

ARTICLE V -ZONING DISTRICTS

SECTION 9-501: DISTRICTS; USE

For the purpose of this Chapter, the Municipality is hereby divided into ten (10) districts, designated as follows:

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

SECTION 9-502: DISTRICTS; BOUNDARIES

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

SECTION 9-503: RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

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

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

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

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

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

SECTION 9-505: (TA) TRANSITIONAL AGRICULTURE DISTRICT

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

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

D. Permitted Accessory Uses:

1. Buildings and uses customarily incidental to the permitted uses.
2. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
3. Signs as provided for in Article VII.
4. Parking as provided for in Article VII.
5. Carports – (setbacks may be relaxed)

E. Height and Lot Requirements:

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

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

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

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

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

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

D. Accessory Uses:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as Conditional Uses.
2. Buildings and uses customarily incidental to the permitted uses.
3. Private swimming pools, tennis courts, and other recreational facilities in conjunction with a residence.
4. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
5. Signs as provided for in Article VII.
6. Parking as provided for in Article VII.
7. Carports – (Setbacks may be relaxed)

E. Height and Lot Requirements:

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

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

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

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

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

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

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

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

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

E. Height and Lot Requirements:

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

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

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

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

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

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

Small accessory buildings are 120 square feet or less.

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

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

- A. The purpose of this district is to permit high density residential development in areas providing all public facilities and supporting facilities to maintain a sound and pleasant environment for the inhabitants.
- B. Permitted Uses:
 - 1. Single family dwellings.
 - 2. Two-family, duplex, dwellings.
 - 3. Single family attached dwellings.
 - 4. Multiple family dwellings.
 - 5. Lodging and boarding houses.
 - 6. Public and private schools.
 - 7. Universities and colleges.
 - 8. Churches, temples, seminaries, and convents including residences for teachers and pastors.
 - 9. Parks, playgrounds, fire stations, community centers, and libraries.
 - 10. Hospitals, sanitariums, rest homes, nursing homes, convalescent homes, or other similar institutions, philanthropic institutions.
 - 11. Mortuaries, funeral homes, and funeral chapels.
- C. Permitted Conditional Uses:
 - 1. Public utility main transmission lines including substations, distribution centers, regulator stations, pumping, treatment facilities, storage, equipment buildings, garages, towers, or similar public service uses.
 - 2. Mobile home parks. In addition to the regular requirements of a conditional use permit, the following requirements must be met:
 - i. Certification of compliance with all ordinances and regulations regarding mobile home park licensing, zoning, health, plumbing, electrical, building, fire prevention and all other applicable ordinances and regulations.
 - ii. Individual mobile home lots shall have an area of not less than three thousand (3,000) square feet for single wide mobile homes and forty-five hundred (4,500) square feet for double wide mobile homes, and the total number of lots per gross acre shall not exceed seven (7).
 - iii. A minimum of twenty-five (25) feet measured from any entrance, lean-to or other extension from said mobile home shall be maintained between mobile homes.
 - iv. A mobile home park shall have an area of not less than two (2) acres, nor more than five (5) acres and no mobile home or office or service building shall be closer to a street right-of-way or other property line than twenty (20) feet.
 - v. All mobile homes shall meet all applicable Federal and State Regulations.

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

D. Accessory Uses:

- 1. Buildings and uses customarily incidental to the permitted uses.
- 2. Temporary buildings incidental to construction work where such buildings or structures are removed upon completion of work.
- 3. Signs as provided for in Article VII.
- 4. Parking as provided for in Article VII.
- 5. Carports – (Setbacks may be relaxed).

E. Height and Lot Requirements:

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

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

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

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

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

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

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

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

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

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

C. Permitted Conditional Uses:

1. Temporary structure for festivals or commercial events.
2. Drive-in restaurants.
3. Recreational establishments including bowling alleys, billiard halls.
4. Gasoline service stations with service and/or repair.
5. Auto sales and service.
6. Laundry pickup and delivery stations.
7. Printing and publishing.
8. Apartment Buildings , multi-family units, and single-family units:
 - a. Shall meet all off-street parking requirements;
 - b. Shall be adjacent to an existing residential use;
 - c. Conditional use permit remains valid until structure is demolished or property redeveloped for a new permitted or conditionally permitted use.
9. Street Level Residential

D. Accessory Uses:

1. Buildings and uses customarily incidental to the permitted uses.
2. Parking as allowed in Article VII.
3. Signs allowed in Article VII.

E. Height and Lot Requirements:

The height and minimum lot requirements shall be as follows:

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

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

F. Use Limitations:

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

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

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

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

D. Accessory Uses

1. Buildings and uses customarily incidental to the permitted uses.
2. Parking as permitted in Article, VII.
3. Signs-allowed in Article VII.

E. Height and Lot Requirements:

The height and minimum lot requirements shall be as follows:

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

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

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

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

E. Height and Lot Requirements:

The height and minimum lot requirements shall be as follows:

	Lot Area (Sq. Feet)	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
Permitted Uses	3 Acres ¹	150'	25' ⁴	10'	25'	35'
Apartments	3 Acres ²	150'	25'	10' ³	25'	45' ³

1. If on City water and sewer minimum lot area can be reduced to 10,000 sq. ft
2. If the lot area is reduced under the sewer/water provision then the minimum lot area shall be 4,000 square feet per dwelling unit
3. For Multi-Family units, the side yard shall be 10 feet if it is a maximum of a 3-story structure, and 2 feet additional side yard on each side shall be provided for each story in excess of 3 stories.
4. 25' front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of 50'.

F. Use Limitations

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

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

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

Adult Entertainment Facilities are included in this Zoning District. The intent of the Albion Zoning Ordinance is not to prohibit these uses but to regulate the secondary effects of these uses within the community per Section 9-801.

B. Permitted Uses:

1. Assembly, fabrication, and processing of products inside an enclosed building, except hazardous or combustible materials.
2. Laboratories.
3. Manufacture and assembly of electrical and electronic appliances.
4. Manufacturing, compounding, processing, packaging, or treatment of articles or merchandise from previously prepared materials.
5. Manufacture of light sheet metal products including heating and ventilation equipment.
6. Printing and publishing business.
7. Stone and monument works.
8. Public local distribution and main transmission utilities.
9. Warehouses and wholesale businesses.
10. Building materials yards with enclosed and screened storage areas.
11. Highway maintenance yards or buildings.
12. Self-storage units.
13. Adult entertainment.

C. Permitted Conditional Uses

1. Radio, television and communication towers and transmitters.
2. Overhead and underground utility main transmission lines including but not limited to power, telephone, gas, fuel, or fertilizer lines, substations, terminal facilities, and reservoirs.
3. Cabinetry millwork.
4. Ethanol Plants.

D. Accessory Uses

1. Signs as permitted in Article VII.
2. Parking as permitted in Article VII.

E. Height and Lot Requirements:

The height and minimum lot requirements shall be as follows:

	Lot Area (Sq. Feet)	Lot Width	Front Yard	Side Yard	Rear Yard	Maximum Height
Permitted Uses	3 Acres ¹	70'	25'	25'	15'	45'

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

F. Performance Standards:

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

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

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

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

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

- B. The planning commission, in its minutes, shall set forth its reasons for recommendation of approval or denial of the application for a PUD-1 District, along with specific, evidence and facts showing that the proposal meets or does not meet the following conditions.
1. Said planned unit development shall be in general conformity with the provisions of the Albion Comprehensive Plan.
 2. Said planned unit development shall not have a substantially adverse effect on the development of the neighboring area.
 3. The minimum size allowed for a PUD-1 District shall be as follows: Residential, one acre; Commercial, three (3) acres -except in District C-1 and C-2 only, one acre; Residential-commercial, four (4) acres.
 4. Height, bulk, and setback requirements may be varied so as to promote an efficient and creative PUD-1 District.
- C. Use regulations. In District PUD-1 no building, structure, land, or premises shall be used, and no building shall be erected, constructed, or altered, except for any use permitted in Districts R-1 through R-3 inclusive and Districts C-1 through C-3. All uses must be approved as shown on the development plan as specified in this division.

- D. Standards and conditions for development. A planned unit development shall not be inconsistent with the following general standards for use of land, and the use, type, bulk, and location of buildings, the density or intensity of use, open space, public facilities, and the development by geographic division of the state:
1. The applicant shall satisfy the planning commission that he has the ability to carry out the proposed plan and shall prepare and submit a schedule of construction. The proposed construction shall begin within a period of twelve (12) months following the approval of the final application by the City Council. A minimum of fifty (50) percent of the total planned construction shown on the final plan shall be completed within a period of five (5) years following such approval or the plan shall expire. The period of time established for the completion of the development may be modified from time to time by the planning commission upon the showing of good cause by the developer.
 2. The developer shall provide and record easements and covenants, shall make such other arrangements, and shall furnish such performance bonds, escrow deposit, or other financial guarantees for public improvements as may be determined by the City Council to be reasonably required to assure performance in accordance with the development plan and to protect the public interest in the event of abandonment of said plan before completion.
 3. The site shall be accessible from public roads that are adequate to carry the traffic that will be imposed upon them by the proposed development. The streets and driveways on the site of the proposed development shall be adequate to serve the residents or occupants of the proposed development.
 4. The development shall not impose an undue burden on public services and facilities; such as fire and police protection.
 5. The entire tract or parcel of land to be occupied by the planned unit development shall be held in single ownership or control, or if there are two (2) or more owners, the application for such planned unit development shall be filed jointly by all owners.
 6. The location and arrangement of structures, parking areas, walks, lighting, and appurtenant facilities shall be compatible with the surrounding land uses, and any part of a planned unit development not used for structures, parking and loading areas, or access ways shall be landscaped or otherwise improved.
 7. Off-street parking and loading shall be provided in accordance with the parking and loading regulations.

8. When a commercial use within a PUD-1 District abuts a residential district, a solid or semi-solid fence or wall at least six (6) feet high, but not more than eight (8) feet high, and having a density of not less than eighty (80) percent per square foot, shall be provided adjacent to any adjoining residential district; except in the event the adjacent residential district and the commercial developer are separated by a street right-of-way.
9. All residential and commercial buildings shall set back not less than twenty-five (25) feet from the right-of-way of any street and ten (10) feet from any district boundary lines that do not abut a street right-of-way. Additional setback from a heavily traveled thoroughfare may be required, when found reasonable by the planning commission for protection of health, safety, and general welfare.
10. Building coverage shall not exceed the following percentages of the net developable area of each individual parcel of the total development for each type of planned unit development: Residential, forty (40) percent maximum; Commercial, thirty-five (35) percent maximum.
11. A minimum of thirty (30) percent of the net area of that part of a planned unit development reserved for residential use shall be provided for open space as defined by these regulations under subsection (P) below. Common open space for the leisure and recreation of PUD-1 residents only shall be owned and maintained in common by them, through a homeowner's association.
12. The PUD-1 District shall include such provisions for the ownership and maintenance of the common open spaces as are reasonably necessary to insure its continuity, care, conservation, and maintenance, and to insure that remedial measures will be available to the City Council if the common open space is permitted to deteriorate, or is not maintained in a condition consistent with the best interests of the planned unit development or of the entire community.
13. No residential use shall have direct access onto an arterial street.
14. All commercial areas must have access via a collector or arterial street; however, no individual commercial use may have direct access onto collector or arterial streets.
15. Sidewalks shall be built to city specifications along all public and private streets; however, an alternative pedestrian and sidewalk plan may be developed which provides pedestrian access between each use in the planned unit development.
16. Open space as defined under this zoning district shall mean land area of the site not covered by buildings, parking, structures, or accessory structures, except recreational structures. Common open space as defined under this zoning district shall mean open space which is accessible and available to all occupants in common by a homeowner's, condominiums, or residents association.

E. Application for approval of Preliminary PUD-1.

1. An application for a PUD-1 shall be handled in the same manner prescribed for amending this Ordinance. The same requirements for notice, advertisement of public bearing: protests, and adoption shall be required as zoning changes.
2. The applicant shall prepare and submit thirteen (13) copies of the preliminary development plan for review and approval by the planning commission. Said preliminary shall include:
 - (a) A site plan showing:
 1. Contours at intervals of two (2) feet or spot elevations on a one-hundred-foot grid shall be required on flat land;
 2. Location, size, height, and use of all proposed structures in conformance with the yard requirements;
 3. All points of ingress and egress, driveways, circulation aisles, parking lots, parking spaces, and service areas;
 4. All streets adjoining subject property and the width of the existing right-of-way;
 5. Areas set aside for public and private open space with the type of recreational facilities planned for each are indicated;
 6. Designation of individual parcels if the proposed development is to be set up in separate construction phases;
 7. Designation of individual lots if such lots are proposed to be sold to individual owners;
 8. Location at required screening;
 9. Location of natural features such as ponds, tree clusters, and rock outcropping;
 10. Existing development on adjacent properties within two hundred (200) feet.

- (b) The above-described site plan shall also include a section designated as "general provisions," and said section shall include the following when said items are applicable:
1. Net area in square feet or acres. (Note: Net area does not include land dedicated or necessary to be dedicated for public street right-of-way. If more than one parcel is proposed, designate net area by parcel as well as total net area.)
 2. Density at dwelling units per acre of the total dwelling units for the entire plan.
 3. Building coverage of the net area of the planned unit development by individual parcel or total development.
 4. The percentage of the development plan provided for common open space as defined by this regulation. (Note: Normally, this figure should be approximately fifty (50) percent.)
 5. If more than one parcel is proposed, a statement relating to the sequence of development shall be included.
 6. Required number of off-street parking spaces.
 7. Gross floor area proposed for commercial buildings.
 8. All proposed land uses shall be listed by parcel.
- (c) A statement or adequate drawings shall be included describing the manner for the disposition of sanitary waste and storm water.
- (d) The full legal description of the boundaries of the property or properties to be included in the planned unit development.
- (e) A vicinity map showing the general arrangement of streets within an area of one thousand (1,000) feet from the boundaries of the proposed planned unit development.
- (f) A description, rendering or drawing of the general characteristics of the proposed buildings may be submitted if the applicant desires.

- (g) When a planned unit development includes provisions for common space, or recreational facilities, a statement describing the provision that is to be made for the care and maintenance for such open space be owned and/or maintained by any entity other than a governmental authority, copies of the proposed articles of incorporation and bylaws of such entity shall be submitted.
 - (h) Copies of any restrictive covenants that are to be recorded with respect to property included in the planned development district.
- 3. The planning commission shall, within fifteen (15) days after a preliminary PUD-1 is filed, hold a public hearing on said development after giving notice as required by statute for hearings in amendments. Said public hearing may be adjourned from time to time and, within a reasonable period of time after the conclusion of said public hearing, the planning commission shall prepare and transmit to the City Council and the applicant specific findings of fact with respect to the extent which the preliminary plan complies with those regulations, together with its recommendations in respect to the action to be taken on the preliminary PUD-1. The planning commission may recommend disapproval, approval, or approval with amendments, conditions, or restrictions.
- 4. The City Council shall or shall not approve the preliminary development plan and authorize the submitting of the final development plan.
- 5. Substantial or significant changes in the preliminary PUD-1 shall only be made after rehearing and re-approval.

F. Final approval.

- 1. After approval of a preliminary plan and prior to the issuance of any building permit or zoning certificate, the applicant shall submit an application for final approval with the planned unit development compliance review committee. The planned unit development compliance committee shall consist of members of the Albion Planning Commission, Albion City Council, Albion City Attorney, and/or the Albion City Engineer: this committee will be assembled only on an as needed basis. Said final application may include the entire PUD-1 District or may be for a unit or section thereof as set forth in the approval of the preliminary plan.

2. The application shall include fifteen (15) copies of such drawings, specifications, covenants, easements, conditions, and form of performance bond as set forth in the approval of the preliminary plan and in accordance with the conditions established in this chapter for a PUD-1 District. The final plan shall include the same information as the preliminary plan except the following shall also be provided:
- (a) A surveyor's certificate certifying to the accuracy of the boundary surveys shown.
 - (b) Location, names, tangent lengths, centerline radius of each curve and its interior width and angle of all proposed public right-of-way;
 - (c) All easements and appropriate building setback lines;
 - (d) All lot lines, and lot dimensions including chord distances for curvilinear lot lines;
 - (e) Lot and/or parcel numbers;
 - (f) Location, size, height, and use of all proposed or present buildings;
 - (g) Dedication of all streets, public highways, or other land intended for public use, signed by the owner and by all other parties who have a mortgage or lien interest in the property, together with any restrictions or covenants which apply to the property.
 - (h) A waiver of claim by the applicant for damages occasioned by the establishment of grades or the alteration of the surface of any portion of streets and alleys to conform to grades established.

3. A plan submitted for final approval shall be deemed to be in substantial compliance with the plan previously given tentative approval, provided any modification of the plan by the landowner as tentatively approved does not:
 - (a) Vary the proposed gross residential density or intensity of use by more than five percent or involve a reduction in the area set aside for common open space, nor the substantial relocation of such area; nor,
 - (b) Increase by more than ten (10) percent the floor area proposed for nonresidential use; nor,
 - (c) Increase by more than five (5) percent the total ground area covered by buildings, nor involve a substantial change in the height of buildings;
 - (d) Substantially change the design of the plan so as to significantly alter:
 1. Pedestrian or vehicular traffic flow.
 2. The juxtaposition of different land uses.
 3. The relation of open space to residential development.
 4. The proposed phasing of construction.
 5. Proposed use of one or more buildings to a more intensive use category as delineated in this chapter.
4. A public hearing need not be held for the 'approval of a final plan if it is in substantial compliance with the approved preliminary plan. The planning commission shall, within fifteen (15) business days of the time of filing, review the final plan for compliance with the approved preliminary plan. Upon review approval, said final plan shall be filed with the City Council for final approval and acceptance.
5. In the event that the final plan submitted contains substantial changes from the approved preliminary development plan, the applicant shall resubmit the original plan. This preliminary development plan shall be modified in the same manner prescribed in this division as for original approval.

- G. Enforcement and modification of plan. To further the mutual interest of the residents and owners of the planned unit development and of the public in the preservation of the integrity of the PUD-1 plan, as finally approved, and to insure that modifications, if any, in the plan shall not impair the reasonable reliance of the said residents and owners upon the provisions of the plan, nor result in changes that would adversely affect the public interest, the enforcement and modification of the provisions of the plan as finally approved, whether recorded by plan, covenant, easement or otherwise, shall be subject to the following provisions:
1. The provisions of the plan relating to:
 - (a) The use of land and the use, bulk, and location of buildings and structures; and
 - (b) The quality and location of common space; and
 - (c) The intensity of use or the density of residential units shall run in favor of the City and shall be enforceable in law or in equity, by the City, without limitation on any powers or regulation otherwise granted by law.
 2. All provisions of the plan shall run in favor of the residents and owners of the planned development, but only to the extent expressly provided in the plan and in accordance with the terms of the plan, and to the extent said provisions, whether recorded by plat, covenant, easement, or otherwise, may be enforced at law or equity by said residents and owners acting individually, jointly, or through an organization designated in the plan to act on their behalf; provided, however, that no provisions of the plan shall be implied to exist in favor of residents and owners of the planned unit development except as to those portions of the plan which have been finally approved and have been recorded.
- H. Amendments. The PUD-1 District ordinance or an approved preliminary or final development plan may be amended in the same manner prescribed in this division for approval of a preliminary or final plan. Application for amendment may be made by the homeowners association or fifty-one (51) percent of the owners of the property within the PUD-1 District.
- I. Platting. For unplatted tracts or tracts being replatted, the approval of the preliminary PUD-1 shall be considered as the approval of a preliminary plan. To complete the platting process, the applicant need only submit a final plat. Said final plat shall be in accordance with the subdivision regulations, except the scale shall be either one hundred (100) feet, fifty (50) feet, or twenty (20) feet to the inch.

- J. Fees. For the Preliminary and Final Plat applications shall be paid to the City per the Master Fee Schedule.

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

SECTION 9-514: FF/FW FLOOD PLAIN DISTRICTS (OVERLAY DISTRICT)

SECTION 1.0 STATUTORY AUTHORIZATION, FINDINGS OF FACT, AND PURPOSES

1.1 STATUTORY AUTHORIZATION

The Legislature of the State of Nebraska has delegated the responsibility to local governmental units to adopt zoning regulations designed to protect the public health, safety, general welfare, and property of the people of the state. The Legislature, in Nebraska Revised Statutes Sections 31-1001 to 31-1023 (as amended), has further assigned the responsibility to adopt, administer, and enforce floodplain management regulations to the county, city, or village with zoning jurisdiction over the flood prone area. Therefore, the City Council of City of Albion, Nebraska ordains as follows:

1.2 FINDINGS OF FACT

A. Flood Losses Resulting from Periodic Inundation The flood hazard areas of City of Albion, Nebraska are subject to inundation that results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

B. General Causes of the Flood Losses

These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities as well as the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others that are inadequately elevated or otherwise unprotected from flood damages.

C. Methods Used to Analyze Flood Hazards

This ordinance uses a reasonable method of analyzing flood hazards, which consists of a series of interrelated steps:

- i. Selection of a regulatory flood based upon engineering calculations that allows a consideration of such flood factors as the expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood is selected for this ordinance and is representative of large floods that are reasonably characteristic of what can be expected to occur on the particular streams subject to this ordinance. The base flood is in the general order of a flood that could be expected to have a one percent (1%) chance of occurrence in any one year, as delineated on the FEMA Flood Insurance Study and other associated materials, as amended.

1.3 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize those losses described in Section 1.2 by applying the provisions of this ordinance to:

A. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.

B. Require that uses vulnerable to floods, including public facilities that service such uses, be provided with flood protection at the time of initial construction.

C. Reduce financial burdens from flood damage borne by the community, its governmental units, its residents, and its businesses by preventing excessive and unsafe development in areas subject to flooding.

D. Assure that eligibility is maintained for property owners in the community to purchase flood insurance from the National Flood Insurance Program.

1.4 ADHERENCE TO REGULATIONS

The regulations of this ordinance are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations and the Nebraska Minimum Standards for Floodplain Management Programs as published in the Nebraska Administrative Code Title 455, Chapter 1.

SECTION 2.0 GENERAL PROVISIONS

2.1 LANDS TO WHICH ORDINANCE APPLIES

This ordinance shall apply to all lands within the jurisdiction of the City of Albion identified on the Flood Insurance Rate Map (310009, Panel: 0328, Suffix: C) panels shown on the Index dated December 6, 2009, as Zone A and within the Zoning District established in Section 3.0 of this ordinance. In all areas covered by this ordinance, no development shall be allowed except upon the issuance of a floodplain development permit to develop, granted by the floodplain administrator or the governing body under such safeguards and restrictions as the City Council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Sections 4.0 and 5.0.

2.2 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

The boundaries of the floodway and the flood fringe overlay districts shall be determined by scaling distances on the official zoning map or on the effective Flood Insurance Rate Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, for example where there appears to be a conflict between a mapped boundary and actual field conditions, the floodplain administrator shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of Adjustment will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit their own technical evidence, if so desired.

2.3 COMPLIANCE

Within identified special flood hazard areas of this community, no development shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

2.4 ABROGATION AND GREATER RESTRICTIONS

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

2.5 INTERPRETATION

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

2.6 WARNING AND DISCLAIMER OF LIABILITY

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

2.7 SEVERABILITY

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

SECTION 3.0 ESTABLISHMENT OF ZONING DISTRICTS

The mapped floodplain areas within the jurisdiction of this ordinance are hereby established as the floodplain overlay district, as identified in the Flood Insurance Study dated December 6, 1999 and on accompanying FIRM panels as established in Section 2.1. The floodplain overlay district shall correspond to flood zone A. Within this district, all uses not meeting the standards of this ordinance and those standards of the underlying zoning district shall be prohibited.

SECTION 4.0 FLOODPLAIN MANAGEMENT ADMINISTRATION

4.1 DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The zoning administrator of the community is hereby designated as the community's local floodplain administrator. The floodplain administrator is authorized and directed to administer, implement, and enforce all provisions of this ordinance.

4.2 PERMITS REQUIRED

A floodplain development permit shall be required before any development, construction, or substantial improvement is undertaken. No person, firm, corporation, government agency, or other entity shall initiate any floodplain development without first obtaining a floodplain development permit.

4.3 DUTIES OF THE FLOODPLAIN ADMINISTRATOR

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

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

- xi. Ensure comprehensive development plan as amended is consistent with this ordinance.
- xii. In the event the floodplain administrator discovers work done that does not comply with applicable laws or ordinances, the floodplain administrator shall revoke the permit and work to correct any possible violation in accordance with this ordinance.

4.4 APPLICATION FOR PERMIT AND DEMONSTRATION OF COMPLIANCE

A. To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:

- i. Identify and describe the proposed development and estimated cost to be covered by the floodplain development permit.
- ii. Describe the land on which the proposed development is to be done by lot, block, tract, and house and streets address, or similar description that will readily identify and definitely locate the proposed building or development.
- iii. Indicate the use or occupancy for which the proposed development is intended.
- iv. Be accompanied by plans and specifications for proposed construction.
- v. Be signed by the permittee and authorized agent who may be required to submit evidence to indicate such authority.

B. If any proposed development is located entirely or partially within a floodplain, applicants shall provide all information in sufficient detail and clarity to enable the floodplain administrator to determine that:

- i. All such proposals are consistent with the need to minimize flood damage;
- ii. All utilities and facilities such as sewer, gas, water, electrical, and other systems are located and constructed to minimize or eliminate flood damage;
- iii. Structures will be anchored to prevent flotation, collapse, or lateral movement;
- iv. Construction materials are flood resistant;
- v. Appropriate practices to minimize flood damage have been utilized; and
- vi. Electrical, heating, ventilation, air conditioning, plumbing, and any other service facilities have been designed and located to prevent entry of floodwaters.

- C. For all new and substantially improved structures, an elevation certificate certifying the elevation of the lowest floor, including basement, and other relevant building components shall be provided to the floodplain administrator and be completed by a licensed surveyor, engineer, or architect.
- D. When floodproofing is utilized for an applicable structure, a floodproofing certificate shall be provided to the floodplain administrator and be completed by a licensed professional engineer or architect.
- E. Any other such information as reasonably may be required by the zoning administrator shall be provided.

4.5 FLOOD DATA REQUIRED

A. All Zone A areas on the FIRM are subject to inundation of the base flood; however, the base flood elevations are not provided. Zone A areas shall be subject to all development provisions of this ordinance. If Flood Insurance Study data is not available, the community shall utilize any base flood elevation or floodway data currently available from federal, state, or other sources, including from a study commissioned by the applicant pursuant to best technical practices.

B. Until a floodway has been designated, no development or substantial improvement may be permitted within the floodplain unless the applicant has demonstrated that the proposed development or substantial improvement, when combined with all other existing and reasonably anticipated developments or substantial improvements, will not increase the water surface elevation of the base flood more than one (1) foot at any location as shown in the Flood Insurance Study or on base flood elevation determinations.

C. Letters of Map Revision: Federal regulations in Title 44 of the Code of Federal Regulations, Chapter 1, Part 65.5 and 65.6 allow for changes to the special flood hazard area through a Letter of Map Revision (LOMR) or a Letter of Map Revision Based on Fill (LOMR-F), provided the community determines that the land and any existing or proposed structures that would be removed from the floodplain are “reasonably safe from flooding.” The community acknowledgement form asserting this is required for LOMR and LOMR-F applications and must be signed by the floodplain administrator. The floodplain administrator shall not sign a community acknowledgement form unless all criteria set forth in the following paragraphs are met:

- i. Applicant shall obtain floodplain development permit before applying for a LOMR or LOMR-F.
- ii. Applicant shall demonstrate that the property and any existing or proposed structures will be “reasonably safe from flooding,” according to the minimum design standards in FEMA Technical Bulletin 10-01.

iii. All requirements listed in the Simplified Approach in FEMA Technical Bulletin 10-01 shall be met and documentation from a registered professional engineer shall be provided. If all of these requirements are not met, applicant must provide documentation in line with the Engineered Approach outlined in FEMA Technical Bulletin 10-01.]

4.6 VARIANCES AND APPEALS

Variance and Appeals Procedures

A. The Board of Adjustment as established by City of Albion shall hear and decide appeals and requests for variances from the requirements of this ordinance.

B. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this ordinance.

C. Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the District Court as provided in Nebraska Revised Statutes Section 19-192 (for municipalities).

D. In evaluating such appeals and requests, the Board of Adjustment shall consider technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:

- i. The danger to life and property due to flooding or erosion damage;
- ii. The danger that materials may be swept onto other lands to the injury of others;
- iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner and future owners;
- iv. The importance of the services provided by the proposed facility to the community;
- v. The necessity of the facility to have a waterfront location, where applicable;
- vi. The availability of alternative locations that are not subject to flooding or erosion damage for the proposed use;
- vii. The compatibility of the proposed use with existing and anticipated development;
- viii. The relationship of the proposed use to the comprehensive plan and the floodplain management program for that area;
- ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;

- x. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and,
- xi. The costs of providing government services during and after flood conditions including emergency management services and maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water systems, streets, and bridges.

Conditions for Variances

- A. Variances shall only be issued upon a showing of good and sufficient cause and also upon a determination that failure to grant the variance would result in an exceptional hardship to the applicant.
- B. Variances shall only be issued based upon a determination that the granting of a variance will not result in increased flood heights.
- C. Variances shall only be issued based upon a determination that the granting of a variance will not result in additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- D. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items E-I below have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- E. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure on the National Register of Historic Places and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- G. The applicant shall be given a written notice over the signature of a community that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and also that such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this ordinance.

H. All requests for variances and associated actions and documents, including justification for their issuance, shall be maintained by the community.

4.7 ENFORCEMENT

A. Violations

Failure to obtain a floodplain development permit or the failure of a structure or other development to be fully compliant with the provisions of this ordinance shall constitute a violation. A structure or other development without a floodplain development permit, elevation certificate, certification by a licensed professional engineer of compliance with these regulations, or other evidence of compliance is presumed to be in violation until such time as documentation is provided.

B. Notices

When the floodplain administrator or other authorized community representative determines, based on reasonable grounds, that there has been a violation of the provisions of this ordinance, the floodplain administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

- i. Be in writing;
- ii. Include an explanation of the alleged violation;
- iii. Allow a reasonable time for the performance of any remedial act required;
- iv. Be served upon the property owner or their agent as the case may require; and
- v. Contain an outline of remedial actions that, if taken, will bring the development into compliance with the provisions of this ordinance.

C. Penalties

- i. Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person, firm, corporate, or other entity that violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100.00 per day in violation, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

- ii. The imposition of such fines or penalties for any violation or non-compliance with this ordinance shall not excuse the violation or non-compliance or allow it to continue. All such violations or non-compliant actions shall be remedied within an established and reasonable time.
- iii. Nothing herein contained shall prevent the City of Albion or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

SECTION 5.0 STANDARDS FOR FLOODPLAIN DEVELOPMENT

5.1 GENERAL PROVISIONS

A. Alteration or Relocation of a Watercourse

- i. A watercourse or drainway shall not be altered or relocated in any way that in the event of a base flood or more frequent flood will alter the flood carrying characteristics of the watercourse or drainway to the detriment of upstream, downstream, or adjacent locations.
- ii. No alteration or relocation shall be made until all adjacent communities that may be affected by such action and the Nebraska Department of Natural Resources have been notified and all applicable permits obtained. Evidence of such notification shall be submitted to the Federal Emergency Management Agency.

B. Encroachments

- i. When proposing to permit any of the following encroachments, the standards in Section 5.1 (B) (ii) shall apply:
 - a. Any development in Zone A without a designated floodway that will cause a rise of more than one foot in the base flood elevation; or
 - b. Alteration or relocation of a stream; then
- ii. The applicant shall:
 - a. Apply to FEMA for conditional approval of such action via the Conditional Letter of Map Revision process (as per Title 44 of the Code of Federal Regulations, Chapter 1, Part 65.12) prior to the permit for the encroachments; and
 - b. Supply full package to the floodplain administrator including any required notifications to potentially affected property owners.

5.2 ELEVATION AND FLOODPROOFING REQUIREMENTS

A. Residential Structures

- i. In Zone A, all new construction and substantial improvements shall have the lowest floor, including basement, elevated to or above one (1) foot

B. Nonresidential Structures

i. In Zone A, all new construction and substantial improvements shall have the lowest floor, including basement, elevated to or above one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, floodproofed so that below one (1) foot above the base flood elevation:

a. The structure is watertight with walls substantially impermeable to the passage of water and

b. The structure has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. A floodproofing certificate shall be provided to the floodplain administrator as set forth in Section 4.

C. Space Below Lowest Floor

i. Fully enclosed areas below the lowest floor (excluding basements) and below the base flood elevation shall be used solely for the parking of vehicles, building access, or limited storage of readily removable items.

ii. Fully enclosed areas below the lowest floor (excluding basements) and below the base flood elevation shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

a. A minimum of two openings having a net total area of not less than one (1) square inch for every one (1) square foot of enclosed space,

b. The bottom of all openings shall not be higher than one (1) foot above grade, and

c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they allow the automatic entry and exit of floodwaters.

E. Appurtenant Structures

i. Structures accessory to a principal building may have the lowest floor below one foot above base flood elevation provided that the structure complies with the following requirements:

- a. The structure shall not be used for human habitation.
- b. The use of the structure must be limited to parking of vehicles or storage of items readily removable in the event of a flood warning.
- c. The floor area shall not exceed 400 square feet.
- d. The structure shall have a low damage potential.
- e. The structure must be adequately anchored to prevent flotation, collapse, or other lateral movement.
- f. The structure shall be designed to automatically provide for the entry and exit of floodwaters for the purpose of equalizing hydrostatic forces. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - 1. A minimum of two openings having a net area of not less than one (1) square inch for every one (1) square foot of enclosed space,
 - 2. The bottom of all openings shall not be higher than one (1) foot above grade, and
 - 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they allow the automatic entry and exit of floodwaters.
- g. No utilities shall be installed except electrical fixtures in the structure, which must be elevated or floodproofed to one (1) foot above base flood elevation.
- h. The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.
- i. If the structure is converted to another use, it must be brought into full compliance with the minimum standards governing such use.

F. Manufactured Homes

Within any floodplain, manufactured homes shall be prohibited.

G. Existing Structures

- i. The provisions of this ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to a structure in the floodplain, a floodplain development is required and the provisions of 5.2 (G) (ii-iii) shall apply.
- ii. Any addition, alteration, reconstruction, or improvement of any kind to an existing structure where the costs of which would equal or exceed fifty (50) percent of the pre-improvement market value shall constitute a substantial improvement and shall fully comply with the provisions of this ordinance.
- iii. Any addition, alteration, reconstruction, or improvement of any kind to an existing structure that will change the compliance requirements of the building shall require applicable documentation including an elevation certificate, floodproofing certificate, or no rise certification.

5.3 DESIGN AND CONSTRUCTION STANDARDS

A. Anchoring

- i. All buildings or structures shall be firmly anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

B. Building Materials and Utilities

- i. All buildings or structures shall be constructed with materials and utility equipment resistant to flood damage. All buildings or structures shall also be constructed by methods and practices that minimize flood and flood-related damages.
- ii. All buildings or structures shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

C. Drainage

- i. Within Zones AO and AH, adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

D. Water Supply and Sanitary Sewer Systems

- i. All new or replacement water supply and sanitary sewer systems shall be located, designed, and constructed to minimize or eliminate flood damages to such systems and the infiltration of floodwaters into the systems.
- ii. All new or replacement sanitary sewage systems shall be designed to minimize or eliminate discharge from the system into floodwaters.
- iii. On-site waste disposal systems shall be located and designed to avoid impairment to them or contamination from them during flooding.
- iv. New or replaced septic systems in floodplains are prohibited.

E. Other Utilities

- i. All other utilities such as gas lines, electrical, telephone, and other utilities shall be located and constructed to minimize or eliminate flood damage to such utilities and facilities.

F. Storage of Materials

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

G. Recreational Vehicles

i. Recreational vehicles to be placed on sites within the floodplain shall:

- a. Be on site for fewer than 180 consecutive days;
- b. Be fully licensed and ready for highway use, which shall mean it is on its wheels or jacking system, is attached to the site by only quick disconnect type utilities and security devices, and no permanently attached additions; or
- c. Meet the permit requirements and the elevation and anchoring requirements for manufactured homes of this ordinance.

H. Subdivisions

i. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, shall require assurance that:

- a. All such proposals are consistent with the need to minimize flood damage;
- b. All public utilities and facilities such as sewer, gas, electrical, and water systems are located, elevated, and constructed to minimize or eliminate flood damage;
- c. Adequate drainage is provided so as to reduce exposure to flood hazards; and
- d. Proposals for development (including proposals for manufactured home parks and subdivisions) of five (5) acres or fifty (50) lots, whichever is less, where base flood elevation data are not available, shall be supported by hydrologic and hydraulic analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for Conditional Letters of Map Revision and a Letters of Map Revision.

SECTION 6.0 NONCONFORMING USE

A. A structure or use of a structure or premises that was lawful before the passage or amendment of this ordinance, but that is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:

- i. If such use is discontinued for {number} consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the {floodplain administrator} in writing of instances of nonconforming uses where utility services have been discontinued for a period of 12 months.
- ii. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

B. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50% of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, or safety code or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

SECTION 7.0 AMENDMENTS

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

B. A copy of such amendments will be provided to the Nebraska Department of Natural Resources and the Federal Emergency Management Agency for review and approval.

SECTION 8.0 DEFINITIONS

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

Appurtenant Structure shall mean a structure on the same parcel of property as the principal structure, the use of which is incidental to the use of the principal structure. Also shall be known as "accessory structure."]

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

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

Base Flood Elevation means the elevation to which floodwaters are expected to rise during the base flood.

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

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

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

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

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

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

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

Flood Insurance Rate Map (FIRM) means an official map of a community, on which the Flood

Insurance Study has delineated the special flood hazard area boundaries and the risk premium zones applicable to the community.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Start of Construction means the date the floodplain development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. "Start of construction" also includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

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

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

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

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

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

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

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