hand recreational vehicles parts; or (d) repair and servicing of recreational vehicles provided said repair and servicing is conducted as an incidental service.

Recreational Vehicle Storage, Outdoor

A secure outdoor facility for the storage of recreational vehicles.

Refuse Dump

A facility designated to receive and hold municipal solid waste and other waste matters. Waste at a refuse dump is not compacted or covered as it is in a sanitary landfill.

Registered Architect

An architect properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

Registered Land Surveyor

A land surveyor properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

Registered Landscape Architect

A landscape architect properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

Registered Professional Engineer

An engineer properly licensed and registered or through reciprocity permitted to practice in the State of Indiana.

Regulatory Flood

The flood having a one percent probability of being equaled or exceeded in any given year, as calculated by a method and procedure which is acceptable to and approved by the Indiana Natural Resources Commission and the Federal Emergency Management Agency. The "Regulatory Flood" is also known by the term "Base Flood."

Regulatory Floodway

The channel of a river or stream and those portions of the flood plains adjoining the channel which are reasonably required to efficiently carry and discharge peak flow of the regulatory flood of any river or stream and, is that area covered by floodwaters in significant downstream motion or covered by significant volumes of stored water during the occurrence of the regulatory flood.

Religious, Place of Worship

The use of a building or property, or some combination thereof, by a non-profit group for the purpose of religious worship together with all incidental uses commonly associated with such a facility, such as a day-care center or school. The phrase "religious place of worship" includes synagogue, temple, mosque or any other like facility used for worship and religious activities.

Repair Services

Establishments that provide repair services to individuals and households, rather than businesses, not including automotive and equipment repair. Typically such services include the repair of appliances, watches, jewelry, and musical instruments.

Replat

Any change in a final plat of an approved or recorded subdivision.

**Research and Development Facility**

A facility primarily engaged in the development and acquisition of information, specialized technology or to introduce ideas into the business in order to improve competitiveness and profitability. For the purpose of administering and enforcing this Ordinance, the phrase “research and development facility” shall include “laboratories”.

Residence

See Dwelling

Residential District

An area used primarily for dwellings.

Residential Treatment Center

Any facility licensed by the Indiana Department of Health, public or private, which regularly provides one or more people with 24-hour a day substitute care, food, lodging, training, education, supervision, habilitation, rehabilitation and treatment they need, but which for any reason cannot be furnished in the person’s own home.

Residential/Institutional Facility for the Developmentally Disabled or Mentally Ill

A residential facility which provides residential services for mentally ill individuals, as defined by IC 12-28- 4-7, as amended from time to time.

Restaurant

A structure in which the principal use is the preparation and sale of food and beverages.

Restaurant, Drive-in

A facility and its adjacent parking area wherein the primary function is to offer for sale food to the public by order from and service to passengers in vehicles parked outside of the structure. Drive-in restaurants may also provide seating within the restaurant.

Restaurant, Eat-In

A commercial establishment where food and beverages are prepared, served, and consumed primarily within the principal building and where food sales typically constitute more than fifty percent of the gross sales receipts.

Restaurant, Fast Food

A commercial establishment where customers order and are served their food at a counter or in a motor vehicle in packages prepared to leave the premises, or which are able to be taken to a table or counter to be consumed.

Retail Uses

Commercial enterprises that provide goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the business.

Retail Uses, Large Scale

Retail uses that tend to serve a regional area and include establishments such as supermarkets, shopping malls, and department stores.

Retail Uses, Medium Scale

Retail uses that tend to serve a community-wide area and include establishments such as craft stores, sporting goods stores, pharmacies, antique shops, meat markets, and repair services.

Retail Uses, Small Scale

Retail uses that tend to serve a local area and include establishments such as video stores, delicatessens, bakeries, gift shops, and ice cream shops.

**Retirement Facility**

A residential structure containing multi-family dwelling units designed for and occupied by senior citizens. Such facilities may include common gathering and dining facilities, but typically do not include nursing or medical care.

Retreat Center

A facility used for professional, educational, or religious meetings, conferences, or seminars which provides meals, housing, and recreation for participants during the period of the retreat or program.

Reverse Gable

Roof sections that extend in the opposite direction from the normal gable construction. These are usually miniature additions that allow homeowners to include windows and peaks in an otherwise flat roof slope. A reverse gable roof reverses the direction of the gable, versus the gable structure itself, making the roof a secondary construction attached to the main roof of the house.

Rezoning

An amendment to the Official Zoning Map which has the effect of removing property from one zoning district and placing it in a different zoning district.

Riding Stable

An establishment that shelters and offers upkeep to horses for use by patrons and private owners. Stables generally include grazing pastures and land designated for horseback riding.

Right-of-Way

Property occupied or intended to be occupied by a street, trail, utility transmission line, or other public utility or facility.

Right-of-Way Line

The limit of publicly owned land encompassing a public facility, such as a street or an alley as measured in the Thoroughfare Plan.

Road

See Street

R-O-W

See Right-of-Way

S

Sales, Incidental

Sales that are related and subordinate to the primary service or retail activities of a commercial use.

Sales, Temporary Seasonal

Facilities that are indoor or outdoor and operate on a temporary basis for the sale of seasonal fruits and vegetables, fireworks, Christmas trees, and/or other holiday, event, or season related products.

Sanitary Landfill

The designated area where non-hazardous and non-medical farm, residential, institutional, commercial, or industrial waste is buried.

Satellite Dish/Antenna

An apparatus capable of receiving communications from a transmitter relay located in a planetary orbit or broadcasted signals from transmitting towers.

**School, Commercial (Trade or Business)**

A specialized instructional establishment that provides on-site training of business, commercial, and/or trade skills such as technology, cosmetology, accounting, data processing, and computer programming and repair. The terms commercial, trade or business schools are intended to include vocational schools and career centers.

School, Nursery

A school for children between the ages of three (3) and five (5) years of age, staffed by qualified teachers and other professionals who encourage and supervise educational play rather than simply providing childcare.

School, Pre-K through 12

A public, private, or parochial institution which offers instruction in any of the branches of learning and study comparable to that taught in the public schools under the State of Indiana school laws and/or regulations, including pre-school, kindergarten, elementary school, and junior and senior high schools.

School, University or College

An institution, public or private, for post-secondary education offering courses in general, technical, or religious education. This use typically operates in buildings owned or leased by the institution for administrative and faculty offices, student and faculty housing, classrooms, laboratories, chapels, auditoriums, lecture halls, libraries, student and faculty centers, community rooms and facilities, athletic facilities, fraternities, or sororities. A university may include for-profit businesses and facilities that are incidental to the educational, cultural, and athletic functions and which lease space from the institution.

Scrap Metal Yard

A general industrial use established independent or ancillary to and connected with another general industrial use, which is concerned exclusively in new and salvaged metal pipes, wire, beams, angles, rods, machinery, parts, filings, clippings, and all other metal items of every type, and which acquires such items incidental to its connection with the other general industrial use or by purchase, consignment or bailment which stores, grades, processes, melts, cuts, dismantles, compresses, cleans, or in any way prepares said items for reuse by the connected other general industrial use or for storage, sale or shipment and use in other industries or businesses including open hearth, electric furnaces and foundry operations; such an establishment shall not include junk yards, dumps, or automobile graveyards.

Seasonal Hunting/Fishing Facility

A designated outdoor area that allows for the hunting and fishing of certain species during their appropriate gaming seasons.

Section

A unit of a manufactured home at least ten (10) feet in width and thirty (30) feet in length.

Seed Sales, Distribution, and Storage

An establishment that sells, stores, and distributes agricultural seed for farm planting. Such establishments primarily sell in bulk for commercial farm purposes.

Self Service Laundry

A business with vending machine type washing, drying, dry-cleaning, and ironing equipment for use by customers on site.

Self Storage or Mini-warehouse, Commercial

Facilities that rent spaces or units within a permanent building, for the temporary or long-term storage of personal items. These businesses generally have lease agreements with customers and have hours of operation during which customers may access their stored items.



Services, Personal and Professional

See Professional Services

Setback

The horizontal distance between a structure and a lot line or right-of-way line.

Sewage Treatment Plant

Any facility designed for the treatment of sewage that serves an entire community, region, or specific geographic area.

Sexually Oriented Business

Any commercial activity whether conducted intermittently or continuously, which primarily involves the sale, display, exhibition, or viewing of books, magazines, films, photographs, or other materials, distinguished or characterized by an emphasis on matter depicting, describing, or relating to human sex acts, or by an emphasis on male or female genitals, buttocks, or female breasts. Sexually oriented businesses typically include, but are not limited to the following:

- a) Adult Bookstore – meaning any establishment having as a preponderance of its stock in trade or its dollar volume in trade any merchandise for sale, trade or lease which are distinguished or characterized by their emphasis on adult matter;
- b) Adult Cabaret – meaning a nightclub, bar, theater, restaurant or similar establishment which frequently features live performances by topless or bottomless dancers, strippers, or similar entertainers, whether professional or amateur, where such performances are distinguished or characterized by an emphasis on, or by exposure of, adult matter;
- c) Adult Live Entertainment Arcade – meaning any building or structure which contains or is used for commercial entertainment where the patron directly or indirectly is charged a fee to view from an enclosed or screened area or booth a series of live dance routines, strip performances or other gyrational choreography and where performances are distinguished or characterized by an emphasis on, or by exposure of, adult matter;
- d) Adult Motel – meaning any motel or similar establishment offering public accommodations for any form of consideration which provides patrons, upon request, with closed-circuit television transmissions, films, motion pictures, video cassettes, DVD's , digital or physical slides or other photographic, reproduction which are distinguished or characterized by an emphasis upon the depiction or description of adult matter;
- e) Adult Motion Picture Theater - meaning any establishment, to which the public is permitted or invited, used for presenting films, motion pictures, video cassettes, DVD's , digital or physical slides or similar photographic reproductions in which a preponderance of the total presentation time is devoted to showing of materials which are distinguished or characterized by an emphasis on adult matter; or
- f) Adult Service Establishment – meaning any building, structure, premises or other facility, or any part thereof, under common ownership or control which provides a preponderance of services involving adult matter.

Shade Tree

See Tree, Shade

Shipping Service, Retail

A commercial establishment whereby items can be shipped via various carriers on a custom order basis for individuals or businesses.

Shoe Repair Shop

An establishment that primarily repairs shoes, with incidental sales of shoe related items.

Shooting Range

Any establishment at which firearms are discharged for the purpose of recreation and entertainment.

**Shooting Range (Indoor)**

A shooting range at which all shooting areas and targets are completely enclosed in a structure.

Shooting Range (Outdoor)

A shooting range at which any portion of the shooting areas or targets are located outside of a completely enclosed structure.

Shopping Mall

A shopping center where numerous stores front on a pedestrian way that may be enclosed or open.

Shrub, Ornamental

A shrub planted primarily for its ornamental and screening value, not to be confused with a perennial.

Side Lot Line

A lot boundary line other than a front or rear lot line, typically those which are perpendicular to, and intersect with the front and rear lot lines.

Side Yard

See Yard, Side

Sight Visibility Triangle

Triangular shaped areas on each corner of an intersection that are looked through by drivers approaching or departing an intersection to view oncoming traffic on crossing streets and roadways.

Sign

Any name, identification, description, device, display, or illustration which is affixed to, painted, or represented directly or indirectly upon a building, structure, or piece of land which directs attention to an object, product, place, activity, person, institution, organization, or business. A sign includes the face area which conveys a message, any equipment or sign device, and any related mechanical, electrical, and structural supports and features, such as poles and lighting. In no instance shall this Ordinance be interpreted as considering any flag as a sign.

Sign Permit

A permit issued by the Zoning Administrator on behalf of the Advisory Plan Commission that must be obtained before temporary and permanent signs are erected.

Sign Setback

The distance between any property line or right-of-way and the nearest portion of any sign at or above grade level.

Sign, Abandoned

A sign that identifies or advertises a business, product, service, owner, or other activity that is no longer located on or conducted on the property where the sign is displayed.

Sign, Animated

A sign with action, motion, or changing colors or lights, any of which imitates movement. A flashing sign shall be considered to be an animated sign.

Sign, Area

The entire face of a sign including the message surface and any framing or trim, but excluding any poles or other supports. Sign area is measured as the maximum vertical dimension of the face area multiplied by the maximum horizontal dimension of the face area, each at its largest point.

**Sign, Awning**

A sign incorporated into, or attached to an awning.

Sign, Banner

A sign with a message applied to cloth, paper, fabric, or flexible plastic, with any such non-rigid material for background.

Sign, Billboard

See Sign, Off-Premise

Sign, Changeable Copy

A sign or portion thereof which has a reader board for the display of text information in which each alphanumeric character, graphic or symbol is defined by objects which may be changed or rearranged manually or mechanically with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. Changeable copy signs typically display a static message rather than a message that imitates movement.

Sign, Directional

Any on-premises sign that includes information assisting in the flow of pedestrian or vehicular traffic, such as "enter", "exit", and "one-way".

Sign, Double-Faced

A sign designed and/or used to display a message on the outer surface of two identical and opposite parallel planes.

Sign, Electronic Message Board

A sign or portion thereof that display electronic information in which each alphanumeric character, graphic or symbol is defined by a small number of matrix elements using different combinations of light emitting diodes (LEDs), fiber optics, light bulbs, or other illumination devices within the display area itself. Electronic message board signs typically include computer programmable, microprocessor controlled electronic displays. For the purposes of administering and enforcing this Ordinance, the phrase

"electronic message board" shall also include projected images or messages onto a building or other object.

Sign, Entry Feature

A permanent on-premise sign identifying an entrance to a residential subdivision, apartment complex, or manufactured home park.

Sign, Face

The area or display surface used for the message.

Sign, Free-Standing

A sign supported completely by a frame, pole, or foundation and which is independent from all other structures on the property.

Sign, Ground

A street sign supported by one or more uprights, posts, or bases placed upon or affixed in the ground and not attached to any part of a building. It includes Freestanding Signs and Monument Signs.

Sign, Height

The highest point measured from adjacent street grade level to the highest point of the sign, including any structure, frame, light fixture, or other element of the sign.

**Sign, Illuminated**

A sign lighted by or exposed to artificial lighting either by internal or external illumination.

Sign, Monument

A sign that is permanently affixed to the ground at its base, supported entirely by a base structure, and not mounted on a pole. This sign could be displayed on a decorative feature of brick, wood or other material, which is intended to serve as an entry feature or focal point.

Sign, Mural

A sign painted onto the side of a building, wall, ground, or structure.

Sign, Off-Premise

A sign which directs attention to a business, commodity, service, organization, or entertainment conducted, sold, or offered elsewhere than upon the premises where such sign is located or to which it is affixed. This includes billboard and other outdoor advertising and directional signs located on private property.

Sign, Opinion

A sign which does not advertise a product, good, business, or service and which expresses an opinion or point of view, such as a student achievement announcement, a political, religious, or other sentiment, or support or opposition to a candidate or proposition for a public election.

Sign, Pole

A free-standing sign, usually double-faced, mounted on a round pole, square tube or other fabricated member without any type of secondary support; a free-standing sign with a visible support structure.

Sign, Portable

Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A or T-frames; menu or sandwich board signs; and balloons used as signs.

Sign, Poster

Any sign made of cardboard, metal, plastic or other semi-rigid material which is attached to outdoor products, structures, or other features, or anchored into the ground with the use of stakes.

Sign, Projecting

A sign attached to and projecting out from a building face or wall, generally at right angles to the building.

Sign, Pylon

A free-standing sign, other than a pole or ground mounted sign, which is secured permanently to the ground by one or more supports. A pylon sign differs from a pole sign in that the support structure (i.e. pole or poles) of a pylon sign is not visible.

Sign, Real Estate

A temporary sign that relates to the sale, lease or rental of property or structures, or to construction activity on a site.

Sign, Sandwich Board

A free-standing sign located at grade level constructed in such a manner as to form an "A" by separating to opposite and parallel sign faces by supporting structural members.

Sign, Searchlight

A searchlight used to attract attention to a property, use, or structure consistent with the definition of a sign.

**Sign, Temporary**

An on-premise sign not fixed to a permanent foundation and displayed for a fixed period of time, for the purpose of conveying information, knowledge, or ideas to the public about a subject related to the activities on the premises upon which it is located.

Sign, Unified Development

A single sign structure with one or more sign faces indicating the presence of multiple tenants on a property being constructed or managed as a single development. Such developments include, but are not limited to: shopping centers, office parks, and industrial parks.

Sign, Vehicle

A sign that is attached to or painted on a parked vehicle for the purpose of drawing attention to the product, business, or property which is indicated on the sign.

Sign, Wall

A sign attached to or painted on the exterior wall of a structure.

Sign, Window

A sign affixed to a window or placed immediately behind a window pane so as to attract the attention of persons outside of the structure.

Signable Area

A two-dimensional area that describes the largest square, rectangle, or parallelogram on the facade of a building which is free of architectural details.

Site Development Plan

The plan indicating the location of existing and proposed buildings, structures, paved areas, walkways, vegetative cover, landscaping and screening within a site proposed for development which is to be submitted for approval prior to the release of Improvement Location Permits on the site consistent with the requirements of the IC 36-7-4-1400 series.

Site Improvement

The erection, construction, placement, repair, alteration, conversion, removal, demolition, maintenance, moving, razing, or remodeling of any new or existing structure or any part thereof and any activity for which an improvement location permit is required.

Skating Rink

An establishment that provides facilities for patron skating.

Sorority, Educational

A club or social activity officially associated with and recognized and supervised by an institution for higher education whose membership is limited exclusively to students of the institution.

Sorority, Social

A private club of individuals organized around a civic, social, or intellectual goal or pursuit. See also Private Club.

Special Exception (*under Special Use*)

A use that would not be appropriate generally or without restrictions throughout the zoning district, but if controlled as to number, area, location, or relation to the neighborhood, would promote public health, safety, and general welfare.

Special Exception, Use

See Use, Special Exception

**Special Flood Hazard Area (SFHA)**

Those lands within the jurisdiction of the Town of Albion that are subject to inundation by the regulatory flood. The SFHAs of the Town are identified on the Flood Insurance Rate Map of Noble County prepared by the Federal Emergency Management Agency.

Sporting Goods Shop

An establishment that primarily sells sporting equipment, sporting apparel, and related items.

Spot Zoning

The zoning of a typically small area of land controlled by a single or limited number of property owners that results in the property involved being granted permitted uses and/or development standards that are inconsistent with those provided to, or planned for, similar surrounding properties.

Spotlight

A fixture designed to direct a narrow intense beam of light on a desired area.

State

The State of Indiana.

Stationary Shop

An establishment that primarily sells stationary, paper, cards, writing utensils, and various related items.

Stockade Fence

A wooden fence made of half round posts with pointed tops.

Stop-Work Order

A written document issued by an enforcement official which requires the cessation of an activity.

Storage, Outdoor

See Outdoor Storage

Story

That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling above it.

Stream Bank

The usual boundaries, not the flood boundaries, of a stream channel.

Street

A partially or fully improved public thoroughfare, including a road, highway, drive, lane, avenue, place, boulevard, and any other thoroughfare that affords vehicular access to abutting property.

Street Frontage

The distance along which a property line of a lot abuts the right-of-way of an adjacent street.

Street Intersecting

Any street that joins another street at an angle, whether or not it crosses the other street.

Street Intersection

The point of crossing or meeting of two or more streets.

Street Orientation

The direction of the architectural front façade of a building in relation to the street.

**Street Vista**

A view framed by buildings at the termination of the axis of a thoroughfare.

Street, Arterial

A street which serves the major traffic movements within a community, such as between the central business district and the outlying commercial and residential areas, as well as a majority of the vehicular traffic entering and leaving the town to travel to and from adjacent communities. The Town's arterial streets are identified on the Thoroughfare Plan within the Albion Comprehensive Plan.

Street, Collector

A street designed and used to carry moderate volumes of traffic from local streets to arterial streets. The Town's collector streets are identified on the Thoroughfare Plan within the Albion Comprehensive Plan.

Street, Cul-de-sac

A street with a single common ingress and egress and with a turn-around at the end.

Street, Local

A street designed to provide vehicular access between individual properties and the collector and arterial street system which provides right-of-way for sewer, water, and storm drainage pipes. The Town's local streets are identified on the Thoroughfare Plan within the Albion Comprehensive Plan.

Street, Non-Residential

Any street where the primary land use of the lots which the street provides access to, as well as the lots on either side of the street is not residential.

Street, Private

Any street which is privately owned and maintained that is used to provide vehicular access to more than one property or dwelling unit.

Street, Public

A street constructed and maintained by a unit of government within an officially deeded and accepted public right-of-way.

Street, Residential

Any street where the primary land use of the lots which the street provides access to, as well as the lots on either side of the street is residential.

Structural Alterations (*under Structural Change*)

Any change in the supporting members of a building or structure such as bearing walls, partitions, columns, beams or girders, or any substantial change in the footprint or increasing size of living space.

Structure

Anything constructed or erected that requires location on or in the ground or attachments to something having a location on or in the ground.

Structure Height

The vertical distance measured from adjacent ground level to the highest point of the roof.

Studio, Art/Artist

An establishment for the conducting of one or more of the following activities: painting, sculpturing, jewelry making, weaving or other similar function defined as a fine art. For the purpose of this Ordinance, the phrase "art/artist studio" does not include "tattoo or piercing parlors", or "sexually oriented businesses".

**Studio, Performing Arts**

A facility for performing arts education and productions such as dance, aerobics, and pilates. For the purpose of this Ordinance, the phrase "performing arts studio" does not include "tattoo or piercing parlors", or "sexually oriented businesses".

Subdivider

Any person or other entity which initiates proceedings to create a subdivision. See also Developer.

Subdivision

The division of any lot, tract or parcel of land into two or more lots, parcels, sites or other divisions for the purpose, whether immediate or future, of sale, transfer, gift, or lease which results in one or more new building sites.

Sub-lots

Portions of a lot of record created in connection with the transfer of ownership of individual dwelling units in a two-family or multi-family dwelling.

Substantial Improvement

For the purpose of flood hazard area standards, substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage" regardless of the actual repair work performed. This term does not include improvements to structures to correct existing violations of state or local health, sanitary, or safety code requirements or any alteration of an "historic structure", provided that the alteration will not preclude the structure's continued designation as an "historic structure".

Supermarket

See Grocery Store.

Supply Yards

A commercial establishment storing or offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods. Supply Yards do not include the wrecking, salvaging, dismantling or storage of automobiles and similar vehicles.

Surety

An amount of money or other negotiable instrument provided by a developer to the Town which guarantees that they will perform all actions required by the Town regarding an approved site development plan, plat, or other improvement, which provides that if the developer fails to comply with the requirements of approval, funds will be provided for the Town to complete those requirements.

Swimming Pool

Any structure located either at, above, or below grade which is designed and/or used to hold water which exceeds two feet in depth at any point for the purpose of recreation and entertainment of adults and children.

T

Tailor Shop

An establishment that alters and repairs clothing for patrons.

Tanning Salon

Any business which provides a service using artificial lighting systems or spray booths to produce a tan on a person's body. The phrase tanning salon may include the incidental sale of tanning products.

**Tattoo and/or Piercing Parlor**

A business providing tattooing and/or piercing services by licensed professionals under Indiana State Law.

Tavern

See Bar

Telecommunications

The transmission of information between or among geographic points without change in the form or content of the information as sent or received.

Telecommunications Antenna

Any structure or device, including all appurtenances, used for the purpose of collecting or radiating electromagnetic waves, including those used to transmit cellular telephone service, data, radio and television signals, and any other information.

Telecommunications Tower

A mast, pole, monopole, guyed, or freestanding framework, or other vertical structure that acts as an antenna or to which an antenna is affixed or attached.

Temporary Seasonal Sales

See Sales, Temporary Seasonal

Temporary Use

See Use, Temporary

Theater, Indoor

An indoor facility for audio and visual productions and performing arts. For the purpose of this Ordinance, the phrase "indoor theater" shall not include "tattoo or piercing parlors", or "sexually oriented businesses".

Theater, Outdoor

A type of theatre located outdoors consisting of a large outdoor screen, a projection booth, a concession stand and a large parking area for automobiles. Also known as a Drive-In Theater.

Thoroughfare Plan

The official plan, now and hereafter adopted, which sets forth the location, alignment, dimensions, and classification of existing and proposed streets and other thoroughfares.

Tobacco Store

A business selling tobacco in various forms and the related accoutrements per Indiana State Laws regarding sale of tobacco products.

Tool and Dye Shop

An establishment that processes, cuts, and molds metal into tools, molds, machine components, and similar products.

Topography

The configuration of the earth's surface, including the relative relief, elevations, and position of land features.

Topping

The indiscriminate cutting back of tree branches to stubs or lateral branches that are not large enough to assume the terminal role. Other names for topping include "heading," "tipping," "hat-racking," and "rounding cover."

**Tower**

A ground pole, spire, structure, or combination thereof including supporting lines, cables, wires, braces, and masts intended primarily for the purpose of mounting an antenna, a meteorological device, or other similar apparatus above ground.

Townhouse

A one-family dwelling with a private entrance that is attached horizontally to other dwelling units in a linear arrangement, with a front and a rear wall that are totally exposed for light, access, and ventilation.

Trade or Business School

A specialized instructional establishment that provides on-site training of business, commercial, and/or trade skills such as accounting, data processing, and computer repair. Includes vocational schools and career centers.

Trail

A public way, separate from a street, alley, or other vehicle roadway, designed for and used by pedestrians, cyclists, and others using non-motorized transportation and recreation equipment.

Transit Station

A public facility designed and used as a destination stop for future regional public transportation systems including, but not limited to, commuter light-rail systems, pedestrian travel and bus rapid transit systems.

Tree

An object of natural growth.

Tree, Broadleaf

Trees having non-needle like leaves.

Tree, Deciduous

Trees and shrubs that shed their leaves annually.

Tree, Evergreen

Trees and shrubs that do not shed their leaves annually.

Tree, Ornamental

A deciduous tree possessing qualities such as flowers or fruit, attractive foliage, bark or shape, with a mature height generally under 35 feet.

Tree, Prohibited

A tree, as listed in this Ordinance that does not meet site-landscaping or performance standard requirements.

Tree, Shade

A deciduous tree planted primarily for its high crown of foliage or overhead canopy.

Truck Freight Terminal

An area and building where trucks and cargo are stored, where loading and unloading is carried on regularly, and where minor truck maintenance is performed.

Truck Sales and Service

Any establishment that sales and services semis, grain trucks, and other vehicles similar in size. Inoperable trucks may be stored on a temporary basis, and only if they are to be serviced.



Truck Stop

A facility designed and used to provide services to the trucking industry including, but not limited to, fuel stations, repair shops, truck washes, restaurants, convenience stores, weight scales, and shower facilities, all as part of a unified facility.

U

Unnecessary Hardship

A hardship which is subject to relief by means of variance, such as those that result from exceptional topographic conditions, exceptional physical conditions of a parcel of land, or other characteristics of the property that are unique from those of adjoining property in the same zoning district. Hardships which are self-imposed, resulting from errors in judgment on the part of the property owner, or based on a perceived reduction in economic gain shall not be considered unnecessary hardships.

Use

The purpose for which land, building, or structure thereon is designed, arranged, or intended, or for which it is occupied, maintained, let, or leased.

Use Classification

A group of similar use types that are associated with each other to such an extent that they are grouped together for the purpose of identifying land uses by this Ordinance, such as retail uses, office uses, personal service uses, and general industrial production.

Use, Change of

The discontinuation of the specific primary use of a lot or structure and the replacement of that use with a different specific use.

Use, Existing

The use of a lot or structure present at the effective date of this Ordinance.

Use, Illegal

Any use that is neither legal nonconforming or permitted by right or special exception in the zoning district in which it is located as defined by this Ordinance.

Use, Nonconforming

A use which does not comply with the use regulations of the zoning district in which it is located.

Use, Permitted

Any use listed as a permitted use in this Ordinance or which is an accessory or temporary use associated with a permitted use for the zoning district in which it is located.

Use, Primary

The main use of land or structures, as distinguished from an accessory use. A primary use may be either a permitted use or a special exception use.

Use, Special Exception

A use that is designated by this Ordinance as being permitted in a specific zoning district if it is found to be appropriate and upon application, is specifically authorized by the Board of Zoning Appeals.

Use, Temporary

A land use or structure established for a limited and fixed period of time with the intent to discontinue such use upon the expiration of the time period.

**Use, Variance (*under Variance*)**

A variance is a deviation from the set of rules a municipality applies to land use and land development, typically a zoning ordinance, building code or municipal code.

Utility Facility

A building or structure used for the offices, storage, distribution or transmission of utilities such as water, gas, electricity, or sewer.

Utility Substation

A building or structure used for the distribution or transmission of utilities such as water, gas, electricity, or sewer.

V**Vacation**

The termination or termination of interest in a plat, an easement, or a right-of-way or other public dedication.

Variance, Development Standards

A specific approval granted by a Board of Zoning Appeals in the manner prescribed by this Ordinance, to deviate from the development standards (such as height, bulk, area) that the Ordinance otherwise prescribes.

Variance, Use

See Use, Variance

Variety Store

A retail establishment that sells a multitude of consumer goods.

Vehicle

A device used as a mode of transportation of persons and/or goods including but not limited to automobiles, semi-tractor trailers, all types of trailers, snowmobiles, recreational vehicles, motorcycles, and like devices.

Vehicle Detailing/Accessory Shop

An establishment that provides auto-detailing services and/or sells associated merchandise. Services offered are cosmetic in nature, and do not include mechanical upgrades or repairs.

Vehicle, Inoperable

A vehicle which, due to mechanical defect or failure, or incorrect or unapparent licensing, is not physically or legally able to be operated.

Veterinary Office (Animal Clinic)

An establishment for the care, observation, or treatment of domestic animals.

Video Store

An establishment primarily engaged in the retail rental of DVD, videotapes, films, CD-ROMS, laser discs, video games, or other electronic media.

Vineyard or Orchard

A facility in which fruit is grown and grapes processed for retail and commercial sales or to be made into wine. The development may include incidental uses such as a retail shop, standard restaurant, bar or live entertainment.



W

Warehousing

An enclosed or unenclosed facility for the storage, wholesale, and distribution of manufactured products, supplies, and equipment.

Warehousing, Petroleum Products

An enclosed facility for the secure storage, wholesale, and distribution of petroleum products, supplies, and equipment in order to minimize risk of fire and/or explosion.

Waste Disposal Facility

Any facility that functions to store or dispose of waste including incinerators, junk metal yard, sanitary landfills, refuse dumps, and inoperable vehicle storage.

Waste, Hazardous

See Hazardous Waste

Water Tower

A tower or standpipe that functions as a reservoir providing water to the community.

Wellfield (Public Pumphouse)

An area of land that contains one or more existing or proposed wells for supplying water to a water utility.

Wetland

Areas that are inundated and saturated by surface or groundwater at a frequency and duration sufficient to support vegetation typically adapted for life in saturated soil conditions as identified by the National Wetlands Institute and certified by an individual with a U.S. Army Corps of Engineers Regulation 4 Jurisdictional Wetland Certification.

Wholesale Facility

An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers, to industrial, commercial, institutional, or professional business users, or to other wholesalers.

Winery

A facility in which wine products are grown and processed for commercial sales. The development may include other uses such as a retail shop, standard restaurant, bar or live entertainment.

Y

Yard

A space on the same lot with a principal building that is open and unobstructed except as otherwise authorized by this ordinance.

Yard Sale

See Garage Sale

Yard, Front

The horizontal space between the nearest foundation of a building to the right-of-way line and that right-of-way line, extending to the sidelines of the lot, and measured as the shortest distance from that foundation to the right-of-way line. The front yard of a corner lot shall be that yard abutting the street upon which the lot has its least frontage, except as deed restrictions specify otherwise.

**Yard, Rear**

The horizontal space between the nearest foundation of a building to a rear lot line and that rear lot line, extending to the side lines of the lot, and measured as the shortest distance from the foundation to the rear lot line. Corner lots shall have no rear yards, only front yards and side yards.

Yard, Side (*under Side Yard*)

The horizontal space between the nearest foundation of a building to the side lot line and that side lot line, measured as the shortest distance between that foundation and the side lot line.

Yard, Side (Aggregate)

The sum of the horizontal space between the foundation of a building and each side lot line, measured as the shortest distance between the foundation and the side lot line.

Yard, Side (Separation)

The sum of the distance of the horizontal space between a foundation and side lot line, plus the horizontal space between the foundation and shared side lot line of the structure on the immediately adjacent lot.

Z _____**Zoning District**

A section of the town for which uniform zoning regulations governing use, height, area, size, intensity of use of buildings and land, and open spaces around buildings, are established by this Ordinance.

Zoning Map

See Official Zoning Map