CITY OF ALBION PLANNING COMMISSION

REGULAR MEETING

TUESDAY, AUGUST 20, 2019

COUNCIL CHAMBERS

7:00 P.M.

AGENDA

I. Call to Order (Reminder: turn off cell phones)

II. Roll Call of the Commission

III. Approval of Prior Meeting Minutes – July 16, 2019

IV. Correspondence

A. Letter Received August 9, 2019 – Ref. 313 Fitch Street

V. Order of Business

A. Discussion/Approval – 2018 Planning Commission Report
B. Application for Special Use Permit – 313 Fitch Street
C. Site Plan Review – 902 Burstein Dr.
D. Discussion – City of Albion Zoning Ordinance Final Draft
E. Excuse Absent Board Members

VI. Public Comments (Persons addressing the Planning Commission shall limit their comments to no more than three (3) minutes. Proper decorum is required.)

VII. Adjournment

PLANNING COMMISSION PUBLIC HEARING PROCESS

1) The Planning Commission Chair opens the hearing
2) Chair summarized the process
3) Staff presents report on applicant's request
4) Chair reads any correspondence into the record
5) Public speaking portion of hearing
   - Individuals in support
   - Opposition speakers
   - Questions & rebuttal (directed through the Chair)
   - Public speaking portion of hearing closed
6) Finding of facts
7) Board begins deliberations
8) Motion is made
9) Roll call vote taken

Planning Commission
July 16, 2019

I. Call to Order

The July 16, 2019 Planning Commission meeting was called to order at 7:00 p.m. by Vice-Chairman Pitt and a quorum declared.

II. Roll Call of the Commission

PRESENT: D Atchison, M Lelle, T Pitt, S Ponds, L Reid, and R Valdes.

ABSENT: A Amos, S Kipp, G Strander.

Staff Present: H Snyder, Acting Assistant City Manager - City Deputy Clerk/Treasurer and J Tracy, Director of Planning, Building & Code Enforcement.

III. Approval of Prior Meeting Minutes
A. May 21, 2019

M Lelle moved, D Atchison supported, CARRIED, to approve the prior Planning Commission minutes as presented. (vv) (6-0)

IV. Correspondence – NONE

V. Order of Business

A. Approval – 2018 Planning Commission Annual Report

Vice-Chairman Pitt asked for the zoning re-write and RRC certification process to be added to the annual report.

D Atchison moved, R Valdes supported, CARRIED, to table for next meeting.

(Motion carried, vv) (6-0)

B. Discussion/Approval – Site Plan Review Albion College Dow Center

Director Tracy provided the Commission with Site Plan Review #2019-043 – addition to existing structure for review.

- Site Location – 405 S. Hannah Street – P.N. 51-001-506-00
- Site Zoned – CD College Development District
- Property Owner – Albion College
- Applicant – Michael Kinder & Sons, Inc., 5206 Decatur Rd. Fort Wayne, Indiana, 46806
- Existing Use – Recreation & Wellness Center
- Abutting/Adjacent Properties – North: Railroad R.O.W.; E. Erie St., CD College Development District, West: S. Hannah St. (west line of CD district), East: CD

College Development District, South: Kalamazoo River (south line of CD district).

Project Description – 11,000 sq. ft. addition to existing structure – DOW Recreation & Wellness Center. Proposed addition is same use. No additional parking planned with primary use by students living within walking district. Per zoning ordinance, no lot area, lot width, lot coverage and setback required. Proposed addition and existing structure located in Central Campus Area.

Kurt Anderson & Doug Kinder with Michael Kinder & Sons, Inc. provided the Commission with the following info on the proposed addition:

- 11,300 sq. ft. single story addition to the existing structure.
- The addition will have no environmental impacts.
- The storm water run-off will connect to the current storm system.

Director Tracy stated the proposed addition to the existing structure will have the same use – recreation & wellness. Lot area, lot width, lot coverage, and setback are not required for the district. The ADPS has approved the proposed site plan. Director Tracy recommends approval of the site plan as presented.

Questions & Comments received from Commissioners T Pitt, S Ponds, and R Valdes.

M Lelle moved, D Atchison supported, CARRIED to approve the Albion College Dow Center Site Plan as presented.

(MOTION carried, vv) (6-0)

C. Zoning Re-Write Update

Director Tracy provided the following update on the zoning re-write process:

- Zoning Re-Write subcommittee has finished up with review meetings.
- Working with Denise Cline to finalize all proposed changes.
- New zoning map contains eight (8) districts – down from nineteen (19).
- Once new language is finalized, will provide copies to every Commissioner to review before public hearing and approval process.

Comments were received from Commissioners M Lelle and T Pitt.

D. Excuse Absent Board Members

D Atchison moved, S Ponds supported, CARRIED, to excuse Commissioners A Amos, S Kipp, and G Strander.

(MOTION carried, vv) (6-0)

VI. Public Comments

Comments were received from John Tracy, Director of Planning, Building & Code Enforcement.

VII. Adjournment

L Reid moved, S Ponds supported, CARRIED, to adjourn the meeting.

(Motion carried, vv) (6-0)

Meeting adjourned at 7:38 p.m.

Recorded By: Haley Snyder, City Deputy Clerk/Treasurer

Jim Whitehouse
903 E. Michigan Avenue Albion, Michigan 49224
517.416.2865
jwhitehouse@albion.edu

City of Albion Planning Commission
112 W. Cass Street
Albion, MI 49224

August 4, 2019

Re: 313 Fitch Street, Parcel # 51-008-204-00

Dear Members of Planning Commission:

As a near-neighbor of the parcel in question, and a next-door neighbor of the duplex (309-311 Fitch) also owned by Mr. and Mrs. Decker, located between my home and the subject parcel, I have a few suggestions in regard to the requested Conditional Use Permit. The Deckers seem to be fine people so nothing I say in this missive is intended as unsupportive of their position, with the obvious exception of some points made in my final paragraph—all easily addressed.

While it will be good to have the 313 Fitch parcel rehabilitated from its current dismal condition (apparent from the exterior), I do believe that certain conditions should apply if you decide to allow the two-family-dwelling conversion.

First, parking should be limited to the existing driveways. (Recent tenants of the parcel--from before it was purchased by the Deckers--parked vehicles all over the front yard, blocking the sidewalk, ruining the yard, and creating an eyesore and excessive noise as car sound systems and exhausts were often evident for sustained periods of time.) If this also means limiting the number of vehicles that can be parked, so be it.

Second, all City codes should be required to be honored as a condition of the permit, if granted, including placement of garbage cans behind or beside homes during non-pickup days, removal of non-operable vehicles, regular grass/brush cutting, snow removal, noise abatement, and nuisance abatement including removal of dangerous/unsightly structures. These issues have been ignored by owners of parcels up and down Fitch Street (and in other parts of our fair city) for years. Some, but not all of them have been consistently ignored at 309-311 Fitch during the Decker's ownership, as well as at 313 Fitch prior to their ownership.

Sincerely

Jim Whitehouse

Planning Commission Annual Report 2018

City of Albion

112. W. Cass Street

Albion, MI 49225

2018 Planning Commissioners

Membership: Nine voting members, including the Mayor and one Councilmember (appointed annually) and one staff member. One member may be a non-resident, with the consent of Council, who possess an interest in planning in the City of Albion. Appointed by Mayor with confirmation by City Council.

Residency: Except for one member as indicated above, all must be City residents.

Term: Three (3) years

Compensation: None

Planning commission member	Term expiration
Albert Amos	12/31/2020
**Garrett Brown	Ex-Officio
Scott Kipp	Ex-Officio
Tom Pitt	12/31/2018
Sharon Ponds	12/31/2019
**Lenn Reid	Ex-Officio
Gregg Strand	12/31/2017
George Strander	12/31/2020
Frances Valdes	12/31/2019
**Appointed Council Member Representative serves until the end of his/her elected term of office.	

2018 Meetings (*MPEA requires four (4) meetings annually)*

The City of Albion Planning Commission met eight (8) times. This meets the requirements of the MPEA. Meetings are held on the 3rd Tuesday of each month at 7pm in the Council Chambers

January 17, 2018
February 21, 2018
March 20, 2018
April 17, 2018
June 19, 2018
August 21, 2018
September 18, 2018
November 20, 2018

Purpose of the Planning Commission – The purposes of the Planning Commission include:

- Preparing a plan to guide the physical development of the City of Albion, and to continually keep it up to date thereafter.
- Promoting the adoption and execution of such plans by the City, school, county, and other governments and agencies responsible for making public or other improvements in the City Municipality.
- Effecting economics in the City through the recommendation of a wise expenditure of funds to provide sound development.
- Encouraging and assisting public and private agencies in improving the attractiveness of the City Municipality.
- Working toward a "planned community" for the City by officially adopting a plan to guide the physical development of the community.
- Furthering cooperation between governmental and private agencies toward these ends.

Actions by Legislative Body in 2018

February 21, 2018 – CARRIED, to amend the Medical Marihuana Zoning Ordinance to require an eight (8') foot fence that allows for visibility into the facility and to set the public hearing for the March 20, 2018 Planning Commission meeting. (Voice Vote)

March 20, 2018 – CARRIED, to approve the Medical Marihuana Zoning Ordinance as presented. (Voice Vote)

April 17, 2018 - CARRIED, to approve five (5) Grower Medical Marihuana Licenses and one (1) Processor Medical Marihuana License for Greenhouse Farms, LLC contingent upon zoning and receipt of legible scale drawing of site and parking lot. (Voice Vote)

- CARRIED, to allow for a maximum of seven (7) committee members for the Local Historic District Committee. (Voice Vote)

August 21, 2018 – CARRIED, to approve one (1) Grower Medical Marihuana License and one (1) Processor Medical Marihuana License for Michael Moore. (Voice Vote)

September 18, 2018 – CARRIED, to make recommendation to the City Council to amend Chapter 30 of the 1984 Zoning Code of the City of Albion by amending Section 30-04 Definitions, amend Highway Service District B-3, Industrial District M-2, M-2-P, and M-1-P to address State Licensed Medical Marihuana Provisioning Centers, pursuant to Chapter 22, Article V of the City of Albion Code of Ordinance. (Roll Call Vote)

- CARRIED, to approve one (1) Grower Medical Marihuana License and one (1) Processor Medical Marihuana License for Comco, LLC contingent on the City receiving a copy of the property deed from the AEDC. (Voice Vote)
- CARRIED, to approve one (1) Provisioning Center Medical Marihuana License for Pincanna contingent on City Council approving the proposed zoning amendments. (Voice Vote)
- CARRIED, to approve one (1) Grower Medical Marihuana License for Greenwell Biomedicals, LLC. (Voice Vote)

November 20, 2018 – CARRIED, approve one (1) Provisioning Center Medical Marihuana License for Greenhouse Farms Albion 1, LLC. (Voice Vote)

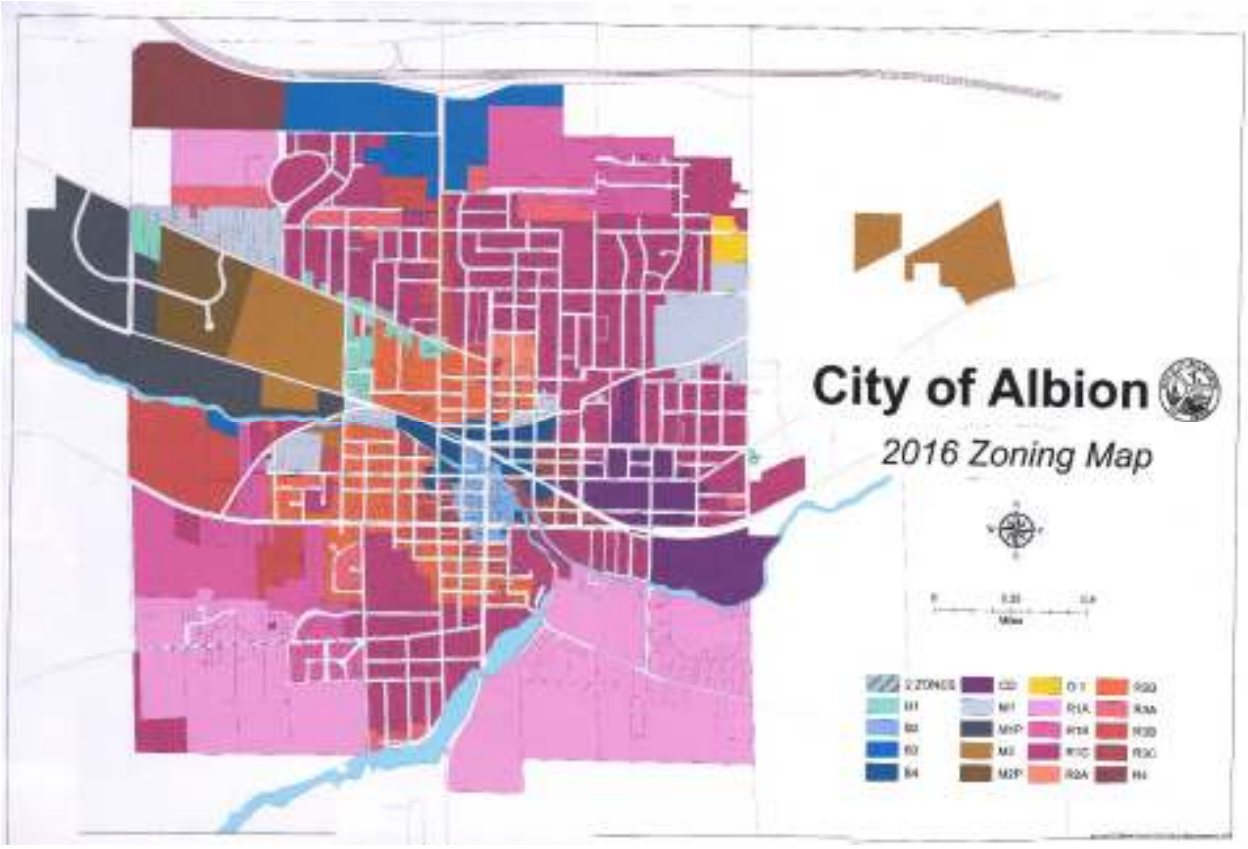
Zoning

The City of Albion continues to take all necessary steps to have Albion certified by the Michigan Economic Corporation as a Redevelopment Ready Community. Zoning is a significant mechanism for achieving desired land use patterns and quality development. Clarity of ordinance rules, requirements, definitions and processes is critical to entice investment in a community. A zoning re-write subcommittee consisting of four (4) Planning Commissioners, with the assistance of Denise Kline, Deputy Director/Chief Planner with Northeast Michigan Council of Governments, met throughout the year to review Albion's current zoning ordinance.

Currently, there are nineteen (19) zoning districts in Albion. The Planning Commission Zoning Rewrite Subcommittee with the aid of Denise Cline worked on and drafted the following articles in 2018:

- Article 3 – General Provisions
- Article 4 – District Regulations: Table of Permitted and Special use reviewed. Consolidation of districts completed. Remainder of chapter draft and review in 2019.
- Article 5 – Plot Plan & Site Plan Review
- Article 6 – Special Land Use

- Article 8 – Zoning Board of Appeals
- Article 9 – Administration & Enforcement
- Article 10 – Adoption & Amendments
- Future Zoning Map



City of Albion
ZONING ORDINANCE

City of Albion
Calhoun County
Michigan

Adopted:

Effective:

Prepared with the Assistance of:
Northeast Michigan Council of Governments
www.discovernortheastmichigan.org

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Article 1
Purpose & Authority

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Section 1.1 Title

This Ordinance shall be known and may be cited and referred to as the City of Albion Zoning Ordinance and shall be referred to hereafter as "this Ordinance."

Section 1.2 Purpose

This Ordinance is enacted to preserve and promote the public health, safety and general welfare, and for the following more particularly specified purposes:

A. To protect the character and stability of residential, commercial, industrial and recreational areas within the City, and to promote the orderly development of such areas;

B. To prevent overcrowding the land and undue congestion of population;

C. To regulate the location of buildings and the use of buildings and land adjacent to streets and thoroughfares to meet the needs of the citizens of the City for food, fiber, energy, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land;

D. To guide and regulate future growth and development of the City in accordance with the comprehensive plan for the City of Albion; and

E. To facilitate adequate and efficient provision of transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility requirements.

Section 1.3 Authority

This Ordinance is enacted into law pursuant to the **Michigan Zoning Enabling Act, 2006 PA 110,** as amended, MCL 125.3101 et. seq. Such enabling act is hereby made a part of this Ordinance just as if said Act were repeated word for word herein.

Article 2 Definitions

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Section 2.1 Rules Applying to Text

The following rules of construction apply to the text of this Ordinance:

A. The particular shall control the general.

B. In the case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.

C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

D. Words used in the present tense shall include the future, words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.

E. A "building" or "structure" includes any part thereof.

F. The word "used" or "occupied" as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied."

G. The word "person" includes an individual, a firm, a corporation, a partnership, an association, an incorporated association, a limited liability company, or any other similar entity, or their agents.

H. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either . . . or," the conjunction shall be interpreted as follows.

1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.

2. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.

3. "Either . . . or" indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.

I. Terms not herein defined shall have the meaning customarily assigned to them.

J. "City" shall refer specifically to the City of Albion.

Section 2.2 Definitions

The following words, terms and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section:

A

Abutting. Having property or district line in common; e.g., two lots are abutting if they have property lines in common.

Access. A way of approaching or entering a property. For purposes of this Ordinance, all lots of record shall have access to a public street or highway or to a private street meeting public standards.

Accessory Dwelling Unit. A secondary residential dwelling unit located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or within a detached accessory building. Accessory dwelling units shall be developed in accordance with the standards set forth in **Section 7.11** and only in those zoning districts where the use is listed as a Permitted or Special Land Use.

Accessory Use or Structure. A use or structure customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building. An accessory structure attached to a principal building shall be considered part of the principal building. Fences and walls are not considered accessory structures.

Adjacent Property. All lands which adjoin any side or corner of a specific parcel of land including, but not limited to, those lands separated from the parcel by a road right-of-way, easement or public utility right-of-way.

Adult Foster Care Facility. A governmental or non-governmental establishment that provides foster

care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care.

A. An adult foster care facility does **not** include the following:

1. A nursing home licensed under Article 17 of the **Public Health Code, 1978 PA 368**, MCL 333.20101 to 333.22260.

2. A home for the aged licensed under Article 17 of the **Public Health Code, 1978 PA 368**, MCL 333.20101 to 333.22260.

3. A hospital licensed under Article 17 of the **Public Health Code, 1978 PA 368**, MCL 333.20101 to 333.22260.

4. A hospital for the mentally ill or a facility for the developmentally disabled operated by the Department of Health and Human Services under the **Mental Health Code, 1974 PA 258**, MCL 330.1001 to 330.2106.

5. A county infirmary operated by a county department of social services or family independence agency under Section 55 of the **Social Welfare Act, 1939 PA 280**, MCL 400.55.

6. A child caring institution, children's camp, foster family home, or foster family group home licensed or approved under the **Child Care Organizations Act, 1973 PA 116**, MCL 722.111 to 722.128, if the number of residents who become 18 years of age while residing in the institution, camp, or home does not exceed the following:

    1. Two (2), if the total number of residents is ten (10) or fewer.

    2. Three (3), if the total number of residents is not less than eleven (11) and not more than fourteen (14).

    3. Four (4), if the total number of residents is not less than fifteen (15) and not more than twenty (20).

    4. Five (5), if the total number of residents is twenty-one (21) or more.

7. A foster family home licensed or approved under the **Child Care Organizations Act, 1973 PA 116**, MCL 722.111 to 722.128, that has a person who is 18 years of age or older placed in the foster family home under Section 5(7) of 1973 PA 116, MCL 722.115.

8. An establishment commonly described as an alcohol or a substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house that does not provide or offer to provide foster care.

9. A facility created by the **Michigan Veteran's Facility Act, 1885 PA 152**, MCL 36.1 to 36.12.

10. An area excluded from the definition of adult foster care facility under Section 17(3) of the **Continuing Care Community Disclosure Act, 2014 PA 448,** MCL 554.917

11. A private residence with the capacity to receive at least one (1) but not more than four (4) adults who all receive benefits from a community mental health services program if the local community mental health services program monitors the services being delivered in the residential setting.

B. The following additional definitions shall apply in the application of this Ordinance:

1. ***Adult Commercial Day Care Facility – Large Group***. A facility receiving more than twelve (12) adults for care for periods of less than twenty four (24) hours in a day, for more than two (2) weeks in any calendar year. Care for persons related by blood or marriage to a member of the family occupying the dwelling is excluded from this definition.

2. ***Adult Commercial Day Care Facility – Small Group***. A facility in which care or supervision is provided for at least seven (7) but not more than twelve (12) adults for care of periods of less than twenty-four (24) hours in a day. Care for persons related by blood or marriage to a member of the family occupying the dwelling is excluded from this definition.

3. ***State-Licensed Residential Facility***. A structure constructed for residential purposes that is licensed by the State under the **Adult Foster Care Facility Licensing Act, 1979 PA 218,** MCL 400.701 to 400.737, or **1973 PA 116**, MCL 722.111 to 722.128, and provides residential services for six (6) or fewer individuals under 24-hour supervision or care. The licensee is NOT a member of the household nor is an occupant of the residence.

4. ***Adult Foster Care Family Home***. A private residence with the approved capacity to receive six (6) or fewer adults to be provided supervision, personal care, and protection in addition to room and board, twenty-four (24) hours a day, five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.

5. ***Adult Foster Care Small Group Home***. An adult foster care facility with the approved capacity to receive twelve (12) or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks.

6. ***Adult Foster Care Large Group Home***. A facility with approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided supervision, personal care, and protection in addition to room and board, twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks. This may include nursing homes, assisted living facilities and senior housing for up to 20 people.

7. ***Adult Foster Care Congregate Facility***. An adult foster care large group home with the approved capacity to receive more than twenty (20) adults to be provided with foster care.

Aggrieved Person. A person who has suffered a substantial damage from a zoning decision not in common to other property owners similarly situated, and who has actively opposed the decision in question.

Alley. A public or private way not more than thirty-three (33') feet wide which affords only a secondary means of access to abutting property.

Alter. As applied to a building or structure, means a change or rearrangement in the structural parts or in the exit facilities or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

Animal. An organism, other than a human or plant, that is characterized into one of the following three categories:

A. ***Domestic***. This category would typically include those animals that have adapted well to human interaction, primarily excluding those utilized for production of food products. These would include those animals residing within the dwelling as pets, such as dogs, house cats, and certain types of other small domesticated animals (such as birds and reptiles), but generally excluding those listed in either the livestock or exotic categories. Such animals are deemed not to be a threat to humans, are nonpoisonous or not carriers of disease, are not likely to bite without provocation (or appropriately caged), and are in good health. Such domestic animals are considered as accessory to the residential use provided such numbers do not require approval as a kennel.

B. ***Livestock***. This category would typically include those other domesticated animals that are primarily utilized for the production of food or are in the large animal category. These would include, but are not limited to, those animals that are presently listed under the generally recognized classification of animal units associated with waste handling practices for livestock operations by the State of Michigan. This includes, but is not limited to, cattle, swine, horses, sheep, goats, turkeys, chickens and ducks. The keeping of such animals shall be regulated under the City's Animal Ordinance (**Section 14-1 of the Code of Ordinances**).

C. ***Exotic***. This category would typically include all other animals but can be further differentiated as either being native or non-native. In Michigan, native animals may include those found in the wild throughout the State or within some small areas. Some of these animals may be endangered or on a protected list (cannot be hunted), while others may be subject to game laws with duration of the hunting season limited by the State of Michigan Department of Natural Resources. Non-native would include those not found in Michigan. The keeping of exotic animals is prohibited unless regulated through a general ordinance of the City. (NOTE: The State of Michigan has specific regulation for the importation of animals and may require an official

interstate health certificate or a certificate of veterinary inspection issued by an accredited veterinarian from the state of origin).

Applicant. Any person who applies for a permit or petition.

Application. The process by which the owner of a parcel of land within the City submits a request to develop, construct, build, modify, or erect a structure or commence a Special Use upon such parcel of land. Application includes all written documentation, verbal statements and representations, in whatever form or forum, made by an applicant to the City concerning such a request.

Appurtenance. An ornamental, structural or mechanical element that is attached to and subordinate to a building or structure.

Architectural Features. Architectural features of a building shall include cornices, eaves, gutters, sills, lintels, bay windows, chimneys, decorative ornaments, or similar features.

Assisted Living Home. A structure providing housing and limited services such as nursing, recreation, and meals to individuals who are partially able to provide services to themselves.

Auto Repair. General repair, rebuilding or reconditioning of engines, motor vehicles or trailers, collision service, including body repair and frame straightening; painting and upholstering; vehicle steam-cleaning and undercoating.

Automobile Service Station or Gas Station. A place where gasoline, kerosene or any other motor fuel or lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles, including greasing and oiling on the premises, minor repairs, and replacement of minor parts and accessories, but not including major repair work such as motor overhaul, body or fender repair, or spray painting.

Automobile Wrecking. The dismantling or disassembling of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles, or their parts.

Average. For the purpose of this Ordinance, the term, "average" shall be an arithmetic mean.

Awning. Roof-like cover that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

B

Bar. An establishment primarily devoted to the serving of alcoholic beverages for consumption on the premises.

Base Flood. The flood having a one (1%) percent of being equaled or exceeded in any given year.

Basement. That portion of a building having more than one-half (1/2) of its height below finished grade.

Berm. An earthen mound of definite height and location designed to serve as an obscuring device in carrying out the requirements of this Ordinance.

Billboards and Signs. Sign definitions are found in **Chapter 64** of the City of Albion Code of Ordinances.

Block. The property abutting one (1) side of a street and lying between the two (2) nearest intersecting streets (crossing or terminating); between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river or live stream; or between any of the foregoing and any other barrier to the continuity of development or corporate boundary lines of the City.

Board. The Zoning Board of Appeals.

Boarding House. See ***Rooming and/or Boarding House***.

Buffer. Open space, landscaped areas, fences, walls, berms or any combination thereof to physically separate or screen one use or property from another so as to visually shield or block noise, lights or other nuisances. A greenbelt is considered a buffer.

Buildable Area. The space remaining on a zoning lot after the minimum open-space requirements (coverage, yards, and setbacks) have been met.

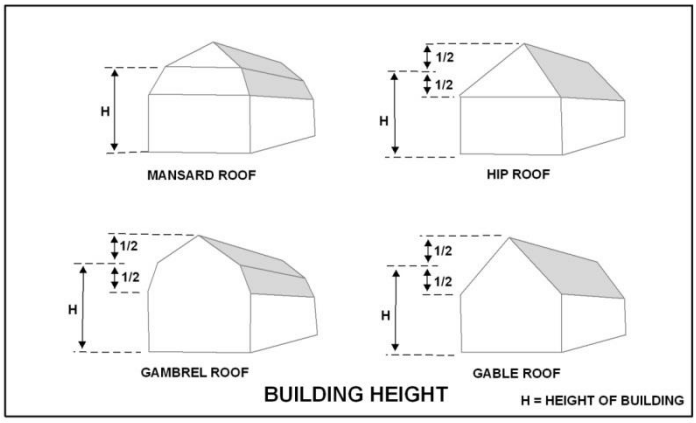
Building. Structure enclosed or partially enclosed within exterior walls or fire walls, built, erected and framed of component structural parts, designed for the housing, shelter, enclosure and support of individuals, animals or property of any kind.

Building Coverage. The amount of land covered by or permitted to be covered by a building, usually measured in terms of percentage of a lot. Parking lots and other impermeable areas do not count toward maximum coverage limits.

Building Envelope. The space within which a structure is permitted to be built on a zoning lot as defined by the standards of this Ordinance including height, yards, building coverage and floor area ratio.

Building, Height of. The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for a gable, hip or gambrel roof.

Building, Principal. A building in which is conducted the principal use of the premises on which it is situated.



Bulk Regulations. Regulations that are specifically related to height, yards, building coverage and floor area ratio.

C

Campground. A use on a parcel or tract of land licensed by the State under the control of a person in which sites are offered for the use of the public or members of an organization either free of charge or for a fee, for the establishment of temporary living quarters for three (3) or more recreational units which includes trailers as defined in this Ordinance.

Campus Development District Definitions:

A. ***Campus Area Plan***. A plan developed by the college that shall outline the future development needs of the college. The plan shall delineate the central campus area, campus perimeter area and transfer areas. Said plan shall be updated as changes are made to the respective areas.

B. ***College***. Within the Campus Development District, college shall mean Albion College as a recognized tax-exempt entity.

C. ***Coordinated Parking Element***. A parking plan that shall be an intricate component to the campus area plan.

D. ***Institutional***. The boundary defined and delineated within the Albion Comprehensive Plan.

E. ***Story Height***. That portion of the building between the upper surface of any floor and the upper surface the next floor above.

F. ***Student Housing***. Any and all housing associated within and in coordination with the housing of college students by and through the control of the college.

G. ***Sub-Area Plan***. A plan developed by the college ("campus area plan") and approved by the planning commission and included within the Comprehensive Plan.

H. ***Transfer Agreement***. An agreement made between a private property owner and the college that allows for the waiver of certain setback requirements.

Caterers/Food Service Contractors. An establishment providing meals and/or refreshments for off-site consumption for a fee. May be operated in conjunction with a restaurant.

Cemetery. Property, including mausoleums and/or columbariums, used or intended to be used for the perpetual interment of deceased human beings or household pets.

Clinic, Dental or Medical. A building in which a group of physicians, dentists or physicians and dentists and allied professional assistants are associated for the purpose of practicing their profession. The clinic

may include a medical or dental laboratory. It shall not include in-patient care or operating rooms for major surgery.

Child Care Facility. A facility for the care of children (persons under 18 years of age), as licensed and regulated by the State under the **Child Care Organizations Act, 1973 PA 116, MCL 722.111 to 722.128**, and the associated rules promulgated by the **State Department of Health and Human Services**. Such organizations shall be further defined as follows:

A. ***Family Child Care Home***. A State-licensed, owner-occupied private residence in which at least one (1) but not more than six (6) minor children are received for care and supervision for periods less than twenty-four (24) hours a day unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks in a calendar year.

B. ***Group Child Care Home***. A State-licensed, owner-occupied private residence in which at least seven (7) but not more than twelve (12) children are received for care and supervision for periods less than twenty-four (24) hours a day unattended by a parent or legal guardian, excepting children related to an adult member of the family by blood, marriage or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks in a calendar year.

C. ***Child Care Center***. A State-licensed facility, other than a private residence, receiving one (1) or more children for care and supervision for periods less than twenty-four (24) hours, and where the parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, play group, before- or after-school program, or drop-in center.

D. ***Child Caring Institution***. A child care facility that is organized for the purpose of receiving minor children for care, maintenance, and supervision, usually on a 24-hour basis, in buildings maintained by the child caring institution for that purpose, and operates throughout the year. An educational program may be provided, but the educational program shall not be the primary purpose of the facility. Child caring institution includes a maternity home for the care of unmarried mothers who are minors and an agency group home, that is described as a small child caring institution, owned, leased, or rented by a licensed agency providing care for more than four (4) but less than thirteen (13) minor children. Child caring institution also includes institutions for developmentally disabled or emotionally disturbed minor children. Child caring institution does not include a hospital, nursing home, or home for the aged licensed under Article 17 of the **Public Health Code, 1978 PA 368,** MCL 333.20101 to 333.22260, a boarding school licensed under Section 1335 of the **Revised School Code, 1976 PA 451,** MCL 380.1335, a hospital or facility operated by the State or licensed under the **Mental Health Code, 1974 PA 258,** MCL 330.1001 to 330.2106, or an adult foster care family home or an adult foster care small group home licensed under the **Adult Foster Care Facility Licensing Act, 1979 PA 218,** MCL 400.701 to 400.737, in which a child has been placed under Section 5(6).

Church. See ***Religious Institution or Church***.

Club, Lodge, or Fraternity. The room, building or other facilities used for the meetings of a group of people organized for a common purpose such as a fraternal organization or a society. Serving of meals and beverages on a regularly scheduled basis to members and guests is an accessory use to a club, lodge, or fraternity.

Cluster Development. A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas.

College. A place of higher learning providing facilities for teaching and research of a general, technical, or religious nature, either public or private, and which is operated on a nonprofit basis.

Commercial Use. The use of property in connection with the purchase, sale, barter, display, or exchange of goods, wares, merchandise, or personal services, and the maintenance or operation of offices.

Commission. City of Albion Planning Commission.

Community Garden. An area of land managed and maintained by a community group, subdivision or non-profit organization to grow and harvest food crops and non-food, ornamental crops, such as flowers. Community gardens may be divided into separate plots for cultivation by one (1) or more individuals or groups, or may be farmed collectively by members of a group, and may include common areas maintained and used by group members.

Conditional Rezoning. A rezoning that is conditioned by a specific use and approved site plan voluntarily proposed by the applicant.

Condominium Development, Site. A condominium development containing residential, commercial, office, industrial, or other structures or improvements for uses permitted in the zoning district in which located, in which each co-owner owns exclusive rights to a volume of space within which a structure or structures may be constructed, herein defined as a condominium unit, as described in the master deed. The following additional definitions are provided:

A. ***Condominium***. The term "condominium" as used in this Ordinance shall conform to the definition used in the **Condominium Act, 1978 PA 59**, as amended, MCL 559.11 et. seq.

B. ***Condominium Documents***. The master deed, recorded pursuant to the Condominium Act, and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner in the condominium.

C. ***Condominium General Common Elements***. The portions of the condominium project other than the condominium units.

D. ***Condominium Limited Common Elements***. A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners.

E. ***Condominium Lot***. Described as an area designed to facilitate the building envelope and the limited commons area. Condominium Lot shall be the counterpart of "lot" as used in connection with a project developed under the **Land Division Act, 1967 PA 288**, as amended. (Referred to as a *Site Condominium*)

F. ***Condominium Master Deed***. The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan for the project, and all other information required by Section 8 of the **Condominium Act**.

G. ***Condominium Project***. A plan or project consisting of not less than two (2) condominium units if established and approved in conformity with the Condominium Act.

H. ***Condominium Unit***. The portion of the condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, or any other type of use as approved by the administrator of the Condominium Ordinance.

Convalescent or Nursing Home. A structure licensed under the applicable Michigan law, with sleeping rooms where lodging, meals, nursing and limited medical care are provided for persons who are dependent upon others to provide services. Such an establishment shall not contain equipment for or provide care in maternity cases, mental illness cases, nor for surgical or medical cases commonly treated in hospitals.

Convenience Store. A one-story, retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). Convenience grocery stores are designed to attract a large volume of stop-and-go traffic.

Cottage Industry. A Home Occupation which, due to the nature of the investment or operation, includes one or more of the following aspects:

A. requires regular visits by clients or customers;

B. needs frequent delivery or shipment of goods;

C. conducts regular operations or store materials outside of the residence;

D. employs two (2) or more individuals who reside off premises;

E. and, has the potential to rapidly increase in size and intensity

Country Club. A private social and recreation facility providing one (1) or more of the following activities: golf, riding, swimming, indoor and outdoor recreation, and club house for members, their families, and invited guests.

D

Deck. A structural platform without a roof or walls, usually projecting from the wall of a building. Also includes balconies.

Density. The number of dwelling units on, or to be developed upon, a net acre of land.

Development. The construction of a new building or other structure on a lot, the relocation of an existing building onto another lot, or the use of open land for a new use.

District. A portion of the City of Albion within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance. "District" as used herein is synonymous with the word "zone", "zoning district", or “overlay district”.

Drive-Through. An establishment so developed that some portion of its retail or service character is dependent upon providing a driveway approach and staging area specifically designed for motor vehicles so as to serve patrons while in their motor vehicles, rather than within a building or structure, for carry out and consumption or use after the vehicle is removed from the premises.

Driveway. A means of access for vehicles from a street, approved alley, across a lot or parcel to a parking or loading area, garage, dwelling or other structure or area on the same lot.

Duplex. See ***Dwelling, Two-Family or Duplex***.

Dwelling. A building, whether stick-built, premanufactured or precut, designed and used for the complete living accommodations of a single family which complies with the standards given in this Ordinance. In the case of buildings which are occupied in part, the portion occupied shall be considered a dwelling unit, provided it is in conformance with the criteria for dwellings. In no case shall a travel trailer, truck, bus, motor home, tent or other such portable structures be considered a dwelling unit.

Dwelling, Multiple-Family. A building, or a portion thereof, designed exclusively for occupancy by three (3) or more families living independently of each other where each unit may have access to a common hallway, stairs or elevator. Multiple-Family dwelling includes apartment buildings and also the following:

A. ***Bungalow Court***. This building type consists of a series of small, detached structures, providing multiple units arranged to define a shared court. The shared court takes the place of a private rear yard.

B. ***Fourplex***. A medium structure that consists of four (4) units: typically two (2) on the ground floor and two (2) above with a shared entry.

C. ***Multiplex***. A medium structure that consists of five (5) to ten (10) side-by-side and/or stacked dwelling units, typically with one (1) shared entry or individual entries along the front.

D. ***Courtyard Apartments***. A medium- to large-sized structure consisting of multiple side-by-side and/or stacked dwelling units accessed from a courtyard or series of courtyards. Each unit may have its own individual entry or may share a common entry.

Dwelling, Single-Family Detached. A building designed exclusively for and occupied exclusively by one (1) family that is separate and distinct from any other dwelling. A single family dwelling that does not share a party wall with any other dwelling is a detached single family dwelling.

Dwelling, Single-Family Attached. A dwelling designed for occupancy by one (1) family in a row of at least (3) three such units in which each unit has its own access to the outside, no unit is located over another, and each unit is separated from any other unit by one (1) or more vertical common fire-resistant walls (also known as a townhouse or rowhouse).

Dwelling, Two-Family or Duplex. A use which is a dwelling designed for or occupied by two (2) families, with separate housekeeping, cooking, and bathroom facilities for each which complies with the standards given in this Code. Two-Family dwelling or Duplex includes the following:

A. ***Duplex, Side by Side***. A small- to medium-sized structure that consists of two (2) dwelling units, one next to the other, both of which face and are entered from the street.

B. ***Duplex, Stacked***. A small- to medium-sized structure that consists of two (2) stacked dwelling units, one on top of the other, both of which face and are entered from the street.

E

Easement. The right of an owner of property by reason of such ownership, to use the property of another for purposes of ingress, egress, utilities, drainage, and similar uses.

Erected. Built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, drainage and the like shall be considered a part of erected.

Essential Services. The erection, construction, alteration or maintenance by public or private utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel or water transmission or distribution systems, collection, communication, fiber optic, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants, towers, poles, and other similar equipment and accessories in connection therewith, but not including buildings, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare. Telecommunication towers or facilities, alternative tower structures, wireless communication

antenna, wind turbine generator, public buildings and public utility substations are not included within this definition.

Excavation. The removal of rock, sand, soil, or fill material below the average grade of the surrounding land and/or road grade, whichever is highest, except common household gardening and ground care.

Extractive Operation. Premises from which any rock, gravel, sand, topsoil or earth in excess of fifty (50) cubic yards in any calendar year is excavated or removed for the purpose of disposition away from the premises except excavation in connection with the construction of a building or within public highway rights-of-way.

F

Fabrication. Manufacturing, excluding the refining or other initial processing of basic raw materials such as metal ores or rubber. Fabrication relates to stamping, cutting or otherwise shaping the processed materials into useful objects.

Façade. The exterior wall of a building exposed to public view.

Family. One (1) or more persons related by blood, marriage, or legal adoption (and their domestic employees) occupying a dwelling unit and living as a single housekeeping unit; or a collective number of individuals living together in a dwelling unit whose relationship is of a permanent and distinct domestic character and cooking as a single housekeeping unit. This definition shall not include a society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, or organization, which is not a recognized religious order, nor include a group of individuals whose association is temporary in character or nature.

Fence. A permanent or temporary barrier enclosing or bordering a plot of land or portion thereof composed of suitable man-made materials for the purpose of preventing or controlling entrance or to confine within or to mark boundary.

Fine Arts. Individual art pieces not mass produced which may consist of one (1) or more of the following: Paintings, etchings, ceramics, inlays, needlework, knitting, weaving, sculptures, and/or craftswork.

Flammable Liquid. Any liquid having a flash point at or above 100 degrees Fahrenheit (flash point: The minimum temperature at which a liquid gives off vapors in sufficient concentrations to form an ignitable mixture with air near the surface of the liquid.).

Flood Plain. The relatively flat area or lowlands contiguous to the channel of watercourse or a body of standing water, which has been or may be covered by flood water. The one-hundred (100) year flood plain consists of contiguous areas paralleling a river, stream or other body of water that constitute at their maximum edge the highest flood levels experienced in a period of one-hundred (100) years. The one-hundred (100) year flood plains are identified on Floodway Maps produced by **FEMA (Federal Emergency Management Agency)**.

Floor Area, Gross. The sum of the horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading spaces for motor vehicles, or any space where the floor-to-ceiling height is less than six (6') feet.

Floor to Area Ratio. The ratio of floor area permitted on a zoning lot to the size of that lot. (FAR)

Funeral Home. A building designed for the purpose of furnishing funeral supplies and services to the public and includes facilities intended for the preparation of the dead human body for internment or cremation.

G

Garage, Community. A building, usually multi-level, having no auto service in connection therewith, for the storage only of non-commercial vehicles. In the case of hotels, motels, or other building of public assembly such community garage may be a part of or attached to the principal building. Also referred to as a Parking Structure.

Garage, Private (residential). An accessory building to be used for the storage of non-commercial motor vehicles. There shall be no public shop or services in connection therewith with the exception of Home Occupations or Cottage Industries.

Garage, Public. A building or part of a building used for the storage, sale, hire, care, repair or refinishing of motor vehicles.

Grade. A reference plane representing the average of finished ground level adjoining the buildings at all exterior walls.

Green Roof. A vegetated landscape built up from a series of layers that are installed on a roof surface as 'loose-laid' or modular (installed layer by layer on the roof or as pre-prepared layers in trays).

Greenbelt. A planting of trees and shrubs to serve as a screening device between abutting land uses or along water bodies to screen and control erosion.

Groundwater Protection. The following definitions related to groundwater protection standards:

A. ***Aquifer***. A geologic formation, group of formations or part of, a formation capable of storing and yielding a significant amount of groundwater to wells or springs.

B. ***Development***. The carrying out of any construction, reconstruction, alteration of surface or structure or change of land use or intensity of use.

C. ***Environmental Contamination***. The release of a hazardous substance, or the potential release of a discarded hazardous substance, in a quantity which is or may become injurious to the environment, or to the public health, safety, or welfare.

D. ***Facility***. Any building, structure, or installation from which there may be a discharge of hazardous substances.

E. ***Hazardous Substance***. A chemical or other material which is or may become injurious to the public health, safety, or welfare, or to the environment.

F. ***Polluting Material(s)***. Any hazardous substance as so defined that can cause pollution to groundwater sources and/or become injurious to the public health, safety, or welfare of the general public or to the environment.

G. ***Primary Containment Facility***. A tank, pit, container, pipe, or vessel of first containment of a hazardous substance.

H. ***Secondary Containment Facility***. A second tank, catchment, pit, pipe, or vessel that limits and contains liquid or chemical leaking or leaching from a primary containment area. Containment systems shall be constructed of materials of sufficient thickness, density and composition to prevent the discharge to land, groundwater, or surface waters, of any pollutant which may emanate from said storage container or containers.

H

Hazardous Substances. Any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive or otherwise injurious properties, may be detrimental to the health of any person handling or otherwise coming into contact with such materials or substances.

Home Occupation. An occupation or profession carried on by the occupant of a dwelling unit which is conducted within a dwelling or accessory building and which is clearly incidental and secondary to the use of the lot and dwelling for residential purposes.

Homeless Shelter. See ***Residential Human Care Facility***.

Hotel. A building containing guest rooms in which lodging is provided with or without meals for compensation and which is open to transient or permanent guests, or both, and where no provision is made for cooking in any guest room except suites where compact pullman-type kitchenettes may be provided.

I

Impervious Surface. Any material which prevents, impedes or slows infiltration or absorption of storm water directly into the ground at the rate of absorption of vegetation bearing soils, including building, asphalt, concrete, gravel and other surfaces.

Improvements. Buildings, structures, parking areas, landscaping, and similar features which add value to a property and actions associated with a project which are considered necessary by the City to

protect natural resources or the health, safety and welfare of the residents of the City, and future users or inhabitants of the proposed project or project area.

Industrial Park. A legally recorded group of lots that have been specifically designed for industrial purposes and use.

Institution. A building occupied by an established non-profit society or non-profit corporation for public use.

Intensity. The degree to which land is used; the level of concentration or activity in uses.

J

Junkyard. A place where junk, waste, and discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including wrecked motor vehicles, used building materials, structural steel materials and equipment and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition.

K

Kennel. A kennel is any place or premise where four (4) or more adult dogs, cats, or other domestic pets, more than six (6) months of age, are maintained, boarded, bred, or cared for in return for remuneration, or are kept for the purpose of sale.

L

Laboratory.

A. ***Medical or Dental***. A laboratory which provides analytical or diagnostic services to physicians and dentists. No fabrication is conducted on the premises except the custom fabrication of dentures or surgical supports.

B. ***Experimental***. A building or part of a building devoted to the testing and analysis of any product or animal.

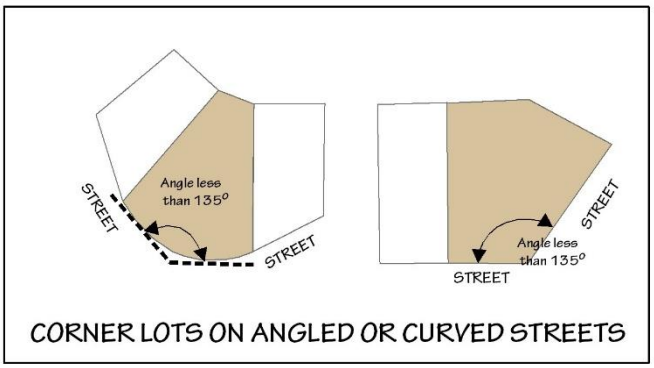
Landscaping. Any combination of existing or planted trees, shrubs, vines, ground covers, flowers, lawns, fences, fountains, pools, artworks, screens, walls, berms, benches, walks, paths, steps, terraces, and garden structures and any surface and subsurface structures, grading or excavation included on a landscape site plan.

Laundromat. A business that provides home type washing, drying, and/or ironing machines for hire to be used by customers on the premises or operated for the benefit of retail customers who bring in and call for laundry.

Loading Berth. A space within the principal building or on the same lot, providing for the standing, loading

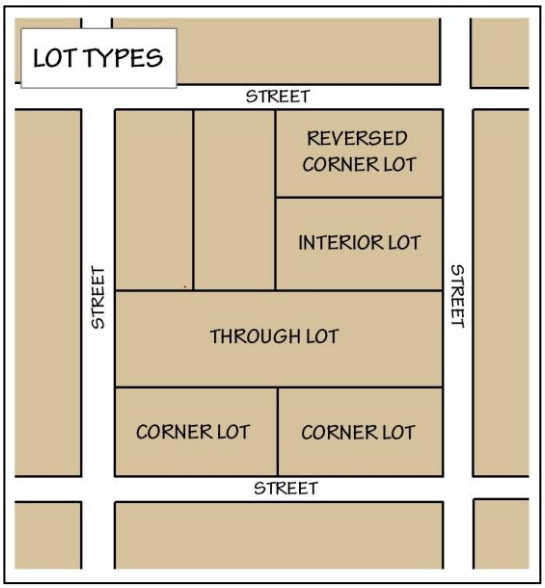
or unloading of trucks, having a minimum dimension of ten (12') feet by thirty-five (35') feet and a vertical clearance of at least fourteen (14') feet.

Lot. A piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings or utilized for a principal use and uses accessory thereto, together with such open spaces as required by this Ordinance, and having frontage on a public street or on a street which is a private street as of the date of adoption of this Ordinance. The word "lot" shall include parcel and a unit of land within a site condominium which gives the owner exclusive rights to a building envelope and limited rights to the yard area surrounding the building.



Lot, Corner. A lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street, such streets or parts of the same street forming an interior angle of less than one hundred thirty-five (135°) degrees. The point of intersection of the street lines is the "corner."

Lot, Interior. A lot other than a corner lot.



Lot, Reversed Corner. A corner lot, the rear of which abuts upon the side of another lot, whether across an alley or not.

Lot, Through. Any interior lot having frontage on two (2) more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all yards of said lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required.

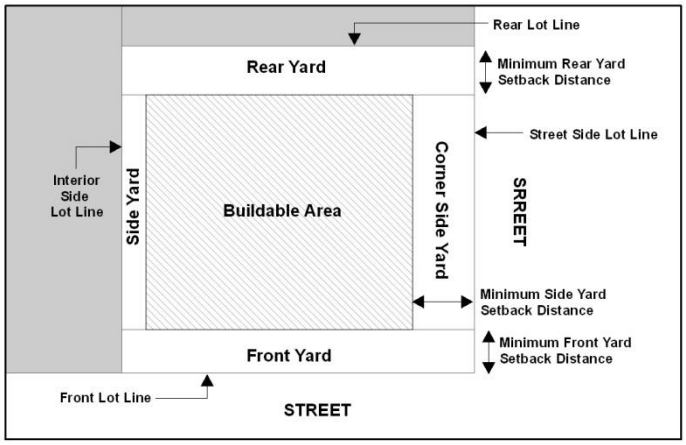
Lot Area. The total horizontal area within the lot lines of the lot.

Lot Lines. Any line dividing one (1) lot from another or from a public right-of-way, and thus constitutes the property lines bounding a lot.

A. ***Front Lot Line***. In the case of an interior lot, that line separating said lot from the street or right-of-way. In the case of a corner lot, the side listed as the official mailing address unless the principal building entrance is not also located on this side.

1. In cases where the principal building entrance is not on the same side as the official mailing address, the City Manager shall review the property layout and make a decision as to which side of the property shall be considered the front yard for zoning and code enforcement purposes. An appeal of the City Manager's decision shall be made to the Planning Commission.

2. After the front yard has been determined, then the remaining side of the comer lot abutting the street shall be considered a side yard for zoning and code enforcement purposes.



B. ***Rear Lot Line***. That lot line opposite and most distant from the front lot line In the case of a triangular or otherwise irregularly shaped lot or parcel, it means an imaginary line ten (10') feet in length entirely within the lot or parcel, parallel to and at a maximum distance from the front lot line.

C. ***Side Lot Line***. Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a street side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

Lot Width. The width of the lot at the setback line.

Lot of Record. A lot which is part of a subdivision, the map of which has been recorded in the office of the register of deeds of Calhoun County, Michigan, or a parcel of land described by metes and bounds, the description of which has been recorded in the office of Register of Deeds of Calhoun County, Michigan.

M

Manufacturing. All operations required to produce the material named.

Manufactured Home. A single-family dwelling, transportable in one (1) or more sections which is built on a permanent chassis, and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein and is installed by a Michigan Licensed Manufactured Home dealer or Michigan Licensed Manufactured Home installer as required by **1987 PA 96**, as amended, being the **Mobile Home Commission Act**, MCL 125.2301 et.seq., (MSA 19.855(101) et.seq.), and administrative rules promulgated thereunder.

Manufactured Housing Community. A use which is a parcel of land under the control of a person upon which three (3) or more manufactured homes are located on a continual nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with

any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home and which is not intended for use as a temporary manufactured home or trailer.

Mechanical Amusement Arcade. A mechanical amusement arcade is any business establishment which contains five (5) or more mechanical amusement devices.

Mechanical Amusement Device. A mechanical amusement device shall include, but not be limited to, a machine, action game table, or electronic device, which for valuable consideration, may be operated for use as a game, contest, video display, or amusement of any description.

Medical Marihuana. The following definitions A through L are related to medical marihuana.

A. ***Enclosed, Locked Facility***. That term as defined in Section 3 of **Initiated Law 1 of 2008,** as amended (**Michigan Medical Marihuana Act,** being MCL 333.26423).

B. ***Grower Facility***. A commercial entity that cultivated, dries, trims or cures and packages marihuana for sale to a Processor or Provisioning Center.

C. ***Marihuana Facility***. An enterprise at a specific location at which a licensee is licensed to operate under the **Medical Marihuana Facilities Licensing Act,** MCL 333.27101 et seq. and pursuant to **Chapter 22, Article 5 of the City of Albion Code of Ordinances**; including a marihuana grower, marihuana processor, marihuana provisioning center, marihuana secure transporter, or marihuana safety compliance facility. The term does not include or apply to a "primary caregiver" or "caregiver" as that term is defined in the **Michigan Medical Marihuana Act**, MCL 333.26421 et seq.

D. ***Medical Marihuana***. That term as defined in the **Public Health Code,** MCL 333.1101 et seq., the **Michigan Medical Marihuana Act**, MCL 333.26421 et seq.; the **Medical Marihuana Facilities Licensing Act**, MCL 333.27101 et seq.; and the **Marihuana Tracking Act**, MCL 333.27901 et seq.

E. ***Person***. An individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

F. ***Primary Caregiver***. That term defined in Section 3 of **Initiated Law 1 of 2008,** as amended (**Michigan Medical Marihuana Act**, being MCL 333.26423) who is at least 21 years old and who has been registered by **State Department of Licensing and Regulatory Affairs** or any successor agency to assist with a Qualifying Patients' use of medical marihuana.

G. ***Primary Caregiver Facility***. A building in which the activities of a Primary Caregiver are conducted.

H. ***Processor***. A commercial entity that purchases marihuana from a Grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a Provisioning Center.

I. ***Provisioning Center***. A licensee that is a commercial entity located in Michigan that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver in accordance with the **Michigan Medical Marihuana Act**, MCL 333.26421 et seq., is not a provisioning center for purposes of this Article.

J. ***Qualifying Patient***. That term defined in Section 3 of **Initiated Law 1 of 2008**, as amended (**Michigan Medical Marihuana Act**, being MCL 333.26423) who has been diagnosed by a physician as having a debilitating medical condition as provided by the Michigan Medical Marihuana Act and who has obtained a duly issued registry identification card from the **State Department of Licensing and Regulatory Affairs** or any successor agency.

K. ***Safety Compliance Facility***. A commercial entity that receives marihuana from a Medical Marihuana Facility or registered Primary Caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the Marihuana Facility.

L. ***Secure Transporter***. A commercial entity that stores marihuana and transports marihuana between Marihuana Facilities for a fee.

Michigan Department of Environment, Great Lakes and Energy (or any subsequently named department). Department within the State of Michigan responsible for administering environmental programs. The **Michigan Department of Environment, Great Lakes and Energy** includes any subsequently named departments with the responsibility to administer environmental programs.

Motel. A building or group of buildings on the same lot, whether detached or in connected rows containing sleeping or dwelling units which may or may not be independently accessible from the outside with garage or parking space located on the lot, and designed for, or occupied by automobile travelers. The term shall include any building or building groups designated as motor lodges, motor inns, or by any other title intended to identify them as providing lodging, with or without meals, for compensation.

N

Nightclub. A commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing and musical entertainment are permitted.

Nonconforming Building. A building or portion thereof lawfully existing at the effective date of this Ordinance, or amendments thereto, and which does not conform to the provisions of the Ordinance in the zoning district in which it is located.

Nonconforming Sign. A sign lawfully existing on the effective date of this Zoning Ordinance, which does not comply with the regulations set forth in this Zoning Ordinance.

Nonconforming Use. A use which lawfully occupied a building or parcel of land at the effective date of this Ordinance, or amendments thereto, and that does not conform to the use regulations of the district in which it is located.

Nuisance. An offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as, but not limited to: (a) noise, (b) dust, (c) smoke, (d) odor, (e) glare, (f) fumes, (g) flashes, (h) vibration, (i) shock waves, (j) heat, (k) electronic or atomic radiation, (l) objectionable effluent, (m) noise of congregation of people, particularly at night, (n) passenger traffic, (o) invasion of non-abutting street frontage by traffic, (p) a burned out structure, (q) a condemned structure.

Nursing Home. See ***Convalescent or Nursing Home***.

O

Open Space. Land upon which no structures, parking, rights-of-way, easements, sewage disposal systems (including backup areas for sewage disposal) or other improvements have or will be made that commit land for future use other than outdoor recreational use. Land proposed for outdoor recreational use that will result in the development of impervious surfaces shall not be included as open space.

Outdoor Storage. A land area occupied and used for open storage of products, building materials, sand, gravel, stone, lumber, equipment and other supplies.

P

Parcel. See ***Lot***.

Parking Lot. An off-street open area, the principal use of which is for the parking of automobiles, whether for compensation or not, or as an accommodation to clients, customers, visitors or employees.

Parking Structure. See ***Garage, Community***.

Patio. A paved open space, used for outdoor living purposes and constructed of any materials providing a hard, durable surface, placed directly on the ground.

Performance Guarantee. Means a cash deposit, certified check, irrevocable bank letter of credit or a performance or surety bond approved by the City of Albion.

Planned Unit Development. An area of land to be developed as a single entity for one or a combination of residential, commercial, and/or industrial uses, the plan for which does not correspond in lot size, bulk, or type of residential, commercial, or industrial use, density, lot coverage and required open space to the regulations established in any one or more districts created, from time to time, under the provisions of

the Zoning Ordinance. Planned unit development requirements are designed to accomplish the objectives of the Zoning Ordinance through a land development project review process based on the application of site planning criteria to achieve integration of the proposed land development project with the characteristics of the project area.

Planned Unit Development Conceptual Plan. A plan that presents the petitioner's tentative development proposal. A conceptual plan, if approved, takes on the status of the preliminary phase of the planned unit development project.

Planned Unit Development Agreement. A written agreement specifying the details of a planned unit development submittal and the conditions under which the submittal received final approval.

Planning Commission. The body appointed by the City Council under the provisions of the **Michigan Planning Enabling Act, 2008 PA 33**, as amended, MCL 125.3801 et. seq. Refers to the City of Albion Planning Commission.

Plot Plan. The drawings and documents depicting and explaining all salient features of a proposed development which requires a zoning permit but is not required to prepare a site plan, in order to evaluate compliance with Zoning Ordinance standards and requirements.

Processing. Any operations changing the nature of material or materials such as the chemical composition or physical qualities. The term does not include operation described as fabrication.

Professional Office. The office of a member of a recognized profession maintained for the conduct of that profession.

Public Utility. Any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing under Federal, State or municipal regulations, to the public, electricity, gas, steam, communications, telegraph, transportation, or water.

R

Recreational Equipment. Includes travel trailers, pickup campers, motor homes, ice fishing houses, tent trailers, tents, boats and boat trailers, personal watercraft, snowmobiles, off-road vehicles of any kind, and similar equipment and cases or boxes used for transporting recreational equipment, whether occupied by the equipment or not.

Recreational Vehicle. A vehicle primarily designed and used as temporary living quarters for recreational, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle. Includes ***Trailer***.

Religious Institution or Church. A building wherein persons assemble regularly for religious worship, maintained and operated by an organized religious body. In determining the definition of an organized religious body, the City will refer to the characteristics, generally attributed to churches, that are used by the Internal Revenue Service to define a church. Accessory uses, buildings and structures

customarily associated with the religious institution are classified as part of the principal use as a church, temple, synagogue, or similar religious structure and/or institution.

Residential Human Care Facility. A facility (not within a private residence) providing:

A. Emergency shelter and services for battered individuals and their children in a residential structure.

B. Shelter and services for individuals receiving care, counseling, crisis support and similar activities including court-directed services.

C. Emergency shelter for individuals who are homeless.

D. Services, programs and shelter for residents who are undergoing alcohol or substance abuse rehabilitation.

Resort. A parcel of land which may contain cabins and/or rooms with or without kitchen facilities, used primarily for vacation and/or recreational activity, and which may or may not contain a small commercial facility such as but not limited to a sporting goods store and/or a restaurant.

Restaurant. A restaurant is any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state, and whose method of operation may be characteristic of a carry-out, drive-in, drive-through, fast food, standard restaurant, or bar/lounge, or combination thereof.

Right-of-Way. A legal right of passage over real property typically associated with roads and railroads.

Rooming and/or Boarding Houses. An owner-occupied single-family dwelling containing guest rooms in which lodging is provided with or without meals for compensation and which is open to permanent guests only and where no provision is made for cooking in any guest room.

S

Salvage Yard. A place where waste or discarded or salvaged materials are bought, sold, exchanged, stored, baled, packaged, disassembled, cleaned, or handled, including house and vehicle wrecking yards, used lumber yards, and places or yards for use of salvaged house and vehicle parts, and structural steel materials and equipment. Salvage Yard shall not include uses conducted entirely within a completely enclosed building; pawn shops and establishments for the sale, purchase, or storage of used cars in operable condition, salvaged machinery, used furniture and household equipment; and the processing of used, discarded or salvaged materials as part of manufacturing operations.

Scrap Yard. An establishment where scrap metals are collected, processed, stored, and/or sold.

Setback. The minimum required horizontal distance from the applicable right-of-way line, easement,

or property line of a lot within which no buildings or structures may be placed.

Sexually Oriented Business. A business or commercial enterprise engaging in any of the following: (A) adult arcade; (B) adult bookstore or adult video store; (C) adult cabaret; (D) adult motel; (E) adult motion picture theater; (F) adult theater; (G) escort agency; (H) nude model studio; and (I) similar establishments.

A. ***Adult Arcade***. Any place to which the public is permitted or invited wherein coin-operated or slug-operated electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.

B. ***Adult Bookstore or Adult Video Store***. A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration one or more of the following.

1. Books, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes or video reproductions, slides or other visual representations or media which depict or describe Specified Sexual Activities or Specified Anatomical Areas; or

2. Instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.

   A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas and still be categorized as an Adult Bookstore or Adult Video Store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it occupies twenty-five (25%) percent or more of the floor area or visible inventory within the establishment.

C. ***Adult Cabaret***. A nightclub, bar, restaurant, or similar commercial establishment that regularly features any of the following:

1. Persons who appear in a state of nudity;

2. Live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;

3. Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or

4. Persons who engage in lewd, lascivious, or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

D. ***Adult Motel.*** A hotel, motel or similar commercial establishment that:

1. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public right of way that advertises the availability of any of the above;

2. Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or

3. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.

E. ***Adult Motion Picture Theater.*** A commercial establishment which for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes, slides, or other photographic reproductions or visual media that are characterized by depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

F. ***Adult Theater.*** A theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of Specified Anatomical Areas or by Specified Sexual Activities.

G. ***Human***. Besides the customary meaning, the term "human" shall also include non-living anthropomorphic devices, both physical and digital.

H. ***Nude Model Studio.*** Any place where a person who displays Specified Anatomical Areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include an educational institution funded, chartered, or recognized by the State of Michigan.

I. ***Nudity or a State Of Nudity.*** Knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:

1. A woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.

2. Material as defined in Section 2 of **Obscene Material, 1984 PA 343**, as amended. MCL 752.362.

3. Sexually explicit visual material as defined in Section 3 of **Disseminating, Exhibiting, or Displaying Sexually Explicit Matter to Minors, 1978 PA 33**, as amended, MCL 722.673.

J. ***Specified Anatomical Areas***. Means and includes any of the following:

1. Less than completely and opaquely covered:

   a. Human genitals;
   b. Pubic region;
   c. Buttocks; or
   d. Female breast below a point immediately above the top of the areola.

2. Human male genitals in a discernible turgid state even if completely or opaquely covered.

K. ***Specified Sexual Activities***. Means and includes any of the following:

1. Human genitals in a state of sexual arousal;

2. Acts of or simulated acts of human masturbation, sexual intercourse, sodomy, bestiality, fellatio or cunnilingus; or

3. Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.

4. Excretory functions as part of or in connection with any of the activities set forth in 1-3 above.

Shopping Center. More than one (1) commercial establishment, planned, developed, owned, and managed as a unit, with off-street parking provided on the property.

Site Plan. The drawings and documents depicting and explaining all salient features of a proposed development so that it may be evaluated according to the procedures set forth in this Ordinance, to determine if the proposed development meets the requirements of this Zoning Ordinance.

Solid Waste Transfer Facility. A tract of land, a building and any appurtenances, or a container, or any combination of land, buildings, or containers that is used or intended for use in the rehandling or storage of solid waste incidental to the transportation of the solid waste, but is not located at the site of generation or the site of disposal of the solid waste.

Special Land Use. Those uses of land which are not essentially incompatible with the uses permitted in a zoning district but possess characteristics or locational qualities which require individual review and restriction in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. Special land uses are subject to conditions stated in this Ordinance and to any special conditions imposed by the Planning Commission to protect the use by right of other properties in the City.

Solar Energy Facility (Utility-Scale). A facility designed to capture and utilize the energy of the sun to

generate electrical power to meet utility-scale needs. A solar energy collection facility consists of solar collection devices used to collect solar rays and all associated ancillary and structural devices needed to support and convert/transmit the energy collected. These devices may be either freestanding or attached to a structure.

Storage. To leave or deposit in a place for preservation or disposal in one (1) or more of the following ways:

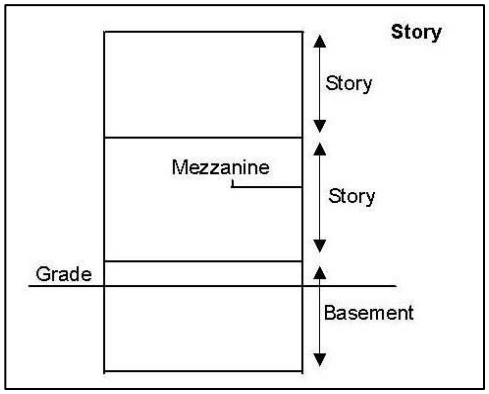
A. ***Storage-Accessory***. Storage which is accessory to the principal use of the premises.

B. ***Storage Facility***. A building or property on which storage is carried out as the principal use of the property.

Story. That portion of a building included between the upper surface of a floor and upper surface of one floor or roof next above.

Story, First. The lowermost story entirely above the grade plane.

Story, Half. A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than three (3') feet above the floor of such story, except that any partial story used for residence purposes, other than by a family occupying the floor immediately below it, shall be deemed a full story.



Street. A public or private thoroughfare which affords the principal means of access to abutting property.

Street Right-of-Way Line. The line which forms the outer limits of a street right-of-way or easement, and which forms the line from which all setbacks and front yards are measured, unless otherwise specified in this Ordinance.

Structure. Anything constructed or erected, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground.

Subdivision. The division of land, lot, tract, or parcel into two (2) or more lots, parcels, plats, or sites, or other divisions of land for the purpose of sale, lease, offer, or development, whether immediate or future. The term shall also include the division of residential, commercial, industrial, agricultural, or other land whether by deed, metes and bounds description, lease, plat or other instrument.

T

Tavern. See ***Bar***.

Temporary Storage Unit. A container designed to be transported or erected and dismantled which allows for the provisional storage of chattels.

Temporary Structure. Any structure that can be readily and completely dismantled and/or removed from a site.

Temporary Swimming Pools. A watertight basin, chamber, or tank containing an artificial body of water for swimming or recreational bathing designed to be readily and completely dismantled and/or removed from a site.

Tent. Shelter or structure with a covering that is made of pliable material that is stretched or draped over a support frame and/or ropes and is used for camping outdoors or as a temporary building or covering.

Tourist Home. A building or part thereof, other than a hotel, boarding house, lodging house or motel, where lodging is provided by a resident family in its home for compensation, mainly for transients.

Townhouse. See ***Dwelling, Single Family Attached.***

Trailer. A vehicle which can be drawn on a highway and is used for recreational or camping purposes. It includes the terms motor home, pole-trailer, trailer coach, and trailer as defined in **1949 PA 300**, as amended, being the **Michigan Motor Vehicle Code**, MCL 257.1 et.seq. (MSA 9.1801 et.seq.), as amended, and including camping units, tents, or any other temporary dwellings.

U

Use, by Right (Permitted Use). A use which is listed as a use by right in any given zoning district in this Ordinance. Uses by right are not required to show need for their location.

Use, Principal. The primary use to which the premises are devoted.

V

Variance. A modification of the literal provisions of the Zoning Ordinance which is authorized by the Zoning Board of Appeals when strict enforcement of the Ordinance would cause either an unnecessary hardship or practical difficulty.

Variance, Non-Use. A dimensional variation of Ordinance standards such as yard requirements, building height, lot coverage, living space dimensions and similar requirements. Non-Use Variances are granted based on the showing of a practical difficulty.

Variance, Use. A variation of the Ordinance standards allowing a use within a specific zoning district which is otherwise not allowed in that zone. Use Variances are granted based on the showing of an unnecessary hardship.

W

Warehouse. A warehouse is defined as a property where goods are stored by contract and/or for a valuable consideration, which goods are not intended for sale on those premises.

Wetland, Regulated. Land characterized by the presence of water at a frequency and duration sufficient to support (and under normal circumstances does support) wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh and which is regulated by the Michigan Department of Environment, Great Lakes and Energy (or any subsequently named department) authorized by **Part 303, Wetland Protection of the Natural Resources and Environmental Protection Act, 1994 PA 451**, as amended.

Wind Energy Definitions:

A. **Wind Energy Conversion System**. A system which converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related equipment. A "small turbine or on-site" system is intended to primarily serve the needs of the customer, with a single tower or roof-mounted system that may, or may not, be connected to the utility grid. A "large turbine or utility grid system" is designed to generate electricity from one (1) or more towers (within an array) and is intended to serve institutions, residential communities or larger cooperatives.

B. ***Ambient***. Ambient is defined as the sound pressure level exceeded ninety (90%) percent of the time.

C. ***Anemometer***. A device used to measure wind speed.

D. ***Db(A)***. The sound pressure levels in decibels. Refers to the "a" weighted scale defined by ANSI. A method for weighting the frequency spectrum to mimic the human ear.

E. ***Decibel***. The unit of measure used to express the magnitude of sound pressure and sound intensity.

F. ***Shadow Flicker***. Alternating changes in light intensity caused by the moving blade of a wind turbine casting shadows on the ground and stationary objects, such as the window of a dwelling.

G. ***Sound Pressure***. Average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.

H. ***Sound Pressure Level***. The sound pressure mapped to a logarithmic scale and reported in decibels (dB).

I. ***Wind Turbine (Horizontal Axis)***. A wind energy system in which the rotor(s) rotate around a horizontal shaft.

J. ***Wind Turbine (Vertical Axis)***. A wind energy system in which the rotor rotates around a vertical shaft.

K. ***Wind Turbine Generator Total Height***.

a. ***Horizontal Axis Wind Turbine***. The distance between the ground and the highest point of the wind turbine generator, plus the length by which the rotor wind vanes or blades mounted on a horizontal axis wind turbine rotor exceeds the height of the wind turbine generator.

b. ***Vertical Axis Wind Turbine***. The distance between the ground and the highest point of the wind turbine generator.

Wireless Communications (Telecommunication Towers and Facilities Definitions):

A. ***Alternative Tower Structure***. Man-made trees, clock towers, bell steeples, light poles and other similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

B. ***Antenna***. Any exterior transmitting or receiving device mounted on a tower, building or structures and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunication signals, or other communication signals.

C. ***Backhaul Network***. The lines connecting a telecommunication provider's tower site and antennas to one or more cellular telephone switching offices, and/or long distance telephone providers, or the publicly switched telephone network.

D. ***Co-location***. The location by two (2) or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, with the objective of reducing the overall number of structures required to support wireless communication antennas within the community.

E. ***Height***. When referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

F. ***FAA***. Federal Aviation Administration.

G. ***FCC***. Federal Communications Commission.

H. ***Lot***. A parcel of land consisting of a lot of record and any contiguous lots of record or contiguous portions of lots of record held in single or common ownership.

I. ***Pre-Existing Towers and Pre-Existing Antennas***. Any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this Ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and unexpired.

J. ***Setback***. Setback shall mean the required distance from the property line of the parcel on which the Wireless Communication Facility is located or residential district to the base of the Support Structure.

K. ***Small Cell Wireless Facility***. A wireless facility that meets both of the following requirements:

1. Each antenna is located inside an enclosure of not more than six (6) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements would fit within an imaginary enclosure of not more than six (6) cubic feet.

2. All other wireless equipment associated with the facility is cumulatively not more than twenty-five (25) cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

L. ***Tower***. See ***Wireless Communications Support Structure***.

M. ***Wireless Communications.*** Wireless communications shall mean television and radio towers, as well as any personal wireless service as defined in the **Telecommunications Act of 1996**, as amended, which includes FCC licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist.

N. ***Wireless Communications Equipment***. The set of equipment and network components used in the provision of wireless communications services, including, but not limited to antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding wireless communications support structures.

O. ***Wireless Communication Facility***. A Wireless Communication Facility is any facility for the transmission and/or reception of wireless communications services, usually consisting of an Antenna Array, connection cables, an Equipment Facility and a Support Structure. A Wireless Communication Facility also includes an Antenna Array attached to an existing building or structure (Attachment Structure).

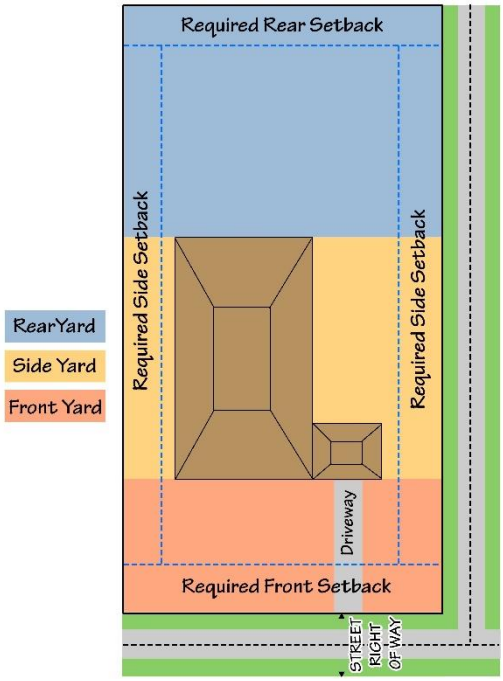
P. ***Wireless Communications Support Structure***. Structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.

Wholesaling. Wholesaling is defined as the on-premise sale of goods for resale.

Y

Yard. An open space on the same lot with a building unoccupied and unobstructed from the ground upward, except as otherwise provided herein. The measurement of a yard shall be construed as the minimum horizontal distance between the lot line and the building or structure.

Yard, Front. An open space extending the full width of the lot between any part of a building and the front lot lines, unoccupied and unobstructed from the ground upward, except as hereinafter specified. In the case of a corner lot, the side listed as the official mailing address is considered the front yard unless the principal building entrance is not also located on this side.



A. In cases where the principal building entrance is not on the same side as the official mailing address, the City Manager shall review the property layout and make a decision as to which side of the property shall be considered the front yard for zoning and code enforcement purposes. An appeal of the City Manager's decision may be made to the Planning Commission.

B. After the front yard has been determined, then the remaining side of the comer lot abutting the street shall be considered a side yard for zoning and code enforcement purposes.

Yard, Side. An open space of a lot which extends from the front yard to the rear yard between the side lot line of a lot and the nearest wall or supporting member of a building or structure except as hereinafter specified.

Yard, Rear. An open space extending across the rear of the lot between the inner side yard lines and between a building and the rear lot line, unoccupied and unobstructed from the ground upward, except as hereinafter specified. In the case of through lots and reversed frontage corner lots, there will be no rear yard.

Z

Zoning Administrator. The person retained by the City of Albion to administer and enforce this Zoning Ordinance.

Zoning Board of Appeals. As used in this Ordinance, the term "Board of Appeals" or “ZBA” means the

Zoning Board of Appeals.

Zoning District. A portion of the City of Albion within which certain regulations and requirements, or various combinations thereof, apply under the provisions of this Ordinance.

Zoning Permit. A standard form issued by the Zoning Administrator upon application and declaration by the owner or his duly authorized agent regarding proposed construction and use of land, building and structures thereon granting approval for the construction or use applied for.

Article 3
General Provisions

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Section 3.1 Intent

It is the purpose of this Article to provide regulations that apply in all zoning districts, except as noted herein. The following shall apply to all of the City of Albion.

Section 3.2 Application of Regulations

A. **Effect of Zoning.**

Zoning affects every structure and use, and extends vertically from the ground up.

B. **Conformance to Ordinance Required**.

1. In order to carry out the intent of this Ordinance, no use or activity on a piece of land shall be commenced or maintained, no building or structure or part thereof shall be allowed to be used, constructed, remodeled, altered, or moved upon any property unless it is in conformance with this Ordinance, with the provisions and intent of the specific zoning district in which it is located, and the applicable zoning permit or building permit has been obtained. Lawful nonconforming uses or buildings shall be regulated by the provisions of **Section 3.9**.

2. No building shall hereafter be erected or altered to exceed the height limitations, or to occupy a greater percentage of lot area, or intrude upon the required front yard, rear yard, side yard or inner or outer courts, or so as to accommodate or house a greater number of families, or so as to provide less space per dwelling unit than is specified for the zoning district in which such building is located, unless otherwise allowed by this Ordinance.

3. No lot area and no yard, court, parking area or other required space shall be so divided, altered, reduced or diminished as to make said area or dimension less than the minimum required under this Ordinance, except where such reduction has been brought about by expansion or acquisition of public rights-of-way for streets, roads or highways. If a required area is already less than the minimum required under this Ordinance, said area or dimension shall not be further divided or reduced.

4. The maintenance of setbacks, open spaces, lot areas, height and bulk limitations, fences, walls, clear vision areas, parking and loading spaces, and all other requirements, including the proper maintenance and repair of screening arrangements, for a building or use specified within this Ordinance shall be a continuing obligation of the owner of such building or property on which such building or property or use is located.

C. **Structures and Uses Declared a Nuisance**.

If any activity, use, building, structure or part thereof is placed upon a piece of property in direct conflict with the intent and provisions of this Ordinance, such activity, use, building or structure shall be declared a nuisance and are subject to **Chapter 1, Section 1-26 (Municipal Civil Infractions)** of the City of Albion Code of Ordinances. Such nuisance may be required to be vacated, dismantled, abated, or ceased by any legal means necessary. Such use, activity, building or structure shall not be allowed to function until it is brought into conformance with this Ordinance.

D. **Structures and Uses Already Under Construction.**

In the event that any lawful use, activity, building or structure which exists or is under construction at the time of the adoption of this Ordinance and is not in conformance with the provisions of the zoning district in which it is located, such use, activity, building or structure shall be considered a legal nonconformity and shall be allowed to remain as such.

E. **Relocated Buildings.**

The relocation of a building to a different site shall be considered the same as erection of a new building. All provisions, regulations or requirements relative to the erection of a new building shall be applicable to a structure that is relocated. No building shall be moved onto a lot into the City of Albion without first obtaining a zoning permit from the Zoning Administrator.

Section 3.3 Unsafe Buildings/Barrier-Free Modification

A. Unsafe Buildings.

Nothing within this Ordinance shall be construed to prevent compliance with an order by the appropriate authority to correct, improve, strengthen, or restore to a safe or healthy condition, any part of a building or premises declared unsafe or unhealthy.

B. Barrier-Free Modification.

Nothing in this Ordinance shall prevent the modification of a nonresidential building only as may be necessary to comply with barrier-free requirements and the **Americans with Disabilities Act**. A zoning variance may be required if such modifications do not comply with this Ordinance.

Section 3.4 Zoning Lots, Zoning Lot Occupancy and Illegal Dwellings

A. **Zoning Lots**.

1. **New Lots to be Buildable.** All newly created lots shall have buildable area. The net buildable area of a lot shall be a contiguous piece of land excluding land subject to flooding six (6) months of the year, poor drainage, steep slopes, rock outcrops and land encumbered by easements preventing the use of the land.

2. **Minimum Lot Size.** No new lots shall be created which do not meet the minimum lot size regulations of this Ordinance with the exception of parcels described and designated as "outlots" in a recorded plat which are so arranged or subdivided as to provide for one (1) or more principal buildings with a land area allocated to each building which is equal to or greater than the lot area required in the district, and the building and land complies with all other requirements of the district in which it is located.

B. **Zoning Lot Occupancy**.

In the R-1 District, no single-family or two-family detached residential structure shall be erected upon a lot with another single-family or two-family detached residential structure unless otherwise provided in this Ordinance. In the R-2 District, more than one (1) single-family dwelling shall be allowed upon a lot only with a Special Use permit. In the MU District, more than one (1) single-family dwelling on a lot shall be a permitted use.

C. **Illegal Dwellings**.

The use of any portion of a basement or partially completed structure for dwelling purposes shall not be permitted. Garages, accessory buildings, recreational vehicles or trailers, trucks, buses, or other such portable structures shall not be occupied for dwelling purposes except as otherwise allowed in this Ordinance.

Section 3.5 Access

Every principal structure hereafter erected or moved after the effective date of this Ordinance, shall be located on a lot adjacent to a public or private street or an easement which provides access to a public or private street, and all structures shall be located on lots as to provide safe and convenient access for servicing fire protection and accessing off street parking.

Section 3.6 Temporary Uses, Buildings & Construction Debris

A. **Temporary Accessory Uses**.

Temporary uses include tents, temporary storage units, temporary structures and temporary swimming pools.

1. **Prohibited Temporary Uses**.

   a. The storage of materials which may be toxic, flammable, or attract vermin and pests.

   b. The permanent and ongoing housing of persons.

   c. Location in front yard area with the following exceptions:

      (1) Temporary storage unit (including shipping containers) may be located in front yard, but must be on an improved surface.

      (2) A temporary swimming pool twenty-four (24") inches or less in depth or temporary tent (not used for storage) may be located in the front yard. Temporary tents shall be located in the front yard for not more than forty-eight (48) hours at a time.

2. **Maintenance**. All temporary uses shall be kept in good repair free of defect that impairs their primary function or causes a health or safety concern.

3. **Time Limitations**.

   a. Temporary storage units or structures or tents used for storage are permitted to exist for no more than thirty (30) consecutive days, not to exceed sixty (60) days in a calendar year unless otherwise specified by ordinance.

   b. Temporary swimming pools and tents (not used for storage) are permitted at all times except from November 1st of a given calendar year through March 31st of the subsequent calendar year.

4. This language shall not be construed as to include architectural features that serve a subsidiary function to a permitted use or accessory structure.

B. **Temporary Buildings During Construction**.

Temporary buildings during construction require a zoning permit and may be utilized in the following circumstances:

1. during construction for the storage of construction materials;

2. for construction offices;

3. for temporary dwelling purposes during a construction or building rehabilitation period as permitted herein; or

4. for emergency temporary dwelling purposes upon a finding by the City that the principal residential structure has been destroyed in whole or in part by fire, explosion or natural disaster and therefore is uninhabitable.

Temporary buildings for uses incidental to construction work shall be removed within thirty (30) days after the completion or abandonment of the work. Failure or refusal to remove the temporary building within thirty (30) days after the completion or abandonment of work constitutes a violation of this Ordinance. No structures shall be used for temporary dwelling purposes that do not comply with the requirements of this Ordinance. The size of temporary dwelling units shall be the only exception to this rule. No garage or other accessory building or structure, travel trailer, basement, tent, barn, partial or temporary structure, whether of a fixed or portable construction, shall be erected or moved onto a lot and used for any dwelling or construction purposes unless authorized by the issuance of a zoning permit by the Zoning Administrator.

C. **Dwelling as a Sales/Management Office**.

The Zoning Administrator may authorize a certification for a dwelling to be temporarily used as a sales and management office for the sale of homes within a subdivision, provided all of the following requirements are complied with:

1. The house to be used as such office is built upon a lot approved as part of the approved subdivision and is of substantially similar design as those houses to be sold within the subdivision.

2. No retail sales or business other than that accessory to the management and sales of the land in the subdivision owned by the applicant shall be permitted.

3. Said dwelling house shall meet all other zoning restrictions of the zone in which it is located.

D. **Permit Application and Review**.

1. An application for a permit for the temporary use and installation of a temporary dwelling unit, including a manufactured home, modular, prefabricated dwelling unit, or similar structure, shall be made to the Zoning Administrator. The application shall be accompanied by a plot plan showing the location of the proposed structure.

2. The temporary dwelling unit shall comply with all applicable Zoning District requirements including setback, area, bulk, and other requirements, except minimum house size requirements.

3. The granting of a permit for a temporary dwelling unit shall be for a period of up to one (1) year from the date of approval. Any conditions of approval shall be specified in writing on the permit. The Zoning Administrator may extend the temporary dwelling permit up to one (1) additional year.

4. To guarantee compliance with the provisions of this Ordinance and removal of the temporary dwelling upon expiration of the permit, the City Council may require a cash bond to be posted prior to the issuance of a permit.

E. **Construction Debris**.

All construction debris shall be removed from the site within thirty (30) days after the completion or abandonment of the work. Failure or refusal to remove construction debris within thirty (30) days after the completion or abandonment of work constitutes a violation of this Ordinance.

Section 3.7 Accessory Structures

A zoning permit is required prior to constructing or erecting an accessory structure.

A. **Attached and Detached Accessory Structures**.

An accessory structure may be erected detached from the principal building or it may be erected as an integral part of the principal building. When erected as an (attached) integral part of such principal building, it shall comply in all respects with the requirements of this Ordinance applicable to the principal building. Accessory structures or garages may be considered as attached to the principal building when the distance between structures is solidly covered by a breezeway, portico, covered colonnade or similar architectural device. For the purposes of this Section, permanent swimming pools shall not be considered as accessory structures.

B. **Residential Accessory Structure Regulations**.

1. **Setbacks**. Detached accessory structures shall not be nearer to the side lot line or rear lot line than five (5') feet. On reversed corner lots, detached accessory structures shall not be nearer to the street side lot line than the required street side setback of the primary building.

2. **Yard Requirements**. A detached accessory structure shall be located in the side or rear yard. In no case shall the detached accessory structure project into the front yard area further than the principal structure.

3. **Height**. The height of a detached accessory structure shall not exceed the height of the principal building up to thirty (35') feet.

4. **Floor Space.** The total combined floor space of the accessory structure(s) on a lot shall not exceed the limits set in the following schedule:

Lot Size	Accessory Structure(s) Size
0 - 8,712 ft^2	1, 000 ft^2
8, 713 - 13, 200 ft^2	1,200 ft^2
13,201 - 17,424 ft^2	1, 400 ft^2
Over 17,424 ft^2	1, 600 ft^2

5. **Distance between Accessory Structures and Principal Building**. The distance between detached accessory structures or garages and the principal building or buildings shall not be less than ten (10') feet. Measurement shall be taken from the wall of the principal building not including patios or decks.

C. **Nontraditional Storage Facilities.**

Governmental uses are exempted from **subsection C**.

1. Truck bodies, school bus bodies, manufactured homes, travel trailers or other items built and intended for other uses shall not be used as permanent accessory structures. Semi-trailers may be used as temporary storage for commercial and industrial uses in the commercial and industrial districts in the rear yard only.

2. **Shipping Containers**. Shipping containers shall be allowed to be used as accessory buildings for storage purposes. Shipping containers shall be either painted to blend in with the natural landscape or covered in a siding material that would typically be utilized for a principal building. Shipping Containers shall be placed on a foundation or gravel surface with adequate drainage.

D. **Accessory Structure as a Dwelling.**

No accessory structure may be used for human habitation unless otherwise permitted by this Ordinance.

E. **Accessory Structures without a Principal.**

No accessory structure shall be erected upon a residential lot or parcel unless and until a principal building is erected. An accessory structure without a principal building may be erected on the lot adjacent to the lot on which the principal building is located if the adjacent lot is under the same ownership. If this occurs, then the lot containing the principal structure and the lot containing the accessory structure shall hereafter be considered one lot for zoning purposes.

F. **Handicap/Wheelchair Ramps**.

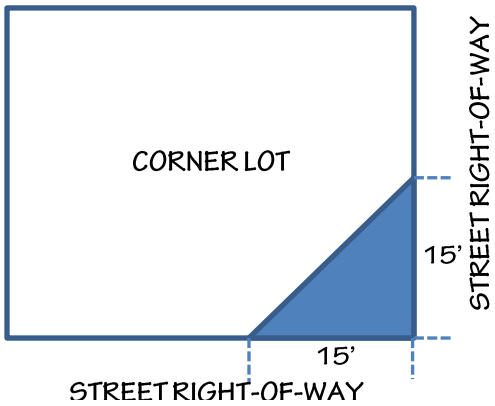
Permanent handicap/wheelchair ramps shall meet setbacks of the principal building. Temporary handicap ramps that do not meet setbacks may be approved by the Zoning Administrator for a period not to exceed one (1) year. If the temporary ramp is to be used for longer than one (1) year, the

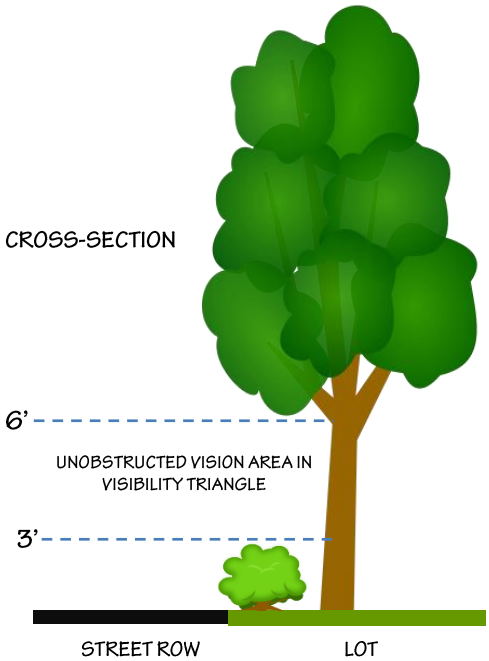
property owner may request a variance from the ZBA thirty (30) days prior to the expiration of the one (1) year temporary permit.

Section 3.8 Corner Clearance & Entranceways

A. **Clear Vision.**

No fence, wall, shrubbery, sign, or other privately-owned structure or planting shall obstruct vision between the height of three (3') feet and six (6') feet within the triangular area formed by the intersecting street right-of-way lines and a straight line intersecting them at points which are on said right-of-way lines adjacent to a lot and fifteen (15') feet distant from their point of intersection. Driveways and alleys shall not be located within this intersection visibility triangle. If the road is an access drive, these dimensions shall be measured from the pavement edge.





B. **Entranceway**.

In all Districts, entrance-way structures, including but not limited to, walls, columns and gates marking entrances to single-family subdivisions, multiple-family housing projects, commercial developments, industrial developments, mixed-use developments, or similar uses may be permitted and may be located in a setback, except as provided in **subsection A** above, provided that such entranceway structures shall be approved during the required Planning Commission review.

Section 3.9 Nonconformities

A. **Intent**.

1. Within the districts established by this Ordinance or amendments that may later be adopted, there exist lots, uses of land, buildings or structures, and uses of buildings, structures and premises in combination which were lawful before this Ordinance (or a previous ordinance) was passed or amended, but which are prohibited, regulated, or restricted under the terms of this Ordinance or future amendment.

2. It is the intent to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as ground for adding other buildings, structures or uses prohibited elsewhere in the same district.

3. To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building or structures on which actual construction was lawfully begun prior to the effective date of adoption of this Ordinance or amendment of this Ordinance and upon which actual building construction has been diligently carried on.

B. **Nonconforming Lots of Record**.

In any district, notwithstanding limitations imposed by other provisions of this Ordinance, a principal building may be erected on any nonconforming single lot of record at the effective date of the adoption of this Ordinance or any amendments to this Ordinance, provided that setback requirements of the lot shall conform to the regulations for the district in which such lot is located. Variance of setback requirements shall be obtained only through action of the Zoning Board of Appeals.

C. **Nonconforming Uses of Land**.

Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible in its District under the terms of the Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

1. **Expansion of Nonconforming Use**. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption of this Ordinance.

2. **Moving a Nonconforming Use.** No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel of land occupied at the effective date of adoption of this Ordinance or the effective date of amendment of this Ordinance.

3. **Change of Nonconforming Use**. No nonconforming use shall be changed to other than a conforming use, nor shall any use be reverted to a former nonconforming use after said use has been changed to a conforming use.

4. **Destruction of Nonconforming Use**. Should a nonconforming use be destroyed by any means to an extent of more than fifty (50%) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

5. **Abandonment of Nonconforming Use.** If any such nonconforming use of land is discontinued or abandoned for any reason for a period of twelve (12) consecutive months, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located. When determining the intent of the property owner to abandon a nonconforming use or structure, the Zoning Administrator shall consider the following factors:

   a. Whether utilities such as water, gas, and electricity to the property have been disconnected.

   b. Whether the property, buildings, and grounds have fallen into disrepair.

   c. Whether signs or other indications of the existence of the nonconforming use have been removed.

   d. Whether equipment or fixtures necessary for the operation of the nonconforming use have been removed.

   e. Other information or actions that evidence an intention on the part of the property owner to abandon the nonconforming use or structure.

6. **Special Uses are not Nonconforming Uses**. Any Special Use which is permitted as provided in this Ordinance shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

7. **Repair and Maintenance on Nonconforming Use**. On any building or structure devoted in whole or in part to a nonconforming use, in any period of twelve (12) consecutive months, maintenance and ordinary repairs may be done or repair or replacement of walls, fixtures, wiring or plumbing to an extent not exceeding fifty (50%) percent of the true cash value of the building or structure, provided, that the cubic content of such building or structure as it existed at the time of passage or amendment of this Ordinance shall not be increased. Any alteration or repair approved under this Section shall meet local housing and building codes and requirements.

D. **Nonconforming Buildings or Structures**.

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage,

height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. **Maintenance of Nonconforming Structures**.

   a. Nothing in this Ordinance shall prevent such necessary repairs, reinforcement and incidental alterations of a nonconforming structure existing on the effective date of this Ordinance as may be necessary to secure a reasonable advantageous use thereof during its natural life nor shall any provision of this Ordinance prevent compliance with the provisions of any Building Code in effect in Albion relative to the maintenance of structures.

   b. Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition any part of any building or structure declared unsafe by the Building Official or to comply with barrier-free requirements of the **Americans with Disabilities Act**. Nothing in this Ordinance shall prevent any alteration, improvement or repair as required by the Health Department as necessary to protect the public health, safety, and welfare. A zoning variance may be required.

2. **Alteration to Nonconforming Building or Structure**. No such building or structure shall be enlarged or altered in a way which increases its nonconformity. However, additions or changes are permitted to buildings and structures that would be permissible in the same district if they do not enlarge, expand, or extend the existing nonconformity of the structure or property. These requests would be subject to administrative review and approval by the Zoning Administrator.

3. **Destruction of Nonconforming Building or Structure.** Should such building or structure be destroyed by any means to an extent of more than fifty (50%) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

4. **Moving of Nonconforming Structure**. Should a nonconforming building or structure be moved for any reason for any distance, it shall thereafter conform to the setback regulations for the district in which it is located after it is moved.

E. **Change in Tenancy or Ownership**.

There may be a change of tenancy, ownership or management of any existing nonconforming uses, structures, or lots which does not alter the nonconforming status.

Section 3.10 Essential Services

The erection, construction, alteration or maintenance, by public utilities or municipal departments or commissions, of overhead or underground gas, electrical, steam, or water distribution or transmission systems, collection, telephone, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, electrical towers, telephone and

electrical poles, electrical substations, gas regulator stations, telephone exchange buildings, public utility or municipal buildings reasonably necessary for the furnishing of adequate service by such named public utility or municipal department shall be permitted as authorized or regulated by law and ordinances of the City of Albion.

Telecommunication towers, alternative tower structures, antennas, wind turbine generators, and anemometer towers shall be regulated and permitted pursuant to this Ordinance and shall not be regulated as essential services, public utilities or private utilities.

Section 3.11 Landscaping & Screening

A. **Intent.**

Landscaping and screening and approval of all development plans listed below is required by the provisions of this Section. The impact of urban development on the form, function and environment of the community is significant. The intent of this Section is to ensure a high level of quality and to secure a compatible relationship between land use activities and to improve the appearance of the community within developing residential, business and industrial areas. The following landscaping requirements shall be provided.

B. **General Requirements**.

Landscaping and screening as provided in this Section shall be required on the site in the following cases:

1. Whenever a building permit is required for the erection of a principal building or structure, except for attached and detached single-family residential dwellings and two-family dwellings or accessory buildings related to such dwelling units.

2. Whenever a building permit is required for a structural alteration, addition or repair to a building when the square footage of the addition, alteration, or repair exceeds fifty (50%') percent of the square footage of the entire building or structure, exclusive of foundation, prior to its improvement (as determined by the Planning Department Director).

C. **Landscaping and Screening of Parking Areas.**

Parking lots shall have the following perimeter landscaping and screening:

1. Off-street parking areas for more than five (5) vehicles shall include the following perimeter landscaping between the parking lot and the right-of-way (applies to public alleys only when a residential use or zone is located across from a public alley):

   a. A landscaped greenstrip at least ten (10’) feet in width.

   b. A hedge forming a continuous screen at least thirty-six (36”) inches above the street grade, or a berm, wall or combination thereof forming a continuous screen at least thirty-six (36”)

inches above the street grade, and located to provide maximum screening of the parking lot. Relocation of the hedge, berm, wall or combination thereof may be allowed to prevent traffic hazards, vision obstruction or other public safety dangers. The building may also be used to screen the parking lot.

2. Parking areas of greater than ten thousand (10,000 ft^2) square feet, in addition to subsection C.1.a and C.1.b above, must meet the following interior landscaping requirements:

   a. Within the interior of the parking lots there shall be one (1 ft^2) square foot of landscaped area for each fifteen (15 ft^2) square feet of parking lot. In computing the lot area for this requirement, the paved area within twenty (20') feet of the perimeter may be excluded.

   b. Each interior landscaped area shall have at least one hundred fifty (150 ft^2) square feet.

   c. The interior landscaped areas shall be located in a manner that breaks up the expanse of paving throughout the parking lot.

D. **Screening of Conflicting Land Uses.**

1. Neighboring residential and park properties shall be shielded from any adverse external effects and negative impacts of nonresidential development. A screen required by this Section shall limit visual contact between uses and to create a strong impression of spatial separation. Such screen must be opaque in all seasons of the year. Unless otherwise indicated, the screen shall be composed of hedge, fence, landscaped earth berm, wall, planted vegetation or existing vegetation or a combination thereof which is opaque from the ground to the height of at least six (6') feet. Separation screening is required for the following abutting land uses:

   a. Except as provided in subsection (b) below, a parking lot or any nonresidential use abutting to a public park or land principally used or zoned for residential purposes must be separated by screening between it and all abutting areas of such park or residential land or use.

   b. An industrial or research park or combination thereof use abutting a public park facility or land principally used or zoned for residential purposes must have a separation screening with a minimum height of eight (8') feet.

2. For purposes of D.1.a and D.1.b above, the Planning Commission may approve screening consisting of existing vegetation, planted vegetation and topographical characteristics of the land or a combination thereof if it satisfies the intent of this Section. The Planning Commission shall consider the characteristics of the land and vegetation present, the adequacy of the screening proposed, and other factors which impact upon adjoining residential and park uses. The Planning Commission, in approving the use of existing topographical characteristics of the land or existing and/or planted vegetation, may condition such approval on the planting of new vegetation in the number, size, and type to satisfy the intent and purpose of this Section.

3. The Planning Commission may increase or decrease the height of the separation screening and/or require additional landscaping as part of the site plan review under **Article 5**. In deciding whether the requirements of this Section protect abutting residential uses, the Planning Commission may consider factors which include, but are not limited to, the topography of the land, the type(s) of use(s) involved, the materials and vegetation utilized and the distance between structures and uses.

E. **Screening of Refuse Containers.**

Refuse containers for other than single and two-family uses shall be screened from view of any public right-of way or adjacent residential use or residential zone. Screening shall consist of a solid wall or fence or live landscape material at least six (6) feet high.

F. **Landscaping Materials Standards.**

Materials used to comply with this Section must meet the following standards:

a. **Artificial Plant Material**. No artificial plants or trees may be used.

b. **Healthy and Maintained Screening.** All plant material must be maintained in a healthy and growing condition. All fences and walls must be maintained so as to ensure the continuity of the fence and/or wall. Diseased, dying, dead and/or damaged materials must be replaced to ensure the continuity of the required buffer. The use of native species is encouraged.

c. **Opacity.** Where plant material is used for screening, it shall be composed of at least fifty (50%) percent evergreens. Plant materials shall be of a size, quantity and spacing to achieve seventy (70%) percent year round opacity within three (3) years.

d. **Walls/Fences.**

a. Where a wall or fence is used in conjunction with landscaping, with the exception of walls abutting a public right-of-way, the fence or wall shall be set adjacent to and within one (1) foot of the property line except where natural features prevent the use of the property line or where underground utilities interfere.

b. Where a fence is used in conjunction with landscaping, such fence shall be an opaque structure with a footing depth of forty-two (42”) inches with the footings comprised of pressure-treated or decay resistant wood. Vertical and horizontal members that support the fence shall be concealed within the fence or be exposed only on the nonresidential side of such fence.

c. Where a wall is used in conjunction with landscaping, such wall shall be an opaque masonry structure with a footing depth of forty-two (42”) inches. If concrete blocks are used for walls, they must be decorative or brick-faced.

d. In residential areas, where fencing is required (or an option) in front yard areas, the fencing shall not be solid (opaque). In these situations, the fencing installed shall be less than sixty-three percent (63%) solid. In other zoning districts the Planning Commission shall have the authority to permit and/or require solid fencing in front yard areas. In approving an exception, the Planning Commission shall indicate in the approving resolution the reasons or criteria for approving the exception.

e. **Perimeter Landscaping Material.** Perimeter landscaped areas adjacent to a public right-of-way shall be covered with grass or ground cover. When grass or ground cover is used, it shall be planted and maintained to present a finished landscaped appearance within one (1) growing season.

f. **Interior Landscaping Material.** Interior landscaped areas shall be covered with grass, ground cover, adequately prepared and weed retardant stone beds or bark or wood chip mulch.

g. **Height and Spread**. When required by this Section, evergreen trees shall be a minimum of five (5) feet in height with a minimum spread of three (3') feet, and a burlap ball size of at least ten (10) times the caliper size.

h. **Existing Vegetation.** Existing vegetation on the property may be used to meet the requirements of this Section if it meets the size and opacity requirements.

i. **Berms.** Berms shall have slopes no greater than one (1') vertical foot for each three (3') horizontal feet and shall have at least two (2') feet of flat area on top and shall have adequate protection for prevent erosion.

j. **Curbing.** Landscaping areas within the interior of the parking lot shall be protected by concrete or bituminous curbing.

k. **Native Plant Material**. The use of native plant material is encouraged.

G. Landscaping Plan.

A landscaping plan must be submitted to the Planning Department showing the location, type and size of all screening and landscaping in sufficient detail for a determination that the landscaping and screening conforms with this Section. If it conforms to the requirements of this Section, it shall be approved by the Director or his appointed representative. Rearrangement of landscaping may be required to prevent traffic hazards, vision obstructions or other dangers to public safety. The landscaping plan may be made part of the site plan required by **Article 5**, but the landscaping plan shall not be subject to the Planning Commission approval unless landscaping requirements of this Section are deemed inadequate to protect neighboring residential property or parks from the proposed use or in cases where the Planning Commission wishes to vary the standards in this Section.

H. Flexible Design Standards.

1. It is recognized that alternative design concepts exist which, if adopted, could exceed the results envisioned using these development standards. It is intended that the landscaping requirements of this Ordinance be flexible and permit latitude in site design and the use of plant materials when it can be shown that variation from the requirements will provide a development substantially better than that achievable using the minimum standards of this Section. The provisions of this Section shall be considered the minimum development standards and not a design goal.

2. The Planning Director, or Planning Commission upon request of the Planning Director, may approve variations from strict compliance with this Section when an applicant can demonstrate that any of the following apply to a specific development site:

   a. When topography, shape, size or other natural features make full compliance impractical or impossible.

   b. When space limitations or prevailing development patterns in the surrounding neighborhood justify alternative compliance for in-fill projects and redevelopment in older established areas of the City.

   c. When safety considerations warrant alternative compliance.

   d. When there is not an alternative in the practical siting of a building, location of site access, or the location of underground utilities to service the site.

   e. When the alternative compliance plan is equal to or superior in its ability to fulfill the intent of this Section.

I. Noxious Weeds, Grass, and Brush.

All properties in the City are subject to the provision of **Chapter 90, Article III of the City of Albion Code of Ordinances (Noxious Weeds, Grass, and Brush)**.

Section 3.12 Parking & Circulation

A. **General**.

In all districts there shall be provided off-street parking spaces for automobiles in accordance with this Section, except as otherwise provided by district.

B. **Compliance Required**.

Off-street parking provisions of this Section shall apply to the following:

a. **New Construction**. For all buildings and structures erected and all uses of land established after the effective date of this Ordinance.

b. **Enlargement**. Whenever a building is expanded resulting in an increase in the required parking.

c. **Change in Use**. Whenever the use of a building or portion of a building is changed to accommodate a use requiring more parking than the former use.

d. **Parking Area Construction and Expansion (For all new parking areas and whenever existing parking areas are expanded or upgraded).** Normal maintenance, such as re-grading of legal nonconforming gravel parking areas or the addition of top coat or sealer to existing paved parking areas, will not trigger full off-street parking compliance; however, pulverizing an existing asphalt, concrete or other paved parking surface, the outright removal or substantial modification of the paved surface in preparation for paving and demolition which serves to return a parking area substantially to gravel or other aggregate surface, shall, for the purposes of this code, be considered a new parking area.

C. **Size and Location**.

Each required parking space shall have an area of not less than one hundred eighty (180 ft^2) square feet, with a minimum width of no less than nine (9') feet, exclusive of access drives or aisles, any parking area space or lot required to serve for off-street parking purposes shall be located as follows:

1. **One- and Two-Family Dwellings**. Parking spaces shall be provided on the same lot as the building they are intended to service. Furthermore, no parking shall be permitted in the front yard area except upon an improved driveway.

2. **Multiple-Family Dwellings and All Other Uses Subject to Site Plan Review**. Parking spaces shall be located not more than two hundred (200') feet from the building they are required to service. Furthermore, no parking shall be permitted in the front yard area except upon an improved surface.

D. **Collective Provision of Parking for Mixed Use and Multiple Use Properties**.

1. **Provision of Parking for Mixed Use and Multiple Use Properties (Overlapping in Hours of Operation)**. Separate off-street parking space shall be provided for each use, or the parking space required of two (2) or more uses may be combined and used jointly; provided:

   a. That the total of such off-street parking spaces supplied collectively shall not be less than the sum of the requirements for the various uses computed separately except where determined by the Planning Commission, in its sole reasonable discretion during site plan review, that such uses do not pose a conflict and such parking requirement for one or more uses will satisfy that for such others.

   b. That the requirements set forth above as to maximum distances between parking areas and the building or building group served shall apply to each building or building group participating in the collective provisions of parking.

2. **Collective Parking for Uses NOT Overlapping in Hours of Operation.** Joint use of a required parking area may be permitted for two (2) or more uses located on the same, adjacent, or nearby parcels provided that the developer or owner demonstrates that the uses will not overlap in hours of operation or in demand for shared spaces. In this case, a collective parking lot may be constructed providing the number of spaces required for only the use with the highest amount of required parking. The owners of all parcels used for or making use of shared parking areas shall record a commitment stating that the uses will not overlap in hours of operation or in demand for shared spaces. The commitment shall be binding on future owners of the property and shall be recorded with the City. Shared parking areas shall be located not more than three hundred (300') feet from the uses they are intended to serve and shall be connected to that use by a defined pedestrian walkway.

E. **Number of Spaces Required**.

1. The number of off-street parking spaces shall be as listed in the Parking Space Table below. When units or measurements determining number of required parking spaces result in requirement of a fractional space, any fraction shall require one (1) parking space. If the use is not listed in the Parking Space Table, the Planning Director shall classify the use according to a similar use listed.

2. **Central Business District (CBD).** In the event such adequate space is not available to supply on-site parking, municipal lots may be utilized for off street parking and/or loading, subject to the approval of the Zoning Administrator according to generally accepted parking ratios.

Parking Space Table

Residential Uses	
USE	**NUMBER OF PARKING SPACES**
Single- or Two-Family Dwelling	2 per dwelling unit
Multiple-Family Dwelling	1 for 1 bedroom dwelling unit; 1.5 per dwelling unit for units with more than 1 bedroom
Apartment Hotel	1 per each sleeping unit
Rooming House/Boarding House	1 per each person
Bed and Breakfast/Tourist Home	1 for each sleeping room

Institutional Uses & Places of Public Assembly	
USE	**NUMBER OF PARKING SPACES**
Community Center	2 for each 100 sq ft of floor area used for assembly
Public Meeting Halls	1 for each 100 sq ft of floor area used by the public
Dormitory; Fraternity and Sorority (2 occupants for each room)	1 per room (unless subject to campus policy and/or CD District requirements)
Churches	1 per each 4 seats
Civic or Social Club	1 per each 50 square feet of floor area used for assembly
Private Clubs, Lodge or Hall (with or without bedrooms)	1 per each 100 square feet of floor area used for assembly
Hospitals	1.5 per each patient bed
Sanitariums and Convalescent Homes	1 per each 2 beds
Homes for the aged and children's' homes	1 for each 3 persons in residence
Business and Technical Schools, Colleges and Universities	1 per each 3 students enrolled - day or night classes - whichever is greater
High Schools	1 per each 4 students
Elementary and Middle Schools	1 per each 8 auditorium seats
Child Care Center or Nursery Schools	1 per each five (5) students, plus 1 per each employee
Day care homes	1 per each employee and/or caregiver
Stadiums, Sports Arenas, Auditoriums (other than school)	1 per each four (4) seats
Libraries, Museums and Art Galleries	1 per each 4 seats
Theaters	1 per each 4 seats
Dance Hall, Studio, Skating Rink	2 per each 100 square feet of floor space used by the public
Bowling Alley	8 per each alley
Mortuary or Funeral Home	1 per each 50 square feet of floor area used for assembly, viewing, seating

Commercial, Office and Industrial Uses	
USE	**NUMBER OF PARKING SPACES**
General Business and Service Establishments	300 square feet of parking area for each 100 square feet of floor area or sales space. (loading and unloading space not included in parking pace)
Medical & Dental Clinic Office	5 per each doctor
Offices (all types except doctors/dentists)	1 per each 200 sq. ft. of floor area
Hotels, Motels, Motor Inn or Motor Lodge	1 per each bedroom or sleeping unit
Drive-In Establishments	8 per each 125 square feet of ground floor area
Food, Soft Drinks, and Alcoholic Beverages (served on the premises): Restaurants, Bars, Grills, Taverns, Dining Room of Hotel or Motel, Dairy Bar, and Soda Fountain	1 per each 3 seats
Mechanical Amusement Arcades	1 per each 2 mechanical amusement devices
Manufacturing processing and/or fabrication, warehouse and storage buildings and experimental laboratories	1 per each 3 employees on maximum shift

F. Development and Maintenance of Parking Areas.

Every lot or parcel of land hereafter established as a public or private parking area, including a municipal parking lot, commercial parking lot, restricted residential, business, industrial, public assembly or institutional accessory parking lot and also an automobile, manufactured homes or trailer sales (including rental) lot, shall be developed and maintained in accordance with the following requirements:

1. **Screening and Landscaping**. Off-street parking areas for more than five (5) vehicles shall conform with the requirements of **Section 3.11.**

2. **Construction Standards and Maintenance**. Any off-street parking area for more than five (5) vehicles:

   a. Shall not be used for repair, dismantling or servicing of any vehicles.

   b. Must be adequately surfaced with concrete or asphalt and must further be provided with adequate storm water runoff facilities so that surface water will not drain into adjacent properties or public rights-of-way. The use of permeable parking lots may be approved to facilitate site drainage.

   c. Shall be provided with entrances and so located as to minimize traffic congestion.

   d. Shall be provided with rolled asphalt curb, concrete curb or similar wheel or bumper guards around the perimeter of the site so located that no part of parked vehicles will extend beyond the parking area.

   e. Shall be provided with clearly marked parking spaces.

f. Lighting facilities shall be so arranged as to reflect the light away from adjoining residential properties and not interfere with traffic.

G. **Supplemental Parking Lots in R Districts**.

The establishment and operation of supplemental accessory off-street parking lots in any R or MU district as Special Uses may be permitted upon application to the Planning Commission and approval by it, subject to the special use conditions listed in **Article 6** and subject to an additional finding by the Planning Commission that:

1. The supplemental lot is necessary because the required number of parking spaces cannot be provided on the lot on which the building is located.

2. The parking lot shall be supplemental accessory to, and for use only in connection with one or more residential, business, industrial, public assembly or institutional buildings. No charge for parking shall be made.

3. Each entrance to and exit from such parking lot shall be not less than twenty (20') feet distant from any adjacent property line located in any R district.

4. No sign of any kind other than designating entrances, exits and ownership and conditions of use, shall be maintained on such parking lot.

5. Such supplemental accessory parking lot shall be subject to all the requirements of **subsection F** above.

6. Any person, firm or corporation desiring to secure permission to establish and maintain a restricted residential, business, industrial, public assembly or institutional, supplemental accessory parking lot, within the meaning of this Section, shall make application to the Planning Commission, accompanied by a plan which clearly indicates the proposed development, including the location, size, shape, design, landscaping, curb cuts and other features and appurtenances of the parking lot.

7. Before making its final determination, the Planning Commission shall hold a public hearing, notice of which shall be given pursuant to **Section 9.11**.

8. Any supplemental accessory off-street parking lot permit may be revoked any time that the aforementioned requirements are not complied with, and any permittee who uses premises to which said permit relates, in violation of any of the conditions herein specified or fixed to such permit shall be deemed in violation of this Ordinance and shall be subject to the penalty prescribed herein for such violations.

9. In any R or MU district, supplemental accessory parking lots shall not have any parking space or spaces nearer the street than the front building line of the adjoining dwelling or structures

or the established setback line whichever is greater and in any case not less than ten (10) feet from the street right-of-way line.

H. Sidewalks and Pedestrian Walkways.

1. **Public Sidewalk**. Public sidewalks shall be constructed pursuant to **Chapter 74** of the City of Albion Code of Ordinances.

2. **Required Pedestrian Walkway**. All developments except for single- and two-family dwellings shall provide clearly defined pedestrian walkways from the public sidewalk to main entrances of the buildings or to the sidewalk fronting the building in the case of a multi-entrance building.

3. **Pedestrian Walkway Standards**. Pedestrian walkways shall be designed to be recognizable to both drivers and pedestrians. Any combination of at least two (2) of the following walkway treatments shall be used:

   a. Constructing the walk/crosswalk with different materials, such as concrete or brick or other material approved or recognized under The Americans with Disabilities Act (ADA) requirements;

   b. Placing bollards at sufficient regular intervals to delineate the walk/crosswalk;

   c. Aligning planting islands to define the walk/ crosswalk;

   d. Raising the walk/ crosswalk; and

   e. Colored pavement with walk/crosswalk striping.

   Pedestrian travelways shall be physically separate from the parking area except where they cross a vehicle maneuvering lane, in which case the travel way shall be defined with a separate and contrasting material such as the use of a textured concrete or brick paver.

I. **Bicycle Parking Substitution**.

In off-street parking areas with twenty-five (25) or more automobile parking spaces, bicycle parking spaces may be substituted for automobile parking spaces at the rate of ten (10) bicycle spaces per one (1) off-street parking space with a maximum of ten (10) automobile spaces replaced with bicycle parking.

J. **Flexibility in Application**.

The City recognizes that, due to the specific requirements of any given development, flexible application of the parking standards set forth in this Section may be required to prevent traffic congestion, unauthorized parking on adjacent streets or neighboring site, excessive paving and storm water runoff and misuse of space which could otherwise be left as open space.

a. The Planning Commission, based on a recommendation from the Planning Director, may permit deviations from the requirements of this Section and may require more or allow less parking whenever it finds that such deviations are more likely to provide a sufficient number of parking spaces to accommodate the specific characteristics of the use in question.

b. The Planning Commission may attach conditions to the approval of a deviation from the requirements of this Section that bind such approval to the specific use in question. Where a deviation results in a reduction of parking, the Planning Commission may further impose conditions which ensure that adequate reserve area is set aside for future parking, as needed.

c. The Planning Commission, based on a recommendation from the Planning Director, may allow deviations from the hard durable surface lot requirement for seasonal or auxiliary lots. The recommended surface shall be suitable for the given parking area in question.

Section 3.13 Off-Street Loading Requirements

A. **Location and Design of Spaces.**

1. Off-street loading space shall be located at the side or rear of the building for which provided.

2. Each such berth shall be not less than ten (10') feet in width, thirty-five (35') feet in length and fourteen (14') feet in height.

B. **Number of Spaces.**

At least the following amounts of off-street loading space shall be provided, plus an area or means adequate for maneuvering, ingress and egress:

1. For structures containing less than twenty thousand (20,000 ft^2) square feet of gross floor area, one loading space shall be provided.

2. For structures containing twenty thousand (20,000) or more square feet of gross floor area, the number of berths specified in the following table.

Square Feet of Gross Floor Area	Required # of Berths
20,000 up to and including 40,000....	1
40,001 up to and including 100,000....	2
100,001 up to and including 160,000....	3
160,001 up to and including 240,000....	4
240,001 up to and including 320,000....	5
320,001 up to and including 400,000....	6
For each additional 90,000 or over 400,000....	1 additional

3. Such off-street loading space may occupy any part of any required side or rear yard space but shall not occupy the front yard space in any district.

The Planning Commission may reduce or eliminate the loading space requirements on a case-by-case basis.

Section 3.14 Unclassified Uses

When a use is not expressly mentioned in the Zoning Ordinance in **Article 4**, the Planning Commission shall make an interpretation as to what district or districts should accommodate the use. The decision shall be based on the intent of each district and similar uses allowed in the district. The decision of the Planning Commission regarding unclassified uses may be appealed to the Zoning Board of Appeals.

Section 3.15 Groundwater Protection

A. **Intent**.

The intent of the Groundwater and Wellhead Protection standards are to provide supplemental development regulations within the City so as to permanently protect the drinking water source from long-term contamination originating from the improper use, storage or generation of hazardous substances or polluting materials. Due to the vulnerability of ground water aquifers to contamination, the need for public health protection, and the significant public investment in the municipal water supply system, these regulations contain protective measures which apply to all new development within the City that requires Site Plan Review and Approval pursuant to **Article 5** of this Ordinance.

These provisions are intended to protect groundwater drinking sources within the City as they relate to the municipal water supply system of the City of Albion.

B. **Scope**.

The provisions of the Groundwater and Wellhead Protection Standards shall apply to all nonresidential uses and facilities, including private and public facilities, which use, store or generate hazardous substances in a quantity greater than one hundred (100) kilograms per month (twenty-five (25) gallons or two hundred twenty (220) pounds), and which shall be subject to site plan review under the provisions of this Zoning Ordinance. Agricultural uses that operate under a Generally Accepted Agricultural Management Practice (GAAMP) as defined by the Michigan Commission of Agriculture, are exempt from these provisions.

C. **Definitions**.

The terms used in this subsection shall have the meanings set forth in the definitions for **Groundwater Protection (Article 2)**.

D. **Hazardous Substance Protection Standards**.

1. The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, flood plains, and street slopes.

2. Storm water management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body, or water course, and shall not significantly increase flooding or the potential for environmental contamination of surface or groundwater, on-site or off site.

3. General purpose floor drains shall be connected to a public sewer system or an on-site holding tank in accordance with state, county, and local requirements, unless a groundwater discharge permit or permit exclusion has been obtained from the **Michigan Department of Environment, Great Lakes and Energy**.

4. Sites at which hazardous substances and polluting materials are stored, used, or generated shall be designed to prevent spills and discharges of hazardous substances to the air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands.

5. State and Federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No releases to groundwater, including direct and indirect releases shall be allowed without applicable groundwater discharge permit or permit exclusion from the **Michigan Department of Environment, Great Lakes and Energy**.

E. **Aboveground Storage and Use Areas for Hazardous Substances and Polluting Materials**.

1. Primary containment of hazardous substances shall be product-tight.

2. Secondary containment of hazardous substances shall be provided for all facilities. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance. Products held in containers of five (5) gallons or less packaged for retail use shall be exempt from this item.

3. Outdoor storage of hazardous substances shall be prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the operator to recover any released substance, including an allowance for the expected accumulation of precipitation.

4. Out buildings, storage rooms, sheds and pole barns which are utilized as secondary containment shall not have floor drains which outlet to soil, public sewer system, groundwater, or nearby drains or natural water bodies unless a surface or groundwater discharge permit has been obtained to applicable requirements **of Act 451 (Natural Resource and Environmental Protection Act 451 of 1994)** as amended.

5. Areas and facilities for loading and unloading of hazardous substances as well as areas where such materials are handled, used and stored, shall be designed and constructed to prevent unpermitted discharge or runoff to floor drains, rivers, lakes, wetlands, soils or groundwater.

F. **Underground Storage Tanks for Hazardous Substances and Polluting Materials**.

1. Existing and new underground storage tank systems as defined under the **Natural Resource and Environmental Protection Act 451 of 1994**, as amended, shall be registered with the authorized State agency in accordance with applicable requirements of the U.S. Environmental Protection Agency (E.P.A.) and the **Michigan Department of Environment, Great Lakes and Energy**.

2. Installation, operation, maintenance, closure and removal of underground storage tanks shall be in accordance with applicable requirements of the **Michigan Department of Environment, Great Lakes and Energy**. Applicable leak detection, corrosion protection, spill prevention and overfill protection requirements shall be met. Records shall be required to be retained and available for review by State or local officials for a period of five (5) years for tank tightness and for a two (2) year period for retention and all other monitoring or test results.

3. Out-of-service and/or abandoned underground storage tanks shall be emptied and permanently closed in accordance with the requirements of the **Michigan Department of Environment, Great Lakes and Energy**.

G. **Well Abandonment**.

Out of service wells including water wells and monitoring type wells shall be sealed and abandoned in accordance with applicable requirements of the State of Michigan and Calhoun County.

H. **Site(s) with Contaminated Soils and/or Groundwater**.

1. Site plans shall take into consideration the location and extent of any contaminated soils and/or groundwater on the site, and the need to protect public health and the environment.

2. Development shall be prohibited on a site of environmental contamination unless information is available indicating that the development will not exacerbate the contamination or impede its remediation.

I. **Construction Standards**.

1. The general contractor, or if none, the property owner, shall be responsible for assuring that each contractor or subcontractor evaluates each site before construction is initiated to determine if any site conditions may pose particular problems for handling any hazardous substances. For instance, hauling hazardous substances in proximity to water bodies or wetlands may be improper.

2. Hazardous substances and polluting materials stored on the construction site during the construction process, shall be stored in a location and manner designed to prevent spills and unpermitted discharges to air, surface of the ground, groundwater, lakes, streams, rivers, or wetlands. Any storage of quantities greater than one hundred (100) kilograms (twenty-five (25) gallons or two hundred twenty (220) pounds) shall have secondary containment.

3. If the contractor will be storing or handling hazardous substances or polluting materials that require a manufacturer's material safety data sheet, the contractor shall familiarize him/herself with the sheet, and shall be familiar with procedures required to contain and clean up any releases of the hazardous substance.

4. Upon completion of construction, all hazardous substances and polluting materials, including containment systems no longer used or not needed in the operation of the facility, shall be removed from the construction site by the responsible contractor and shall be disposed of, recycled, or re-used in a proper manner as prescribed by applicable State and Federal Regulations.

J. **Maintenance**.

In areas where hazardous substances or polluting materials are handled, structural integrity of the building must be maintained to avoid inadvertent discharge of hazardous substances to soils and groundwater. Cracks and holes in floors, foundations and walls that could cause hazardous substances to be released shall be repaired in areas where hazardous substances are handled or stored.

K. **Development Review Requirements**.

The following development review requirements are in addition to the development requirements found in **Article 5**:

1. Specify location and size of interior and exterior area(s) and structure(s) to be used for on-site storage, loading/un loading, recycling and use or disposal of hazardous substances or polluting materials.

2. Specify location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, hazardous substance storage, collection of contaminated storm water or wash water, and all similar uses.

3. Specify location of exterior drains, dry wells, catch basins, retention/detention areas, pumps, and other facilities designed to collect, store or transport storm water or wastewater. The point of discharge for all drains and pipes shall be specified on the site plan.

4. Specify areas on the site that the applicant has reason to believe are contaminated, together with a report on the status of site cleanup, if applicable.

5. Submit a list of the types and quantities of hazardous substances and polluting materials which will be used, stored, or generated on-site including chemicals, hazardous

substances/materials, petroleum products, hazardous wastes and other polluting materials. The list shall include common name (trade name) of materials, chemical name (components), form (liquid, pressurized liquid, solid, gas, pressurized gas, etc.), maximum quantity on hand at any one time, and type of storage containers (aboveground tank, underground tank, drums, cylinders, metal container, wooden or composition container, portable tank). Material Safety Data supplied to the Fire Department and to employees by an employer may also be submitted for site plan review purposes. The City may ask the Fire Department to provide comments and recommendations with regard to the quantity and location of hazardous substances being stored on site as a part of the site plan review process.

6. Submit any State/County Environmental Permits necessary for the storage of and/or discharge of hazardous substances or polluting materials.

7. Fill out and submit the City of Albion State & County Environmental Permits Checklist as supplied by the City.

L. **Exemptions and Waivers**.

1. The transportation of any hazardous substance or polluting material shall be exempt from the provisions of this Ordinance provided the transporting motor vehicle or rail car is in continuous transit, or that it is transporting substances to or from a properly licensed solid or hazardous waste treatment, storage, or disposal facility.

2. As described above, agricultural uses that operate under a Generally Accepted Agricultural Management Practice (GAAMP) as defined by the Michigan Commission of Agriculture, are exempt from these provisions.

Section 3.16 Storage in Front Yards

The storage of goods or materials that are not currently being used shall not be allowed in a front yard in any district unless otherwise allowed by this Ordinance. Parking in front yards is regulated by **Chapter 82** of the City of Albion Code of Ordinances.

Section 3.17 Exterior Site Lighting

A. **Intent and Purpose**.

The purpose of exterior lighting standards is to create and maintain safe nighttime environments for both pedestrians and drivers on public roadways and right-of-ways by minimizing brightly lighted surfaces and lighting glare; to preserve the restful quality of nighttime by eliminating intrusive, artificial light and lighting that unnecessarily contributes to “sky glow”; and to reduce light pollution from lighting luminaries and light trespass onto adjacent properties. The following requirements shall be considered by the Planning Commission and Zoning Administrator in the review of all site plans submitted for approval under the terms of this Zoning Ordinance.

B. **Lighting Standards**.

1. **Light from Processes**. Glare from any process (such as or similar to arc welding or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines.

2. **Light from Vehicles.** The design and/or screening of the development shall insure that glare from automobile and commercial or industrial vehicle headlights shall not be directed into any adjacent property, particularly residential property.

3. **Lighting for Safety.** Subject to the provisions set forth herein, all parking areas, walkways, driveways, building entryways, off-street parking and loading areas, and building complexes with common areas shall be sufficiently illuminated to ensure the security of property and the safety of persons using such public or common areas.

4. **Lighting not to be a Nuisance.** Exterior lighting shall be located and maintained to prevent the reflection and glare of light in a manner which creates a nuisance or safety hazard to operators of motor vehicles, pedestrians and neighboring land uses. This provision is not intended to apply to public street lighting.

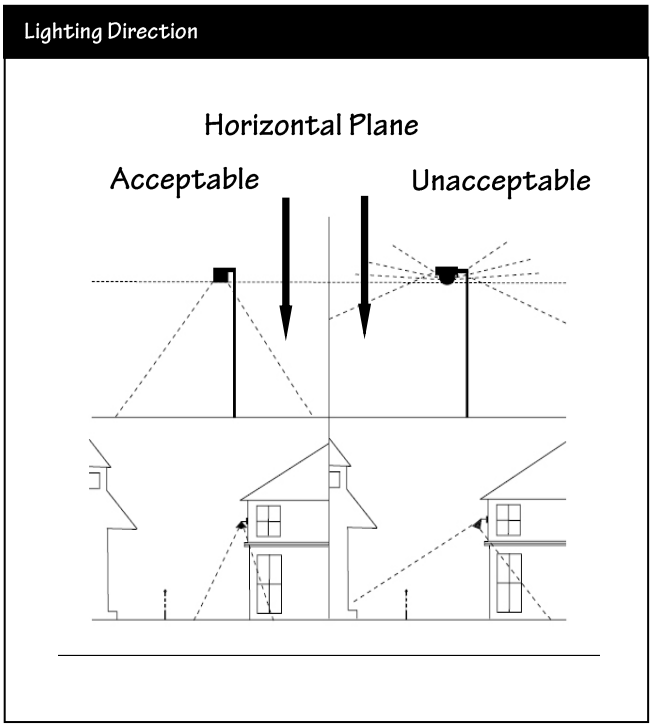
5. **Lighting Color.** Only white, non-glare lighting such as metal halide, color-corrected high pressure sodium, or other types of lighting which achieve the same effect shall be permitted.

6. **Light Fixture Height.** Pedestrian lighting shall be no more than sixteen (16) feet in height. Parking lot lighting and lighting for private streets shall be no more than twenty-five (25) feet in height. The Planning Commission may permit taller fixtures only when the Commission determines that unique conditions exist and where a waiver would: reduce the number or bulk of light fixtures; not adversely impact neighboring properties; or permit fixtures in proportion to height and bulk of nearby buildings and other fixtures. The Planning Commission may require shorter fixtures. Lighting poles and structures shall be located within landscaped areas where possible.

7. **Lighting Directed Downward/Shielded**. Except for diffused globe-style walkway lights and the lighting addressed in **subsection 8 below**, all outdoor lighting in all districts shall be directed toward and confined to the ground areas of lawns or parking lots. Exterior lighting shall be shielded, hooded and/or louvered to provide a glare-free area beyond the property line unless the light source is not directly visible from beyond the boundary of the site. Lighting fixtures shall have one hundred (100%) percent cut off above the horizontal plane at the lowest part of the point light source. The light rays may not be emitted by the installed fixture at angles above the horizontal plane. *(See figure 3.17)*

8. **Upward Directional Lighting**. All lighting used for the external illumination of buildings and flags with lights directed in an upward direction, so as to feature said buildings and flags, shall be placed and shielded so as not to interfere with the vision of persons on adjacent streets or adjacent property.

Figure 3.17



9. **Moving Lights**. All illumination of any outdoor feature shall not be of a flashing, moving or intermittent type. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use. Beacon, strobe and search lights are not permitted.

10. **Interference with Traffic Control Devices**. No colored lights shall be used at any location where it may be confused with or construed as traffic control devices.

11. **Gas Stations**. Ceiling lights in gas pump island canopies shall be recessed.

C. **Exempted Areas and Types**.

The following types of outdoor lighting shall not be covered by this Ordinance:

1. Temporary holiday lighting and decoration.

2. Lights located within the public right-of-way or easement.

3. Temporary lighting needed for emergency services or to perform nighttime road construction on major thoroughfares.

4. Temporary lighting for civic activities, fairs, or carnivals provided the lighting is temporary.

5. Lighting required by the Federal Communications Commission, Federal Aviation Administration, Federal Occupational Safety and Health Administrations, or other applicable Federal or State agencies.

6. Lighting for recreational facilities shall conform, at a minimum, to the requirements set forth in the most current edition of the **Illuminating Engineering Society of North America (IESNA)** RP-6 Recommended Practice for Sports and Recreational Area Lighting and the IESNA Lighting Handbook. The Planning Commission reserves the right to impose more restrictive lighting standards on a case by case basis.

D. **Sign Lighting**.

Lighting for signs is regulated in **Chapter 64 of the City of Albion Code of Ordinances.**

Section 3.18 Performance Standards

A. Smoke and Air Contaminants.

It shall be unlawful for any person, firm, or corporation to permit the emission of any smoke or air contaminant in violation of air quality standards adopted by Federal and/or State regulatory authorities

B. Drifted or Blown Material.

Property owners shall take appropriate measures to ensure the prevention of drifting of airborne particles or debris beyond their lot lines. Any such activity shall be promptly abated upon notification by the City. During times of stockpiling or removal, excavation or grading, those measures, necessary and practical (dampening, etc.), will be taken to minimize the blowing and drifting of material.

C. Odors.

Any condition or operation which results in the creation of odors of such intensity and character as to be detrimental to the health and welfare of the public or which interferes unreasonably with the comfort of the public shall be removed, stopped, or so modified as to remove the odor.

1. For new facilities (commercial or industrial), the most recent technologies shall be utilized to reduce odors, as part of or in addition to any conditions included in State and/or Federal regulatory agency air/water quality permit(s). As part of the Zoning Permit review the applicant shall demonstrate that all measures technologically available and financially viable to mitigate the emission of noxious odors will be incorporated into the design of the facility.

2. For existing commercial and industrial facilities, odors resulting from the production process that are within the limits established by State and/or Federal regulatory agencies in approved permits shall not be considered in violation of this Ordinance. This does not exempt any business from the responsibility to take all necessary technologically feasible and financially

viable measures to reduce such odors, and to comply to with any new standards required as part of a renewed or new State and/or Federal regulatory agency environmental permits.

D. Gases.

The escape or emission of any gas which is injurious or destructive, harmful to person or property, or explosive shall be unlawful and shall be abated.

E. Electrical Disturbance, Electromagnetic, or Radio Frequency Interference

No use shall create any electrical disturbance that adversely affects any operations or equipment other than those of the creator of such disturbance, or cause, create, or contribute to the interference with electronic signals (including television and radio broadcasting transmission) to the extent that the operation of any equipment not owned by the creator of such disturbance is adversely affected.

F. Glare and Heat.

Any operation producing intense glare or heat shall be performed within an enclosure so as to completely obscure and shield such operation from direct view from any point along the lot line, except during the period of construction of the facilities to be used and occupied.

G. Noise.

Noise, as per **Chapter 38, Article II of the City of Albion Code of Ordinances**, which is objectionable as determined by the City due to volume, frequency, or beat shall be muffled, attenuated, or otherwise controlled.

In addition, objectionable sounds of an intermittent nature, or sounds characterized by high frequencies shall be so controlled so as not to become a nuisance to adjacent uses. Sirens and related apparatus used solely for public purposes are exempt from this requirement. Noise resulting from temporary construction activity shall also be exempt from this requirement.

H. Vibration.

All machinery shall be so mounted and operated that vibration from sound or noise at any lot line shall not be so intrusive as to interfere with normal daily activities in adjoining land uses. Vibrations resulting from temporary construction activity shall be exempt from the requirements of this Section.

Section 3.19 Voting Place

The provisions of this Ordinance shall not be so construed as to interfere with the temporary use of any property as a voting place in connection with a municipal or other public election.

Article 4
District Regulations

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4.2	Official Zoning Map	4-2
4.3	Application of District Regulations	4-3
4.4	R-1 - Single Family Residential District	4-8
4.5	R-2 - Multiple Family Residential District	4-12
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4.7	CBD - Central Business District	4-23
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Section 4.1 Zoning Districts

For the purposes of this Ordinance, the City of Albion, Michigan, is hereby divided into the following zoning districts:

R-1	Single Family Residential District
R-2	Multiple-Family Residential District
MU	Mixed Use District
CBD	Central Business District
C	General Business District
M-1	Light Industrial District
M-2	Heavy Industrial District
CDD	Campus Development District

Section 4.2 Official Zoning Map

A. Official Map.

The boundaries of the districts are hereby established as shown on the Zoning Map of the City of Albion, Michigan, which map is hereby made a part of this Ordinance. The said map and all notations and references and other information shown thereon shall be made a part of this Section. The official map shall be located in the City Clerk's office.

B. Interpretation of Boundaries.

Where uncertainty exists with respect to the boundaries of any of the districts indicated on the official Zoning Map, the following rules shall apply:

1. Except where referenced on said map to a street line or other designated line on said map, district boundary lines follow lot lines or centerlines of streets, alleys or channelized waterways as they existed at the time of the adoption of this Ordinance; but where a district boundary line obviously does not coincide with the lot lines or such centerlines or other designated lines, its location shall be fixed from the scale of the official zoning map by the Zoning Board of Appeals.

2. Where a district boundary line, as shown on the zoning map, divides a platted lot or unplatted property which was in single ownership and of record at the time of the adoption of this Ordinance, the use authorized thereon and other requirements applying to the least restricted portion of such lot or property under this Section shall be considered as extending to the entire lot or property, provided the more restricted portion is entirely within twenty-five (25) feet of said dividing district boundary. The use so extended shall be deemed to be conforming.

C. **Zoning of Vacated Areas**.

Whenever any street, alley or other public way is vacated by official action as provided by law, the zoning districts adjoining the sides of such public way shall be automatically extended to the centerline, depending on the side or sides to which such lands revert, to include the right-of-way of the public way thus vacated, which shall thenceforth be subject to all regulations of the extended district or districts.

D. **Zoning of Annexed Areas**.

1. All territory which may hereafter be annexed to the City of Albion shall be automatically classified in the "R-1" district until otherwise changed by ordinance amendment after public hearing.

2. Such public hearing shall be held as soon as practicable but in any event not later than thirty (30) days after annexation. During the time between annexation and the public hearing, no zoning permit shall be issued without special approval by the Planning Commission.

E. **Zoning of Filled Areas**.

Whenever, after appropriate permits are obtained, any fill material is placed so as to create a usable or buildable space, such fill area shall take on the Zoning District and accompanying provisions of the land abutting said fill area.

Section 4.3 Application of District Regulations

The regulations herein established within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety, and general welfare.

No building shall hereafter be erected, altered, or moved, nor shall any building or premises hereafter be used for any purpose other than is permitted in the district in which said building or premises is located, except by appeal as herein described by this Ordinance. Except as hereinafter provided, district regulations shall be applied in the following manner.

A. **Uses in Districts.**

1. **Permitted Uses.** Permitted uses shall be permitted by right only if specifically listed as permitted uses in the various zoning districts or are similar to such listed uses.

2. **Special Uses.** Special uses are permitted after review and approval by the Planning Commission only if specifically listed or are similar to such listed uses.

B. **Limitations on External Effects of Uses**.

All uses established or placed in operation in any zoning district after the effective date of this Ordinance shall comply forthwith with the following limitations:

1. Every use shall be so operated that it is not obnoxious or dangerous by reason of heat, glare, fumes, dust, noise or vibration beyond any boundary line of the lot or parcel of land on which the use is located and conforms with **Section 3.18 (Performance Standards)**.

2. **Outdoor Storage Areas**. All outdoor storage areas shall be enclosed by a fence or wall unless screening is waived by the Planning Commission. All materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible by rodents or insects, shall be stored outdoors only in closed containers and screened from the street or adjacent property. No materials or wastes shall be deposited on the premises in such form or manner that they may be transferred off the premises by natural causes or forces. Waste materials shall not be allowed to accumulate on the premises in such manner as to be unsightly, constitute a fire hazard, or contribute to unsanitary conditions.

    a. **Non-Residential Uses**. No such yard shall be used for the display, hire, sale, outside storage or repair of merchandise unless such use of a yard was approved during site plan review by the Planning Commission or Zoning Administrator. If such use of a yard is needed after site plan review, the applicant shall draw up a plot plan pursuant to **Section 5.2**. The Zoning Administrator shall have the power to review and approve such use.

b. **Residential Uses.** Storage areas shall be completely enclosed within a building or screened from public view or view from neighboring properties by a screening fence, wall, or landscaping.

C. **Application of Area, Width and Yard Regulations**.

1. **Reduction or Occupation of Required Area or Space**. No lot, yard, parking area or other space shall be reduced in area or dimension so as to make said area or dimension less than the minimum required by this Ordinance. No part of a yard, provided about, or for, any building or structure for the purpose of complying with the provisions of this Ordinance, shall be included as part of a yard for another building or structure.

2. Every new parcel of land shall meet the minimum lot width requirements set forth in **Section 4.13 Schedule of Regulations** and shall have frontage on and/or direct access to a public road.

   a. **Measuring Lot Width**. Lot width shall be measured at the setback line.

3. No building, structure, fence, or other permanent improvement shall be permitted to be erected or located within a public right-of-way.

4. **Green Roofs**. The Planning Commission may increase the maximum percentage of lot coverage of structures in any district if the principal building uses a green roof as defined in **Article 2**.

5. **Through Lots**. Building on lots having frontage on two (2) non-intersecting streets shall have applicable front yards on both streets.

6. **Projections into Yards**. In any R or MU district, certain architectural and other features may project into setbacks as follows:

   a. Cornices, canopies, eaves, bay windows, balconies, or chimneys and other architectural features may project a distance not exceeding three (3') feet.

   b. Outside stairways and fire escapes may project a distance not exceeding four and a half (4 ½') feet.

   c. An uncovered stair and landing which does not extend above the entrance floor of the building except for the railing may project not more than six (6') feet.

   d. Fences, walls and hedges may be in setbacks as follows:

      (1) If not exceeding, at any point, six (6') feet in height above the ground, such may be located in any yard. Fences projecting into front yards may not exceed four (4') feet in height.

      (2) On a corner lot, not to exceed four (4') feet above ground level in height, such fence, wall or hedge may be located in the side yard abutting the street line.

      (3) Fences are regulated by **Article VII of the City of Albion Code of Ordinances**.

e. Walks, driveways or necessary retaining walls may occupy any yard area.

f. An uncovered deck(s) without walls and with railings not exceeding four (4') feet in height and when attached to the principal structure may project into the side and rear yard area, however, the following conditions shall be met:

(1) There must be at least ten (10') feet of open clear area between the rear lot line and the deck.

(2) There must be at least five (5') feet of open clear area between the side yard lot line and the deck.

g. In all situations under this subsection, there shall be at least five (5') feet of open clear area between the front, side and rear yard lot line(s) and the projecting feature or structure.

h. External insulation which is added to existing buildings may encroach into the setback and is exempted from floor area calculations and maximum lot coverage percentages.

D. **Application of Height Regulations.**

The height limitations stipulated in this Section shall not apply to church spires, elevated water tanks, elevator penthouses, fire towers, cooling towers, grain elevators, grain or coal silos, gas holders, smokestacks, flagpoles, masts and aerials, monuments and similar public structures requiring a greater height. Any private structures or towers associated with radio and television, wireless communications or wind energy conversion shall be subject to specific regulation.

E. **Dwelling Standards**.

No person shall use, occupy permit the use or occupancy of a structure as a dwelling, or duplex, which does not comply with dwelling standards of this Ordinance, or standards of the State of Michigan and United States Department of Housing and Urban Development, whichever is applicable, within any district, except in a designated manufactured housing community, and except as hereinafter provided. All dwellings shall comply with the following minimum standards:

1. **Dwellings per Lot**. In the R-1 District, no single-family or two-family detached residential structure shall be erected upon a lot with another single-family or two-family detached residential structure unless otherwise provided in this Ordinance. In the R-2 District, more than one (1) single-family (detached) or two-family dwelling shall be allowed upon a lot only with a Special Use permit. In the MU District, more than one (1) single-family (detached) or two-family dwelling on a lot shall be a permitted use.

2. All dwellings hereafter erected shall comply in all respects with the **Michigan State Construction Code** as promulgated by the Michigan State Construction Code Commission under provisions of **230 of 1972 PA 230**, as amended, being MCL 125.1501 et.seq., including minimum heights for habitable rooms; and locally adopted building codes. Where a dwelling is required by law to comply with any Federal or State standards or regulations for construction and where such

standards or regulations for construction are different than those imposed by the **Michigan State Construction Code**, then and in that even such Federal or State standard or regulation shall apply.

a. **Foundations**. Any structure shall be firmly attached to a permanent foundation constructed on site in accordance with local construction codes, adopted per **1972 PA 230**, as amended, and shall have the same perimeter dimensions as the structure. The perimeter foundation shall not be less than eight (8") inches thick concrete or masonry units forty-two (42") inches deep on proper footing. Anchors shall be placed at intervals not exceeding eight (8') feet or per local construction code whichever is stricter. A solid cement slab not less than three and one-half (3½") inches thick shall cover the entire area within the perimeter. In no instance shall a permanent, non-utility structure be located upon concrete piers or cement blocks in lieu of the foundation prescribed herein.

b. Framing, structural, insulation shall comply with the said Michigan State Construction Code, or in the case of manufactured homes, shall comply with the "**Manufactured Home Construction and Safety Standards**", as promulgated by the **United States Department of Housing and Urban Development**, in **24 CFR 3280**, et.seq., as amended, and which bears a HUD seal or certification by a certified inspector signifying inspection and compliance with the Manufactured Home and Construction Standards;

c. The final finished structure shall comply with the **Michigan State Construction Code**.

3. All dwellings shall be connected to a public sewer and water supply or to such private facilities as comply with the Calhoun County Sanitary Code, the local plumbing code, and approved by the local **Health Department**.

4. All dwellings must comply with all pertinent building and fire codes. In the case of a manufactured home, all construction and all plumbing, electrical apparatus and insulation within or connected to said manufactured home shall be of a type and quality conforming to the "**Manufactured Home Construction and Safety Standards**" as promulgated by the **United States Department of Housing and Urban Development**, being **24 CFR 3280**, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.

5. No dwelling shall contain additional rooms or other areas which are not constructed with similar quality workmanship as the original structure including permanent attachment to the principal structure as long as such attachment does not include a bearing load on a manufactured home and it sits on a foundation constructed as required herein.

6. All dwellings must contain a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which shall be equal or better than fifteen (15%) percent of the square footage of the dwelling.

7. All dwellings shall have a roof with at least an average slope of three (3') feet rise, or more, for each twelve (12') feet of horizontal distance, or a slope that meets or exceeds the roofing material manufacturer's instructions, whichever is greater.

8. No dwelling shall have exposed wheels, towing mechanism, undercarriage or chassis.

9. Dwellings hereafter erected or additions thereto shall be constructed so as to be compatible aesthetically and in design with conventional on-site homes.

10. All dwellings shall be maintained against deterioration and/or damage from the elements or from any other cause by prompt and appropriate repairs, surface coating, and other protective measures.

11. The foregoing standards shall not apply to a manufactured home located in a licensed manufactured housing community except to the extent required by State or Federal law or otherwise specifically required in this Ordinance pertaining to such parks.

12. All construction required by this Section shall be commenced only after a construction permit is obtained in accordance with the applicable construction code provisions and requirements.

Section 4.4 R-1 - Single Family Residential District

R-1

A. **Purpose.**

This district is composed of low to medium density residential areas plus certain open areas where similar residential development should be encouraged. The regulations are intended to stabilize, protect and encourage the residential character of the district and limit activities of a commercial nature. New development is to be limited basically to single-family dwellings, professional offices, and such additional uses which serve the residents of the district.

B. **Uses Allowed.**

Permitted and Special Land Uses shall be limited to those listed below (also in **Section 4.12: Full Table of Permitted and Special Land Uses**) and shall be subject to all applicable provisions of **Article 5: Plot Plan & Site Plan Review**, **Article 6: Special Use Review**, and **Article 7: Supplemental Regulations**.

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**R-1**
Accommodation & Food/Event Services	
Short Term Rental Homes	**P**
Arts, Entertainment & Recreation	
Art/Cultural Uses (such as Studios for painter, sculptor, musician, photographer, or similar) where the intent is to either educate/teach such craft through lessons or provide for retail sales of such produced art	**S**
Campgrounds/RV Parks	**S**
Country Clubs ***§7.4***	**P***
Golf Courses ***§7.4***	**P***
Nature Parks/Nature Areas (Public)	**P**
Public Parks, Playgrounds, Playfields ***§7.3***	**P***
Commercial, Services & Retail	
Funeral Homes & Mortuaries ***§7.9***	**S***
Professional Offices (in which chattels or goods, wares or merchandise are not commercially exchanged or sold):	
Attorney	**S**
Architect	**S**
CPA	**S**
Financial Counseling	**S**
Insurance Agencies	**S**
Landscape Architect	**S**
Registered Engineer	**S**
Real Estate Agencies	**S**
Securities and Stock Market Brokerages	**S**
Tax Services	**S**

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**R-1**
Educational Services & Religion	
Public, charter or private schools (elementary through high school)	**P**
Religious Institutions & Customary Accessory Uses	**S**
Energy	
Wind Energy Conversion Systems ***§7.23***	**S***
Human Care & Social Assistance	
Adult Foster Care Family Homes (6 or less adults)	**P**
Adult Foster Care Small Group Home (7-12 adults)	**S**
Child Care Home, Family (6 or less)	**P**
Child Care Home, Group (7 -12)	**S**
Child Care Center/Nursery School (not in home) (preschool) ***§7.5***	**P***
Hospitals, Sanitariums, and Charitable Institutions for Human Care (not for penal purposes)	**S**
Residential Facility for Battered Women and Children (in a private residence) – PERMIT REQUIRED	**P**
State-Licensed Residential Facilities (Adult Foster Care 6 or less)	**P**

R-1

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**R-1**
Miscellaneous	
Accessory Structures & Uses Incidental to Principal Uses ***§3.7***	**P***
Cemeteries including Mausoleums (human or pet) ***§7.2***	**P***
Community Garden ***§7.7***	**P***
Gardening of food crops and non-food ornamental crops such as flowers ***§7.6***	**P***
Planned Unit Developments, Residential ***§7.21***	**S***
Site Condominium Development ***(Condominium Ordinance Chapter 35 of Code of Ordinances)***	**S**
Swimming Pools, Permanent ***§7.14***	**P***
Public Facilities	
Community Centers & Auditoriums (public)	**P**
Government Facilities	**P**
Libraries	**P**
Residential Uses	
Accessory Dwelling Units/Guest Houses) ***§7.11***	**S***
Home Occupations ***§7.10***	**P***
Single-Family Detached Dwelling	**P**
Single-Family Attached Dwelling (Townhouses; Condominiums)	**S**
Two-Family Dwelling (duplex); Conversion of Single-Family Dwelling into Two-Family Dwelling	**S**

C. **Development Standards.**

Table 4.4 *See Figure 4.4a*

1. Lot & Structure Standards	
a. Lot Area	6,000 square feet
b. Lot Width (min.)	60 feet
c. Building Height (max.)	2 ½ stories or 35 feet
d. Dwelling Unit Size (min.)	1,000 square feet
e. Building Coverage (max.)	40%
2. Setbacks	
a. Front (min.)	25 feet (**see 3.g below**)
b. Rear (min.)	25 feet
c. Side (min.) - Interior	10 feet
d. Side (min.) - street	15 feet
3. Additional Development Standards	
a. Accessory Structures	Regulated by **§3.7**.
b. Screening	When a non-residential use abuts a residential use or district, screening is required as per **§3.11**.
c. Projections into Yards	Regulated by **§4.3.C.6**.
d. Parking	Regulated by **§3.12**.
e. Fences	Regulated by **Chapter 18, Article VII** of the Code of Ordinances.
f. Signs	Regulated by **Chapter 64** of the Code of Ordinances.
g. Front Setback Averaging	Where the average depth of at least two (2) existing front yards on lots within the same block and on the same side of the street of the lot in question are less or greater than the required front setback for the district, then the required setback on such lot shall be modified. In such case, this shall not be less than the average setback of said existing front yards, or the average setback of existing front yards on the two (2) lots immediately adjoining, or in the case of a corner lot, the setback of the front yard on the lot immediately adjoining; provided, however, that the front yard setback on any lot shall be not less than ten (10) feet and need not exceed fifty (50) feet. **See Figure 4.4b**

Figure 4.4a

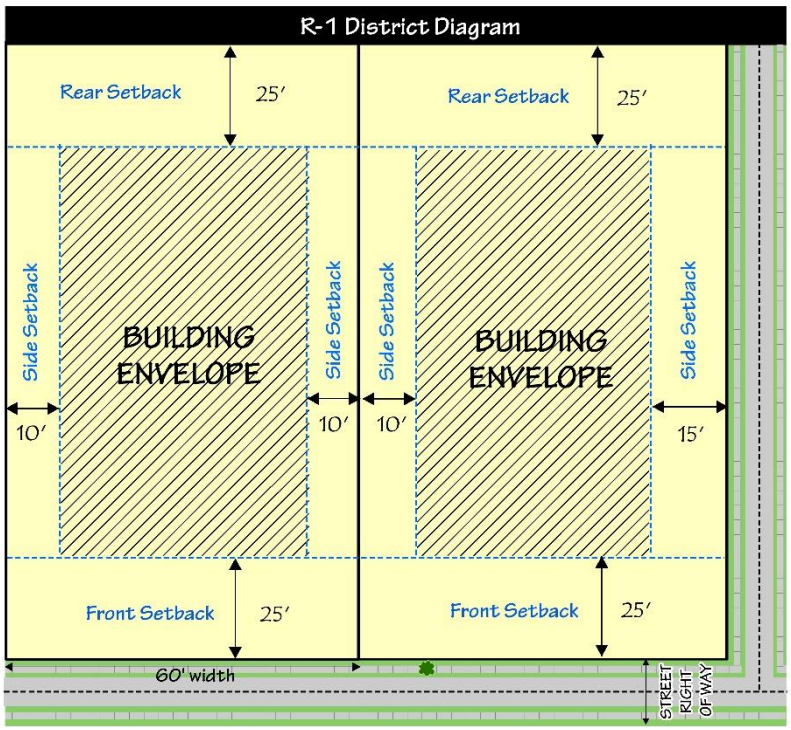
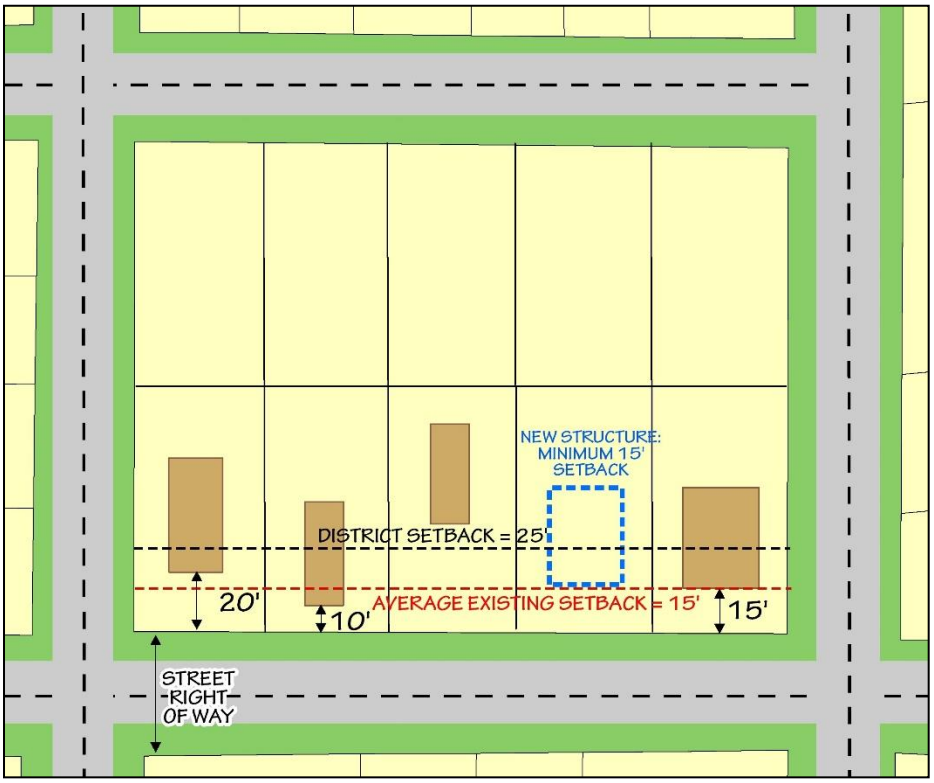


Figure 4.4b



Section 4.5 R-2 - Multiple Family Residential District

R-2

A. **Purpose**.

This district is composed of certain medium- and high-density areas representing a compatible co-mingling of single- and two-family dwellings, plus certain open areas where similar residential development appears likely to occur. The regulations are intended to stabilize and protect the essential characteristics of the district and to limit activities of a commercial nature. To these ends development is limited to medium concentration and permitted uses are typically single- and two-family dwelling units, plus certain additional uses which serve the residents of the district.

B. **Uses Allowed**.

Permitted and Special Land Uses shall be limited to those listed below (also in **Section 4.12: Full Table of Permitted and Special Land Uses**) and shall be subject to all applicable provisions of **Article 5: Plot Plan & Site Plan Review**, **Article 6: Special Use Review**, and **Article 7: Supplemental Regulations**.

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**R-2**
Accommodation & Food/Event Services	
Rooming Houses/Boarding Houses ***§7.12***	**P***
Short Term Rental Homes	**P**
Arts, Entertainment & Recreation	
Art Galleries (Public)	**S**
Art/Cultural Uses (such as Studios for painter, sculptor, musician, photographer, or similar) where the intent is to either educate/teach such craft through lessons or provide for retail sales of such produced art	**S**
Campgrounds/RV Parks	**S**
Canoe/Kayak Liveries	**S**
Museums	**S**
Nature Parks/Nature Areas (Public)	**P**
Private Clubs; Lodges; Fraternal Organizations; and Other Organizations (not related to a gainful business)	**S**
Public Parks, Playgrounds, Playfields ***§7.3***	**P***
Commercial, Services & Retail	
Funeral Homes & Mortuaries ***§7.9***	**S***
Professional Offices (in which chattels or goods, wares or merchandise are not commercially exchanged or sold) including:	
Attorney	**S**
Architect	**S**

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**R-2**
Commercial, Services & Retail (contined)	
CPA	**S**
Financial Counseling	**S**
Landscape Architect	**S**
Insurance Agencies	**S**
Registered Engineer	**S**
Real Estate Agencies	**S**
Securities and Stock Market Brokerages	**S**
Tax Services	**S**
Educational Services/Religion	
Religious Institutions & Customary Accessory Uses	**S**
Energy	
Wind Energy Conversion Systems ***§7.23***	**S***
Human Care & Social Assistance	
Adult Foster Care Family Homes (6 or less adults)	**P**
Adult Foster Care Small Group Home (7-12 adults)	**S**
Adult Foster Care Large Group Home (13-20 adults)	**S**
Adult Foster Care Congregate Facilities (over 20 adults)	**S**
Assisted Living Home/Nursing Home/Convalescent Home	**S**

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**R-2**
Human Care & Social Assistance	
Child Care Home, Family (6 or less)	**P**
Child Care Home, Group (7 -12)	**S**
Child Care Center/Nursery School (not in home) (preschool) ***§7.5***	**P***
Child Caring Institution	**S**
Hospitals, Sanitariums, and Charitable Institutions for Human Care (not for penal purposes)	**S**
Institutions (headquarters for religious, philanthropic and charitable organizations). In R-2, those organizations shall only occupy buildings existing at the date of adoption of this Ordinance	**P**
Offices/Clinics – Medical, dental, social worker, psychologist/psychiatrist, chiropractor	**S**
Residences used by a governmental agency, a church, or other nonprofit corporation as a facility for providing emergency assistance of a temporary nature to individuals in need	**S**
Residential Facility for Battered Women and Children (in a private residence) – PERMIT REQUIRED	**P**
State-Licensed Residential Facilities (Adult Foster Care 6 or less)	**P**
Miscellaneous	
Accessory Structures & Uses Incidental to Principal Uses ***§3.7***	**P***
Cemeteries including Mausoleums (human or pet) ***§7.2***	**P***
Community Garden ***§7.7***	**P***
Gardening of food crops and non-food ornamental crops such as flowers ***§7.6***	**P***
Planned Unit Developments, Residential ***§7.21***	**S***
Site Condominium Development ***(Condominium Ordinance Chapter 35 of Code of Ordinances)***	**S**
Swimming Pools, Permanent ***§7.14***	**P***

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**R-2**
Public Facilities	
Community Centers & Auditoriums (public)	**P**
Government Facilities	**P**
Libraries	**P**
Residential Uses	
Accessory Dwelling Units/Guest Houses ***§7.11***	**S***
Home Occupations ***§7.10***	**P***
Manufactured Housing Community (with accessory uses such as laundry facilities, office building, and community building) ***§7.20***	**S***
Single-Family Detached Dwelling	**P**
Single-Family Attached Dwelling (Townhouses; Condominiums)	**P**
Two-Family Dwelling (duplex); Conversion of Single-Family Dwelling into Two-Family Dwelling	**P**
Two-Family Dwelling groups comprised of buildings containing not more than 2 families in any one building	**P**

R-2

C. **Development Standards.**

Table 4.5 *See Figure 4.5a*

1. Lot & Structure Standards	
a. Lot Area	3,500 square feet
b. Lot Width (min.)	40 feet
c. Building Height (max.)	2 ½ stories or 35 feet
d. Dwelling Unit Size (min.)	400 square feet for single-family. Multiple-family dwellings shall conform to currently adopted building code in the City of Albion.
e. Building Coverage (max.)	70%
2. Setbacks	
a. Front (min.)	10 feet (**see 3.g below**)
b. Rear (min.)	10 feet
c. Side (min.)	5 feet
e. Side (min.) - street	10 feet
3. Additional Development Standards	
a. Accessory Structures	Regulated by **§3.7**.
b. Screening	When a non-residential use abuts a residential use or district, screening is required as per **§3.11**.
c. Projections into Yards	Regulated by **§4.3.C.6**.
d. Parking	Regulated by **§3.12**.
e. Fences	Regulated by **Chapter 18, Article VII** of the Code of Ordinances.
f. Signs	Regulated by **Chapter 64** of the Code of Ordinances.
g. Front Setback Averaging	If at least 2 existing structures within the same block (on the same side of the street) are set back between 10' and 20', then required setback shall be the average of said existing setbacks and 10'. No setback shall be required that is greater than 20'. See **Figure 4.5b**

Figure 4.5a

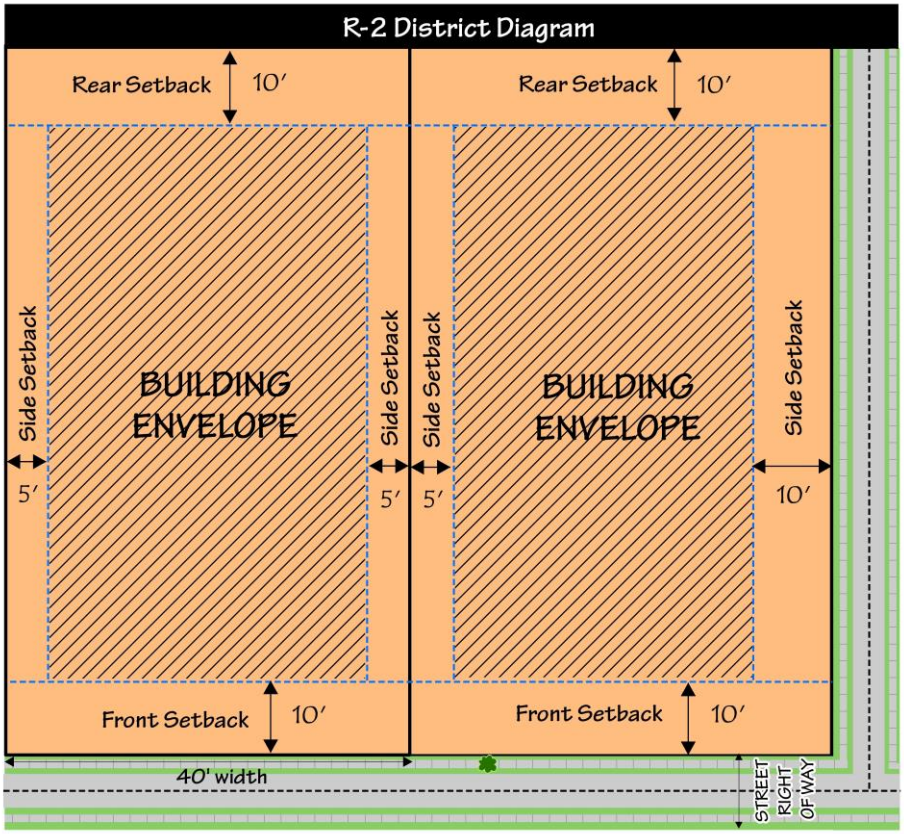
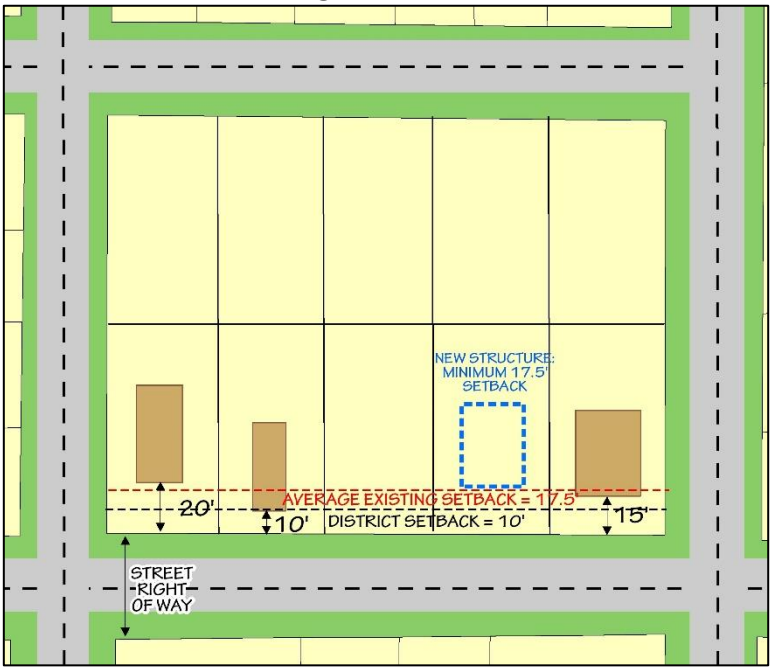


Figure 4.5b



Section 4.6 MU - Mixed Use District

MU

A. **Purpose**.

This district is intended to accommodate a mix of single-family and multiple-family residential uses, mixed uses, and business and office uses in addition to other compatible uses which support the primary uses in the district and the surrounding community.

B. **Uses Allowed**.

Permitted and Special Land Uses shall be limited to those listed below (also in **Section 4.12: Full Table of Permitted and Special Land Uses**) and shall be subject to all applicable provisions of **Article 5: Plot Plan & Site Plan Review**, **Article 6: Special Use Review**, and **Article 7: Supplemental Regulations**.

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**MU**
Accommodation & Food/Event Services	
Bakeries, Confectioneries, and Ice Cream Shops	P
Banquet Halls/Wedding Venues	P
Caterers/Food Service Contractors	P
Coffee Shops	P
Convention Centers/Conference Centers	P
Delicatessens	P
Drinking Establishments/Taverns/Bars with no food service	P
Inns (Lodging Units within Other Commercial Establishment)	P
Microbreweries & Distilleries (serving directly to the public)	P
Night Club	P
Restaurants without Drive-Through	P
Restaurants with Drive-Through (Drive-In or Eat in Car)	P
Rooming Houses/Boarding Houses ***§7.12***	P*
Wineries	P
Agriculture & Forest Products; Animals	
Cider Mills	P
Farm Product Sales	P
Veterinary Clinic/Animal Hospital with or without outdoor animal area or overnight boarding	P

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**MU**
Arts, Entertainment & Recreation	
Amusement Arcades or Devices (Mechanical) & Similar Indoor Recreation	P
Archery Ranges (& as accessory use), Indoor	P
Art Galleries (Public)	P
Art/Cultural Uses (such as Studios for painter, sculptor, musician, photographer, or similar) where the intent is to either educate/teach such craft through lessons or provide for retail sales of such produced art	P
Bicycle Shops	P
Billiards Halls	P
Bowling Centers	P
Canoe/Kayak Liveries	P
Equipment Rental, Recreational (Outfitter)	P
Firearms Range, Indoor	P
Firearms Store	P
Fitness & Recreational Sports (ex: health clubs, gym, tennis, swimming pool club)	P
Nature Parks/Nature Areas (Public)	P
Private Clubs; Lodges; Fraternal Organizations; and Other Organizations (not related to a gainful business)	P
Public Parks, Playgrounds, Playfields ***§7.3***	P*
Recreational Facility, Commercial (ex – go karts; miniature golf; disc golf; skating rinks)	S
Theaters/Performing Arts Facilities	P
Tours (Commercial Operations)	P

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P = *Permitted by right* ***S*** = *Permitted with a Special Use Permit* **supplemental development regulations*	**MU**
Commercial, Services & Retail	
Antique Stores	P
Automotive Accessory Sales (auto parts)	P
Bait & Tackle Shops	P
Boat and Boating Accessory Sales	S
Bldg & Garden Equipment & Supplies Dealers	S
Business Incubator (Food Incubator listed under Manufacturing)	P
Car Washes ***§7.15***	S*
Clothing, Clothing Accessory, Jewelry & Shoe Stores (including shoe repair)	P
Convenience Stores	P
Crafts/Trade Offices/Shops (small scale craft making)	P
Data Processing & Computer Centers including the servicing & maintenance of electronic data processing equipment	P
Dry Cleaning & Laundry Collection/Distribution Station	P
Electronic & Precision Equipment Repair & Maintenance	P
Electronics & Appliance Stores	P
Extermination & Pest Control Services	P
Film Production Facilities including sound stages and other related activities	P
Financial Institutions	P
Fix-it Shops and Lawnmower Repair	P
Flea Market	P
Florists	P
Funeral Homes & Mortuaries ***§7.9***	P*
Furniture & Home Furnishings Stores/Fixtures Stores (including wall/floor cover)	P
Furniture Refinishing (Upholsterers)/Furniture Repair	P
Garden Supply Stores (not greenhouse or landscaping supply; no outdoor storage of materials)	P
General Merchandise Stores/General Retail	P
General Rental Centers (ex: furniture, appliances)	P
Gift Shops	P
Grocery and Meat Market	P
Hardware Stores	P
Health & Personal Care Stores	P
Health Spa	P
Interior Designers/Showrooms	P

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P = *Permitted by right* ***S*** = *Permitted with a Special Use Permit* **supplemental development regulations*	**MU**
Commercial, Services & Retail (continued)	
Laundromat (self-service)	P
Liquor Store (sale by package only) – where liquor is 51% or more of sales	P
Liquor Store (sale by package only) – where liquor is less than 51% of sales (accessory to main purpose)	P
Locksmiths	P
Movie Rental Stores	P
Office Developments	P
Office Supply Stores	P
Outdoor Sales/Rental of automobiles, trucks, motorcycles, trailers, ATVs, marine craft, farm implements, contractor's equipment, recreational equipment	S
Pawn Shops	P
Personal Services	P
Beauty Shops	P
Barber Shops	P
Massage Therapy	P
Pet & Pet Care Stores (except Veterinary & Animal Shelters)	P
Pharmacies/Medical & Optical Supplies	P
Photofinishing/Photographers	P
Printing/Binding/Publishing of Print Material	P
Professional Offices (in which chattels or goods, wares or merchandise are not commercially exchanged or sold)	P
Recording Studios	P
Resale Shops/Thrift Shops	P
Shopping Center – Multiple Businesses	S
Shoe Repair	P
Small Engine Repair	P
Sporting Goods, Toys, Hobby, Book & Music Stores (incl Musical Instruments)	P
Studios for dance, physical exercise and music	P
Tailors (pressing/altering/repair of apparel)	P
Tattoo; Body Piercing Studio	S
Taxidermy Shops	P
Watch Repair	P
Communications	
Television/Radio Broadcasting Studios (excluding transmission facilities)	P

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P = *Permitted by right* ***S*** = *Permitted with a Special Use Permit* **supplemental development regulations*	**MU**
Construction & Contractors	
Special Trade Contractors Offices & Showrooms – no outdoor storage	**P**
Educational Services & Religion	
Colleges/Universities:	
Academic Buildings (majority of floor space devoted to classroom space)	**P**
Administrative Buildings (majority of floor space used for offices)	**P**
Public, charter or private schools (elementary through high school)	**P**
Religious Institutions & Customary Accessory Uses	**P**
Energy	
Propane Distributor/Propane Supply Facilities	**S**
Wind Energy Conversion Systems ***§7.23***	**S***
Human Care & Social Assistance	
Adult Commercial Day Care Facility – Small Group	**P**
Adult Commercial Day Care Facility – Large Group	**P**
Adult Foster Care Family Homes (6 or less adults)	**P**
Adult Foster Care Small Group Home (7-12 adults)	**P**
Adult Foster Care Large Group Home (13-20 adults)	**P**
Adult Foster Care Congregate Facilities (over 20 adults)	**P**
Ambulance Service	**P**
Assisted Living Home/Nursing Home/Convalescent Home	**P**
Child Care Home, Family (6 or less)	**P**
Child Care Home, Group (7 -12)	**S**
Child Care Center/Nursery School (not in home) (preschool) ***§7.5***	**P***
Child Caring Institution	**P**
Laboratories (Medical or Dental)	**P**
Hospitals, Sanitariums, and Charitable Institutions for Human Care (not for penal purposes)	**P**
Institutions (headquarters for religious, philanthropic and charitable organizations)	**P**
Offices/Clinics – Medical, dental, social worker, psychologist/psychiatrist, chiropractor	**P**

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P = *Permitted by right* ***S*** = *Permitted with a Special Use Permit* **supplemental development regulations*	**MU**
Human Care & Social Assistance (continued)	
Residential Facility for Battered Women and Children (in a private residence) – PERMIT REQ.	**P**
State-Licensed Residential Facilities (Adult Foster Care 6 or less)	**P**
Miscellaneous	
Accessory Structures & Uses Incidental to Principal Uses ***§3.7***	**P***
Community Garden ***§7.7***	**P***
Gardening of food crops and non-food ornamental crops such as flowers ***§7.6***	**P***
Mixed Uses (Commercial/Residential/Industrial in one building) *1. When a Mixed Use project involves a commercial use that is listed as Special Use in the district, then the entire Mixed Use project shall be considered a Special Use.* *2. When a Mixed Use project involves an industrial use, then the entire Mixed Use project shall be considered a Special Use.*	**P S**
Parking Lots (as a principal use)	**P**
Parking Structures	**P**
Planned Unit Developments, Residential ***§7.21***	**S***
Site Condominium Development ***(Condominium Ordinance Chapter 35 of Code of Ordinances)***	**S**
Swimming Pools, Permanent ***§7.14***	**P***
Public Facilities	
Community Centers & Auditoriums (public)	**P**
Government Facilities	**P**
Libraries	**P**
Residential Uses	
Accessory Dwelling Units/Guest Houses ***§7.11***	**S***
Home Occupations ***§7.10***	**P***
Cottage Industries ***§7.10***	**P***
Single-Family Detached Dwelling	**P**
Single-Family Attached Dwelling (Townhouses; Condominiums)	**P**
Multiple-Family Dwelling Units (Apartments, Senior Housing, Residential Units in Conjunction with Commercial) ***§7.16***	**P***
Two-Family Dwelling (duplex); Conversion of Single-Family Dwelling into Two-Family Dwelling	**P**
Two-Family Dwelling groups comprised of buildings containing not more than 2 families in any one building	**P**

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**MU**
Transportation, Storage & Wholesale	
Mini-Warehouses or Storage Facilities (including self-storage)	**S**
Parking and Storage Yards	**S**

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**MU**
Transportation, Storage & Wholesale	
Towing Businesses	**S**
Wholesale Businesses	**S**

C. **Development Standards**.

MU

Table 4.6 *See Figure 4.6a*

1. Lot & Structure Standards	Residential	Non-Residential	
a. Lot Area	3,500 square feet	None	
b. Lot Width (min.)	40 feet	None	
c. Building Height (max.)	2 ½ stories or 35 feet	3 stories or 36' (over 3 stories up to 5 may be allowed as Special Use permit)	
d. Dwelling Unit Size (min.)	400 square feet for single-family. Multiple-family dwellings shall conform to currently adopted building code in the City of Albion.	None	
e. Building Coverage (max.)	70%	None	
2. Setbacks			
a. Front (min.)	10 feet If at least 2 existing structures within the same block (on the same side of the street) are set back between 10' and 20', then required setback shall be the average of said existing setbacks and 10'. No required setback shall be greater than 20'. See **Figure 4.6b**	10 feet	Planning Commission may approved lesser setbacks for non-residential uses using Special Use process.
b. Rear (min.)	10 feet	10 feet	
c. Side (min.)	5 feet	5 feet 15 feet when abutting residential use.	
d. Side (min.) – Street	10 feet		
3. Additional Development Standards			
a. Accessory Structures	Regulated by **§3.7**.		
b. Screening	When a non-residential use abuts a residential use or district, screening is required as per **§3.11**.		
c. Projections into Yards	Regulated by **§4.3.C.6**.		

d. Parking	Regulated by §3.12. In the event such adequate space is not available to provide on-site parking, municipal lots maybe utilized for off-street parking and/or loading, subject to the approval of the Zoning Administrator according to generally accepted parking ratios, Planning Commission may approve the use of off-site parking lots (not municipal lots) as part of the site plan review process. All parking lots or areas shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained as to dispose of all surface water accumulated within the area.
e. Uses Conducted	Any such use, including storage, is conducted on the premises within a completely enclosed building unless otherwise approved by the Zoning Administrator or Planning Commission.
f. Access	For non-residential uses, access shall be provided so as not to conflict with the adjacent business uses or adversely affect the traffic flow.
g. Effect on Adjacent Properties	For non-residential uses, levels of traffic, noise, smoke, vibrations, odor, fumes, and glare shall not exceed those levels which are in keeping with the retail uses within the district. All lighting shall be shielded from adjacent properties.
h. Fences	Regulated by **Chapter 18, Article VII** of the Code of Ordinances.
i. Signs	Regulated by **Chapter 64** of the Code of Ordinances.

Figure 4.6a

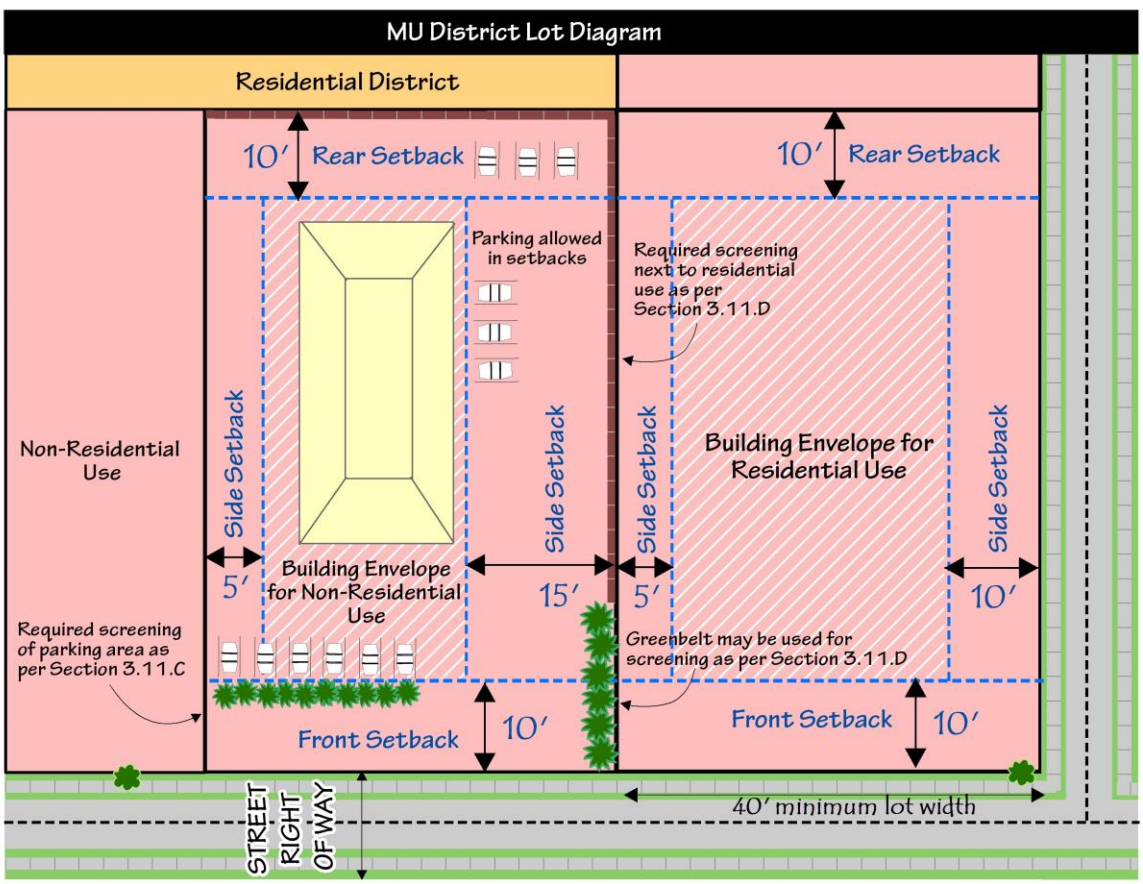
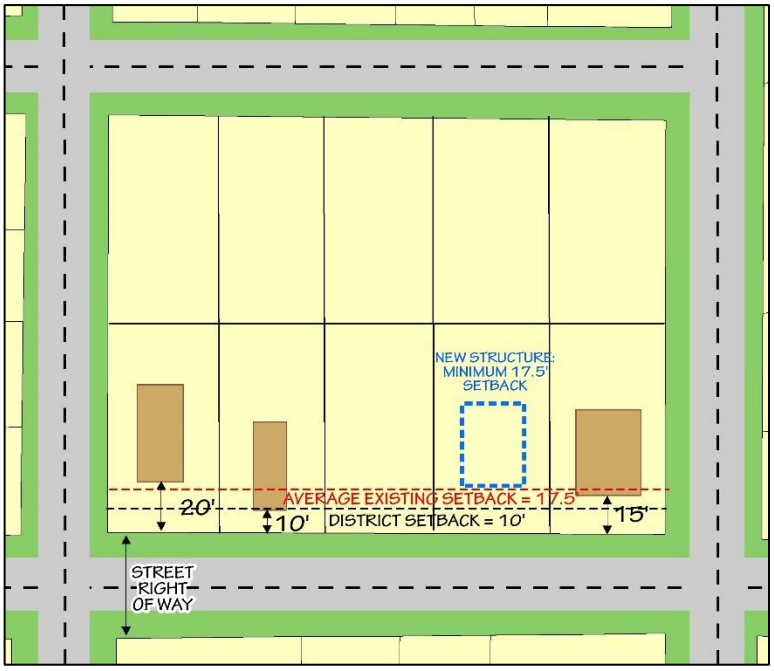


Figure 4.6b


NEW STRUCTURE:
MINIMUM 17.5'
SETBACK
AVERAGE EXISTING SETBACK = 17.5'
20'
10'
DISTRICT SETBACK = 10'
15'
STREET
RIGHT
OF WAY

Section 4.7 CBD - Central Business District

CBD

A. **Purpose**.

The Central Business District is intended to provide for a variety of retail and office services which serve the needs of a consumer trade area that extends beyond the corporate boundaries of the City. This district is characterized by intense pedestrian activity and a unified architectural scale. The district regulations are designed for these purposes:

1. To promote convenient comparison shopping by pedestrians for retail goods and business, professional, and personal services.

2. To provide for the stability of retail development by encouraging a continuous retail frontage and by prohibiting automotive related uses and services.

3. To provide for more employment in the district and to promote the full utilization of downtown buildings, including the second or third floors for possible residential use.

4. To protect the district from over congestion of the traffic pattern, while providing adequate automobile access to, and parking in, the area.

5. To protect and enhance the value of property within the district.

6. To promote development which is compatible with the existing historic character of the district.

The essential interpretation of activities is given precedence in the regulations and future planning of this district over any desire to permit automobiles to come directly to each establishment. Non-retail uses are compatible with the purpose of this district as long as adequate and convenient parking can be provided for within the common parking element, ensuring the ease of pedestrian movement from both retail and non-retail uses.

B. **Uses Allowed**.

Permitted and Special Land Uses shall be limited to those listed below (also in **Section 4.12: Full Table of Permitted and Special Land Uses**) and shall be subject to all applicable provisions of **Article 5: Plot Plan & Site Plan Review**, **Article 6: Special Use Review**, and **Article 7: Supplemental Regulations**.

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**CBD**
Accommodation & Food/Event Services	
Bakeries, Confectioneries, and Ice Cream Shops	P
Banquet Halls/Wedding Venues	P
Caterers/Food Service Contractors	P
Coffee Shops	P
Convention Centers/Conference Centers	P
Delicatessens	P
Drinking Establishments/Taverns/Bars with no food service	P
Hotels and Motels (attached or detached units) ***§7.17***	S*
Inns (Lodging Units within Other Commercial Establishment)	P
Microbreweries & Distilleries (serving directly to the public)	P
Night Club	P
Restaurants without Drive-Through	P
Wineries	P
Agriculture & Forest Products; Animals	
Cider Mills	P
Farm Product Sales	P
Veterinary Clinic/Animal Hospital with or without outdoor animal area or overnight boarding	P
Arts, Entertainment & Recreation	
Amusement Arcades or Devices (Mechanical) & Similar Indoor Recreation	P
Archery Ranges (& as accessory use), Indoor	P
Art Galleries (Public)	P
Art/Cultural Uses (such as Studios for painter, sculptor, musician, photographer, or similar) where the intent is to either educate/teach such craft through lessons or provide for retail sales of such produced art	P
Bicycle Shops	P
Billiards Halls	P
Bowling Centers	P
Canoe/Kayak Liveries	P
Equipment Rental, Recreational (Outfitter)	P
Firearms Range, Indoor	P
Firearms Store	P
Fitness & Recreational Sports (ex: health clubs, gym, tennis, swimming pool club)	P
Museums	P
Nature Parks/Nature Areas (Public)	P

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**CBD**
Arts, Entertainment & Recreation (continued)	
Private Clubs; Lodges; Fraternal Organizations; and Other Organizations (not related to a gainful business)	P
Public Parks, Playgrounds, Playfields ***§7.3***	P*
Theaters/Performing Arts Facilities	P
Tours (Commercial Operations)	P
Commercial, Services & Retail	
Antique Stores	P
Automotive Accessory Sales (auto parts)	P
Bait & Tackle Shops	P
Building & Garden Equipment & Supplies Dealers	S
Business Incubator (Food Incubator listed under Manufacturing)	P
Clothing, Clothing Accessory, Jewelry & Shoe Stores (including shoe repair)	P
Crafts/Trade Offices/Shops (small scale craft making)	P
Data Processing & Computer Centers including the servicing & maintenance of electronic data processing equipment	P
Dry Cleaning & Laundry Collection/Distribution Station	P
Electronic & Precision Equipment Repair & Maintenance	P
Electronics & Appliance Stores	P
Extermination & Pest Control Services	S
Film Production Facilities including sound stages and other related activities	P
Financial Institutions	P
Flea Market	P
Florists	P
Furniture & Home Furnishings Stores/Fixtures Stores (including wall/floor cover)	P
Furniture Refinishing (Upholsterers)/Furniture Repair	S
Garden Supply Stores (not greenhouse or landscaping supply; no outdoor storage of materials)	P
General Merchandise Stores/General Retail	P
Gift Shops	P
Grocery and Meat Market	P
Hardware Stores	P
Health & Personal Care Stores	P
Health Spa	P
Interior Designers/Showrooms ***§7.18***	P*
Laundromat (self-service)	P

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P = *Permitted by right* ***S*** = *Permitted with a Special Use Permit* **supplemental development regulations*	**CBD**
Commercial, Services & Retail (continued)	
Liquor Store (sale by package only) – where liquor is 51% or more of sales	S
Liquor Store (sale by package only) – where liquor is less than 51% of sales (accessory to main purpose)	P
Locksmiths	P
Movie Rental Stores	P
Office Developments	P
Office Supply Stores	P
Pawn Shops	P
Personal Services	P
Beauty Shops	P
Barber Shops	P
Pet & Pet Care Stores (except Veterinary & Animal Shelters)	P
Pharmacies/Medical & Optical Supplies	P
Photofinishing/Photographers	P
Printing/Binding/Publishing of Print Material	P
Professional Offices (in which chattels or goods, wares or merchandise are not commercially exchanged or sold	P
Recording Studios	P
Resale Shops/Thrift Shops	P
Shoe Repair	P
Sporting Goods, Toys, Hobby, Book & Music Stores (incl Musical Instruments)	P
Studios for dance, physical exercise and music	P
Tailors (pressing/altering/repair of apparel)	P
Tattoo; Body Piercing Studio	P
Watch Repair	P
Communications	
Television/Radio Broadcasting Studios (excluding transmission facilities)	P
Construction & Contractors	
Special Trade Contractors Offices & Showrooms – no outdoor storage ***§7.18***	P*
Educational Services & Religion	
Business Schools	P
Colleges/Universities:	
Academic Buildings (majority of floor space devoted to classroom space)	P
Administrative Buildings (majority of floor space used for offices)	P
Trade Schools (including Beauty Schools)	P

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P = *Permitted by right* ***S*** = *Permitted with a Special Use Permit* **supplemental development regulations*	**CBD**
Energy	
Wind Energy Conversion Systems ***§7.23***	S*
Human Care & Social Assistance	
Adult Commercial Day Care Facility – Small Group	P
Adult Commercial Day Care Facility – Large Group	P
Ambulance Service	S
Laboratories (Medical or Dental)	P
Institutions (headquarters for religious, philanthropic and charitable organizations).	P
Offices/Clinics – Medical, dental, social worker, psychologist/psychiatrist, chiropractor.	P
Miscellaneous	
Accessory Structures & Uses Incidental to Principal Uses ***§3.7***	P*
Community Garden ***§7.7***	P*
Mixed Uses (Commercial/Residential/Industrial in one building) *1. When a Mixed Use project involves a commercial use that is listed as Special Use in the district, then the entire Mixed Use project shall be considered a Special Use.* *2. When a Mixed Use project involves an industrial use, then the entire Mixed Use project shall be considered a Special Use.*	P S
Parking Lots (as a principal use)	P
Parking Structures	P
Planned Unit Developments, Commercial/Industrial ***§7.21***	S*
Public Facilities	
Community Centers & Auditoriums (public)	P
Government Facilities	P
Libraries	P
Residential Uses	
Multiple-Family Dwelling Units (Apartments, Senior Housing, Residential Units in Conjunction with Commercial). ***§7.16*** ***In CBD, the first floor fronting the street shall exclusively consist of a non-residential use.***	P*
Transportation, Storage & Wholesale	
Crating and Packing Services	S
Mini-Warehouses or Storage Facilities (including self-storage)	S
Scenic & Sightseeing Transportation/Ground Passenger Transportation	S
Wholesale Businesses	S

C. **Development Standards.**

Table 4.7 *See Figure 4.7a*

1. Lot & Structure Standards	
a. Lot Area (min.)	None
b. Lot Width (min.)	None
c. Building Height	Maximum of 4 stories or 50 feet, whichever is greater. 5 stories allowed by Special Use only. Minimum façade height: 24 feet
d. Building Coverage (max.)	None
2. Setbacks	
a. Front	Minimum: None required. Maximum: 15 feet. Planning Commission may approve a site plan with a larger front setback for an approved functional outdoor use (i.e. outdoor dining).
b. Rear (min.)	None required
c. Side – interior & street (min.)	None required, except for lots directly abutting any R district or residential use, then not less than fifteen (15') feet. No side setback shall be required when the residential district or residential use is separated from the CBD lot by a right-of-way.
3. Additional Development Standards	
a. Accessory Structures	Regulated by **§3.7**.
b. Screening	When a non-residential use directly abuts a residential use or district, screening may be required as per **§3.11** at the discretion of the Planning Commission. No screening shall be required when residential district is separated from the CBD lot by a right-of-way.
c. Fences	Regulated by **Chapter 18, Article VII** of the Code of Ordinances.
d. Parking	1. Regulated by **§3.12**. In the event such adequate space is not available to supply on-site parking, municipal lots may be utilized for off street parking and/or loading, subject to the approval of the Zoning Administrator according to generally accepted parking ratios. 2. All parking lots or areas shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained as to dispose of all surface water accumulated within the area. 3. If off-street private parking lots are provided, said lots shall not be located in the front yard unless the Planning Commission determines that no other space is feasibly available for parking. 4. For lots fronting on Superior Street, parking structures shall have ground-floor commercial, office, service or institutional uses.

e. Transparency (Figure 4.7b)	(1) Building facades within 20' of the sidewalk shall have at least 15% glazing for all upper floor facades. (2) Building facades within 20' of the sidewalk shall have at least 50% clear glass along the ground floor of the façade.
f. Blank Walls	Along road frontages, blank walls should not exceed 30' in length. Windows and architectural and design features such as awnings, cornice work, edge detailing, decorative finish materials, recesses, designs using building materials, or murals may be used to eliminate blank walls. The Planning Commission may approve an exemption from this **subsection f**.
g. Entryways	Buildings shall have at least one functional entrance along the sidewalk on side of the building on which the building is provided an address.
h. Residential Units	Residential units shall be allowed in conjunction with non-residential. Said residential units shall not be located on the ground floor facing the public street.
i. Historic Buildings	The Planning Commission may allow deviations from these development standards in order to accommodate preservation of historic buildings.
j. Storage & Higher Intensity Activities	Storage of non-retail materials and the making, assembling, remodeling, repairing, altering, finishing, or refinishing of products/merchandise is permitted provided these activities are completely enclosed within the premises occupied by the establishment and these activities are accessory to the principal use of the property.
k. Yard Activities	Commercial activities, including food service and seating, may occupy yards.
l. Lot Line Requirements	**Corner Lots**: Along the front lot line, there shall be a minimum of 70% building with the balance being either an evergreen hedge or screening wall or decorative fencing consisting of decorative masonry, stone, decorative metal, or a combination thereof. No wooden screening structure shall be allowed. An approved form of outdoor use or entry courtyard may occupy that portion behind the required building line not occupied by the building. **Interior Lots**: Buildings shall be built lot side lot line to side lot line. The Planning Commission may make an exemption to this standard for buildings with an approved form of outdoor use in the side yard or if there is a required side setback from residential.
m. Sidewalk & Outdoor Cafes	Regulated by **Chapter 22, Article IV** of the Code of Ordinances.
n. Signs	Regulated by **Chapter 64** of the Code of Ordinances.

Figure 4.7a

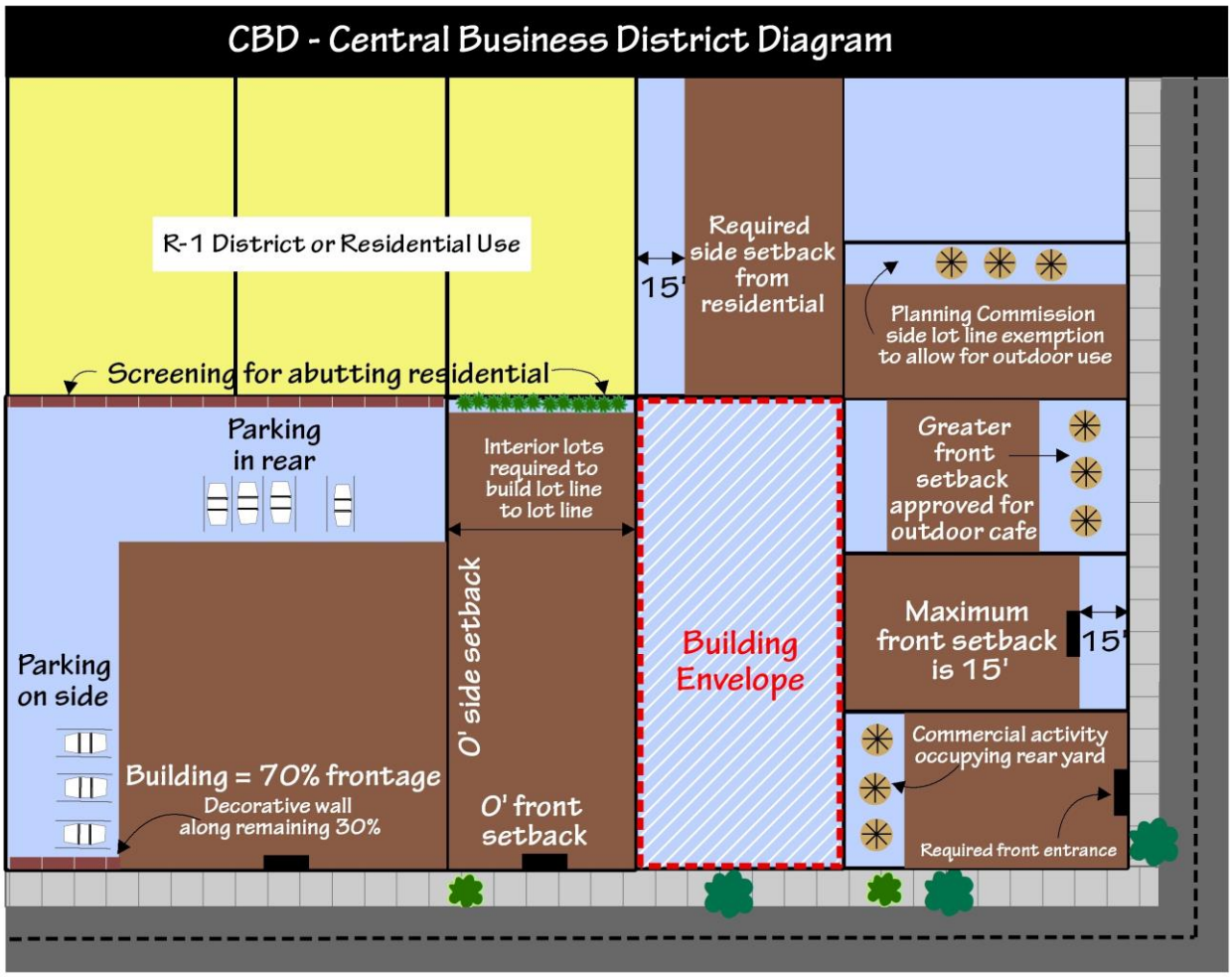
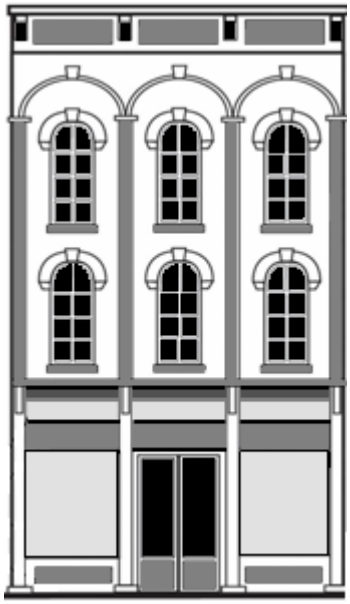

CBD - Central Business District Diagram
R-1 District or Residential Use
Screening for abutting residential
15'
Required side setback from residential
Planning Commission side lot line exemption to allow for outdoor use
Parking in rear
Interior lots required to build lot line to lot line
Greater front setback approved for outdoor cafe
Parking on side
0' side setback
Building Envelope
Maximum front setback is 15'
15'
Building = 70% frontage
Decorative wall along remaining 30%
0' front setback
Commercial activity occupying rear yard
Required front entrance

Figure 4.7b: Transparency

Upper floors – at least 15% glazing (does not have to be clear glass)

Ground floor – at least 50% clear glass



Section 4.8 C - General Commercial District

C

A. **Purpose.**

This district is intended to provide for a diverse mix of retail business and services in areas which abut major thoroughfares. Uses within the Commercial District tend to be more automobile-dependent.

B. **Uses Allowed.**

Permitted and Special Land Uses shall be limited to those listed below (also in **Section 4.12: Full Table of Permitted and Special Land Uses**) and shall be subject to all applicable provisions of **Article 5: Plot Plan & Site Plan Review**, **Article 6: Special Use Review**, and **Article 7: Supplemental Regulations**.

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	C
Accommodation & Food/Event Services	
Bakeries, Confectioneries, and Ice Cream Shops	P
Banquet Halls/Wedding Venues	P
Caterers/Food Service Contractors	P
Coffee Shops	P
Convention Centers/Conference Centers	P
Delicatessens	P
Drinking Establishments/Taverns/Bars with no food service	S
Hotels and Motels (attached or detached units) §7.17	P*
Microbreweries & Distilleries (serving directly to the public)	P
Night Club	S
Restaurants (with or without Drive-Through or Eat in Car)	P
Wineries	P
Agriculture & Forest Products; Animals	
Animal Shelter	P
Cider Mills	P
Farm Product Sales	P
Greenhouse; Nursery; Hoophouse §7.8	P*
Kennels	P
Landscaping Establishment §7.8	P*
Veterinary Clinic/Animal Hospital with or without outdoor animal area or overnight boarding	P

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	C
Arts, Entertainment & Recreation (continued)	
Amusement Arcades or Devices (Mechanical) & Similar Indoor Recreation	P
Archery Ranges (& as accessory use), Indoor	P
Art Galleries (Public)	P
Art/Cultural Uses (such as Studios for painter, sculptor, musician, photographer, or similar) where the intent is to either educate/teach such craft through lessons or provide for retail sales of such produced art	P
Bicycle Shops	P
Billiards Halls	P
Bowling Centers	P
Equipment Rental, Recreational (Outfitter)	P
Firearms Range, Indoor	P
Firearms Store	P
Fitness & Recreational Sports (ex: health clubs, gym, tennis, swimming pool club)	P
Golf Driving Ranges (Indoor or Outdoor)	P
Nature Parks/Nature Areas (Public)	P
Outdoor Performance Facilities	S
Public Parks, Playgrounds, Playfields §7.3	P*
Recreational Facility, Commercial (ex – go karts; miniature golf; disc golf; skating rinks)	P
Theaters/Performing Arts Facilities	P
Tours (Commercial Operations)	P
Zoos, Petting	P

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**C**
Commercial, Services & Retail	
Agricultural Equipment Dealers/Repair	**P**
Antique Stores	**P**
Automotive Accessory Sales (auto parts)	**P**
Auto Body/Paint/Interior & Glass; Auto Repair; Oil Change; Tire Sales ***§7.15***	**S***
Automobile Service Station ***§7.15***	**S***
Automobile Towing Businesses	**P**
Bait & Tackle Shops	**P**
Boat and Boating Accessory Sales	**P**
Boat/RV/Recreational Equipment Repair & Storage	**P**
Building & Garden Equipment & Supplies Dealers	**P**
Business Incubator (Food Incubator listed under Manufacturing)	**P**
Car Washes ***§7.15***	**P***
Cash Advance Stores	**P**
Clothing, Clothing Accessory, Jewelry & Shoe Stores (including shoe repair)	**P**
Commercial/Industrial Equipment Rental & Leasing	**P**
Commercial Equipment Repair & Maintenance	**P**
Convenience Stores	**P**
Crafts/Trade Offices/Shops (small scale craft making)	**P**
Data Processing & Computer Centers including the servicing & maintenance of electronic data processing equipment	**P**
Dry Cleaning & Laundry Collection/Distribution Station	**P**
Dry cleaning and laundry plants serving more than one outlet	**P**
Electronic & Precision Equipment Repair & Maintenance	**P**
Electronics & Appliance Stores	**P**
Extermination & Pest Control Services	**P**
Farm & Feed Supply Stores	**P**
Film Production Facilities including sound stages and other related activities	**P**
Financial Institutions	**P**
Fix-it Shops and Lawnmower Repair	**P**
Flea Market	**P**
Florists	**P**
Funeral Homes & Mortuaries ***§7.9***	**P***

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**C**
Commercial, Services & Retail (continued)	
Furniture & Home Furnishings Stores/Fixtures Stores (including wall/floor cover)	**P**
Furniture Refinishing (Upholsterers)/Furn. Repair	**P**
Garden Supply Stores (not greenhouse or landscaping supply; no outdoor storage)	**P**
General Merchandise Stores/General Retail	**P**
General Rental Centers (ex: furniture, appliances)	**P**
Gift Shops	**P**
Grocery and Meat Market	**P**
Hardware Stores	**P**
Health & Personal Care Stores	**P**
Health Spa	**P**
Home Improvement Centers (lumber stored in enclosed structure)	**P**
Interior Designers/Showrooms	**P**
Laundromat (self-service)	**P**
Liquor Store (sale by package only) – where liquor is 51% or more of sales	**P**
Liquor Store (sale by package only) – where liquor is less than 51% of sales (accessory to main purpose)	**P**
Locksmiths	**P**
Manufactured Home Dealers	**P**
Medical Marihuana Processor Facility ***§7.24***	**P***
Medical Marihuana Safety Compliance Facility ***§7.24***	**P***
Medical Marihuana Secure Transporter ***§7.24***	**P***
Movie Rental Stores	**P**
Office Developments	**P**
Office Supply Stores	**P**
Outdoor Sales/Rental of automobiles, trucks, motorcycles, trailers, ATVs, marine craft, farm implements, contractor's equipment, recreational equipment	**S**
Pawn Shops	**P**
Personal Services	**P**
Beauty Shops	**P**
Barber Shops	**P**
Massage Therapy	**P**
Pet & Pet Care Stores (except Veterinary & Animal Shelters)	**P**
Pharmacies/Medical & Optical Supplies	**P**
Photofinishing/Photographers	**P**

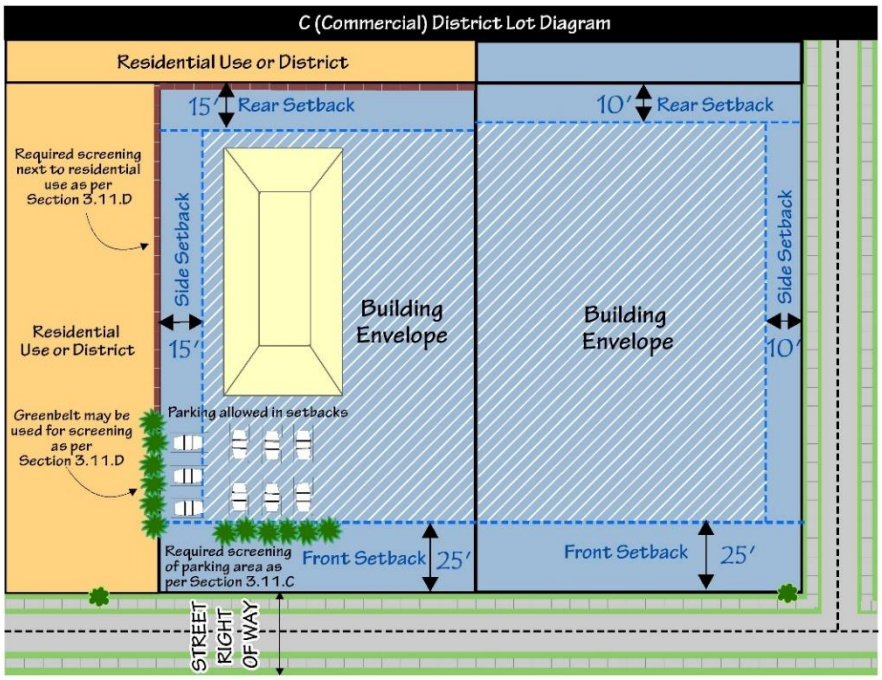
TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**C**
Commercial, Services & Retail (continued)	
Printing/Binding/Publishing of Print Material	**P**
Professional Cleaning Services	**P**
Professional Offices (in which chattels or goods, wares or merchandise are not commercially exchanged or sold)	**P**
Attorney	**P**
Architect	**P**
Landscape Architect	**P**
CPA	**P**
Registered Engineer	**P**
Real Estate Agencies	**P**
Securities and Stock Market Brokerages	**P**
Insurance Agencies	**P**
Financial Counseling	**P**
Tax Services	**P**
Recording Studios	**P**
Resale Shops/Thrift Shops	**P**
Shopping Center – Multiple Businesses	**P**
Shoe Repair	**P**
Small Engine Repair	**P**
Sporting Goods, Toys, Hobby, Book & Music Stores (incl Musical Instruments)	**P**
Studios for dance, physical exercise and music	**P**
Tailors (pressing/altering/repair of apparel)	**P**
Tattoo; Body Piercing Studio	**P**
Taxidermy Shops	**P**
Watch Repair	**P**
Communications	
Television/Radio Broadcasting Studios (excluding transmission facilities)	**P**
Wireless Communications Support Structures (ex: cell towers) ***§7.22***	**S***
Construction & Contractors	
Lumber/Building Material Sales and Storage	**P**
Special Trade Contractors Offices & Showrooms – no outdoor storage	**P**
Educational Services & Religion	
Religious Institutions & Customary Accessory Uses	**P**
Energy	
Propane Distributor/Propane Supply Facilities	**S**
Wind Energy Conversion Systems ***§7.23***	**S***

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**C**
Human Care & Social Assistance	
Adult Commercial Day Care Facility – Small Group	**P**
Adult Commercial Day Care Facility – Large Group	**P**
Adult Foster Care Large Group Home (13-20 adults)	**P**
Adult Foster Care Congregate Facilities (over 20 adults)	**P**
Ambulance Service	**P**
Assisted Living Home/Nursing Home/Convalescent Home	**P**
Child Caring Institution	**P**
Laboratories (Medical or Dental)	**P**
Hospitals, Sanitariums, and Charitable Institutions for Human Care (not for penal purposes)	**P**
Institutions (headquarters for religious, philanthropic and charitable organizations).	**P**
Offices/Clinics – Medical, dental, social worker, psychologist/psychiatrist, chiropractor	**P**
Miscellaneous	
Accessory Structures & Uses Incidental to Principal Uses ***§3.7***	**P***
Community Garden ***§7.7***	**P***
Parking Lots (as a principal use)	**P**
Parking Structures	**P**
Planned Unit Developments, Commercial/Industrial ***§7.21***	**S***
Public Facilities	
Community Centers & Auditoriums (public)	**P**
Government Facilities	**P**
Transportation, Storage & Wholesale	
Crating and Packing Services	**S**
Mini-Warehouses or Storage Facilities (including self-storage)	**S**
Scenic & Sightseeing Transportation/Ground Passenger Transportation	**P**
Towing Businesses	**P**
Truck Washes	**S**
Wholesale Businesses	**P**

C. **Development Standards**.

Table 4.8

1. Lot & Structure Standards		
a.	Lot Area (min.)	None
b.	Lot Width (min.)	None
c.	Building Height (max.)	3 stories or 36' (over 3 stories up to 5 allowed as Special Use permit)
d.	Building Coverage (max.)	None
2. Setbacks		
a.	Front (min.)	25 feet
b.	Rear (min.)	10 feet
		15 feet when rear yard abuts a residential district or residential use
c.	Side (min.)	None
		15 feet when side yard abuts a residential district or residential use
d.	Side - street - corner (min.)	10 feet
3. Additional Development Standards		
a.	Accessory Structures	Regulated by **§3.7**.
b.	Screening	When a non-residential use abuts a residential use or district, screening is required as per **§3.11**.
c.	Fences	Regulated by **Chapter 18, Article VII** of the Code of Ordinances.
d.	Parking	Regulated by **§3.12**.
e.	Outdoor Cafes	Regulated by **Chapter 22, Article IV** of the Code of Ordinances.
f.	Signs	Regulated by **Chapter 64** of the Code of Ordinances.



C

Section 4.9 M-1 – Light Industrial District

M-1

A. **Purpose.**

This district is composed of certain land so situated as to be suitable for light industrial development, but where the modes of operations of the industry are restricted to the area of the district and in no manner affect the surrounding districts in a detrimental way. The regulations are so designed as to permit the normal operations of almost all light industries, subject only to those needed for their mutual protection and the equitable preservation of nearby nonindustrial uses of land.

B. **Uses Allowed.**

Permitted and Special Land Uses shall be limited to those listed below (also in **Section 4.12: Full Table of Permitted and Special Land Uses**) and shall be subject to all applicable provisions of **Article 5: Plot Plan & Site Plan Review**, **Article 6: Special Use Review**, and **Article 7: Supplemental Regulations**.

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**M-1**
Accommodation & Food/Event Services	
Convention Centers/Conference Centers	**P**
Hotels and Motels (attached or detached units) ***§7.17***	**P***
Restaurants (with or without Drive-Through or Eat in Car)	**P**
Agriculture & Forest Products; Animals	
Agricultural products processing and storage (excluding concentrated animal feeding operations)	**P**
Animal Sales Yards/Auctions for Livestock	**S**
Bulk seed, feed, fertilizer and nursery stock outlet and distribution centers (including wholesale)	**P**
Forest Products Processing (Saw Mills, Veneer Mills, Planing Mills & related operations); Firewood Sales	**P**
Grain Elevators	**P**
Greenhouse; Nursery; Hoophouse ***§7.8***	**P***
Kennels	**P**
Landscaping Establishment ***§7.8***	**P***
Slaughter Houses	**P**
Arts, Entertainment & Recreation	
Nature Parks/Nature Areas (Public)	**P**
Public Parks, Playgrounds, Playfields ***§7.3***	**P***

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**M-1**
Commercial, Services & Retail	
Auto Body/Paint/Interior & Glass; Auto Repair; Oil Change; Tire Sales ***§7.15***	**P***
Automobile Service Station ***§7.15***	**P***
Automobile Towing Businesses	**P**
Boat/RV/Recreational Equipment Repair & Storage	**P**
Business Incubator (Food Incubator listed under Manufacturing)	**P**
Commercial/Industrial Equipment Rental & Leasing	**P**
Commercial Equipment Repair & Maintenance	**P**
Crematoriums	**P**
Dry cleaning and laundry plants serving more than one outlet	**P**
Farm & Feed Supply Stores	**P**
Film Production Facilities including sound stages and other related activities	**P**
Garden Supply Stores (not greenhouse or landscaping supply; no outdoor storage of materials)	**P**

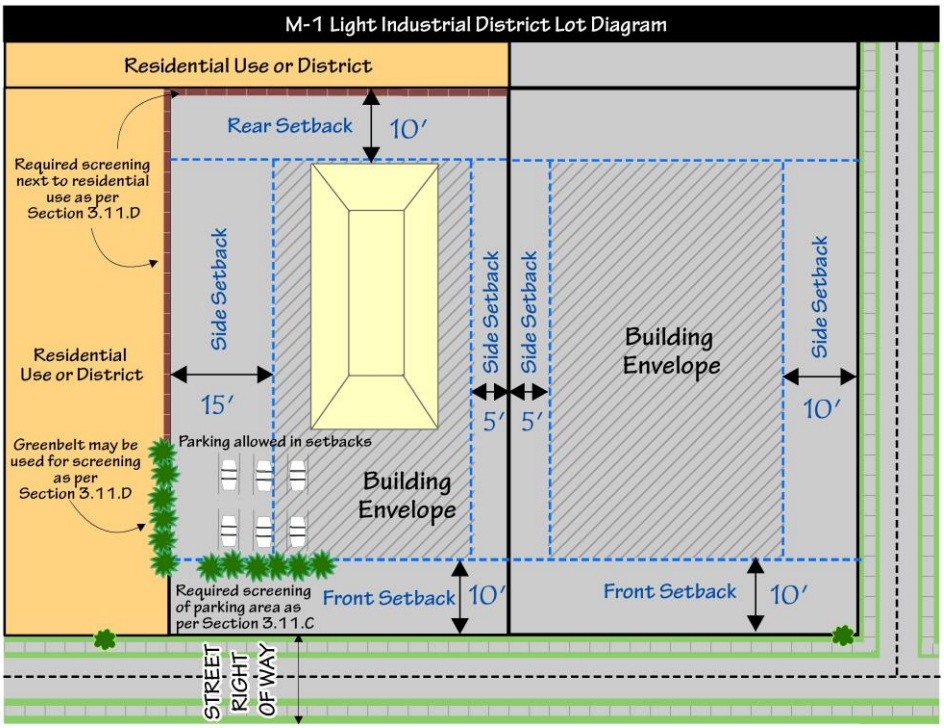
TABLE OF PERMITTED USES & SPECIAL LAND USES	
P = *Permitted by right* ***S*** = *Permitted with a Special Use Permit* **supplemental development regulations*	**M-1**
Commercial, Services & Retail (continued)	
Manufactured Home Dealers	**P**
Medical Marihuana Grower Facility ***§7.24***	**P***
Medical Marihuana Processor Facility ***§7.24***	**P***
Medical Marihuana Safety Compliance Facility ***§7.24***	**P***
Medical Marihuana Secure Transporter ***§7.24***	**P***
Printing/Binding/Publishing of Print Material	**P**
Professional Cleaning Services	**P**
Recording Studios	**P**
Communications	
Wireless Communications Support Structures (ex: cell towers) ***§7.22***	**S***
Construction & Contractors	
Lumber/Building Material Sales and Storage	**P**
Special trade contractors Offices & Showrooms with outdoor storage of materials & contractor's equipment (electrical, plumbing, heating, excavation, well-drilling, etc)	**P**
Energy	
Propane Distributor/Propane Supply Facilities	**P**
Solar Energy Facility (Utility-Scale) ***§7.25***	**P***
Wind Energy Conversion Systems ***§7.23***	**S***
Human Care & Social Assistance	
Hospitals, Sanitariums, and Charitable Institutions for Human Care (not for penal purposes)	**P**
Manufacturing, Industrial & Waste Mgmt	
Manufacturing, Light – including the production, processing, cleaning, testing, and distribution of materials, goods, foodstuffs, and products. ***Light Manufacturing are those industries in which the modes of operation of the industry have no external effects and do not directly affect nearby development. External effects shall include but are not limited to air contaminants, blown material, odor, noise, glare, gasses, electrical disturbance, heat, and vibration.***	**P**

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P = *Permitted by right* ***S*** = *Permitted with a Special Use Permit* **supplemental development regulations*	**M-1**
Miscellaneous	
Accessory Structures & Uses Incidental to Principal Uses ***§3.7***	**P***
Community Garden ***§7.7***	**P***
Planned Unit Developments, Commercial/Industrial ***§7.21***	**S***
Public Facilities	
Community Centers & Auditoriums (public)	**P**
Government Facilities	**P**
Transportation, Storage & Wholesale	
Airports, Aviation Support Services, Heliports & Landing Fields (aircraft/rotocraft)	**P**
Bus Garages	**P**
Couriers/Parcel Packing/Shipping/Delivery Establishments/Mail Order Establishments	**P**
Crating and Packing Services	**P**
Drone (Unmanned Aerial) Centers	**P**
Freight Terminals/Trucking Facilities	**P**
Mini-Warehouses or Storage Facilities (including self-storage)	**P**
Rail yards	**P**
Parking and Storage Yards	**P**
Scenic & Sightseeing Transportation/Ground Passenger Transportation	**P**
Towing Businesses	**P**
Truck Washes	**P**

C. **Development Standards.**

Table 4.9

1. Lot & Structure Standards		
a.	Lot Area (min.)	None
b.	Lot Width (min.)	None
c.	Building Height (max.)	3 stories or 36' (over 3 stories up to 5 allowed as Special Use permit)
d.	Building Coverage (max.)	None
2. Setbacks		
a.	Front (min.)	10 feet
b.	Rear (min.)	10 feet
c.	Side (min.)	5 feet (15 feet when directly abutting residential district)
d.	Side - street - corner (min.)	10 feet when abutting a street
3. Additional Development Standards		
a.	Accessory Structures	Regulated by **§3.7**.
b.	Screening	When a non-residential use abuts a residential use or district, screening is required as per **§3.11**.
c.	Fences	Regulated by **Chapter 18, Article VII** of the Code of Ordinances.
d.	Parking	Regulated by **§3.12**.
e.	Outdoor Cafes	Regulated by **Chapter 22, Article IV** of the Code of Ordinances.
f.	Signs	Regulated by **Chapter 64** of the Code of Ordinances.



Section 4.10 M-2 – Heavy Industrial District

M-2

A. **Purpose.**

This district is composed of certain land so situated as to be suitable for industrial development, but where the modes of operation of the industry may directly affect nearby nonindustrial development. The regulations are so designed as to permit the normal operations of almost all industries, subject only to those needed for their mutual protection and the equitable preservation of nearby nonindustrial uses of land.

B. **Uses Allowed.**

Permitted and Special Land Uses shall be limited to those listed below (also in **Section 4.12: Full Table of Permitted and Special Land Uses**) and shall be subject to all applicable provisions of **Article 5: Plot Plan & Site Plan Review**, **Article 6: Special Use Review**, and **Article 7: Supplemental Regulations**.

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**M-2**
Accommodation & Food/Event Services	
Convention Centers/Conference Centers	**P**
Hotels and Motels (attached or detached units) ***§7.17***	**P***
Restaurants (with or without Drive-Through/Eat in Car)	**P**
Agriculture & Forest Products; Animals	
Agricultural products processing and storage (excluding concentrated animal feeding operations)	**P**
Animal Sales Yards/Auctions for Livestock	**S**
Bulk seed, feed, fertilizer and nursery stock outlet and distribution centers (including wholesale)	**P**
Forest Products Processing (Saw Mills, Veneer Mills, Planing Mills & related operations); Firewood Sales	**P**
Grain Elevators	**P**
Greenhouse; Nursery; Hoophouse ***§7.8***	**P***
Kennels	**P**
Landscaping Establishment ***§7.8***	**P***
Slaughter Houses	**P**
Arts, Entertainment & Recreation	
Nature Parks/Nature Areas (Public)	**P**
Public Parks, Playgrounds, Playfields ***§7.3***	**P***

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**M-2**
Commercial, Services & Retail	
Auto Body/Paint/Interior & Glass; Auto Repair; Oil Change; Tire Sales ***§7.15***	**P***
Automobile Service Station ***§7.15***	**P***
Automobile Towing Businesses	**P**
Boat/RV/Recreational Equipment Repair & Storage	**P**
Business Incubator (Food Incubator listed under Manufacturing)	**P**
Commercial/Industrial Equipment Rental & Leasing	**P**
Commercial Equipment Repair & Maintenance	**P**
Crematoriums	**P**
Dry cleaning and laundry plants serving more than one outlet	**P**
Farm & Feed Supply Stores	**P**
Film Production Facilities including sound stages and other related activities	**P**
Garden Supply Stores (not greenhouse or landscaping supply; no outdoor storage of materials)	**P**

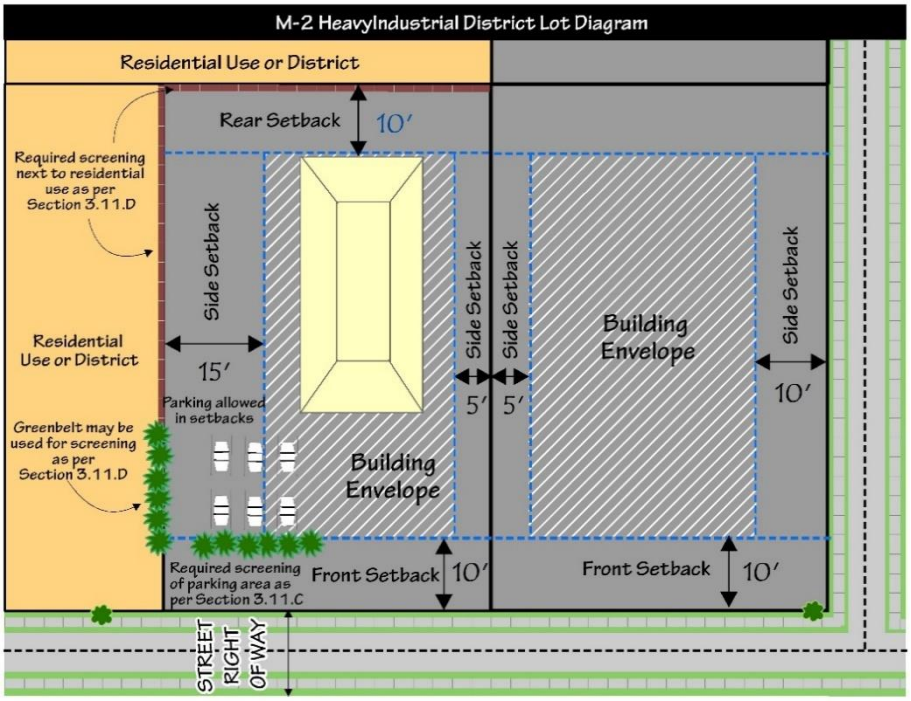
TABLE OF PERMITTED USES & SPECIAL LAND USES	
P = *Permitted by right* ***S*** = *Permitted with a Special Use Permit* **supplemental development regulations*	**M-2**
Commercial, Services & Retail (continued)	
Manufactured Home Dealers	**P**
Medical Marihuana Grower Facility ***§7.24***	**P***
Medical Marihuana Processor Facility ***§7.24***	**P***
Medical Marihuana Safety Compliance Facility ***§7.24***	**P***
Medical Marihuana Secure Transporter ***§7.24***	**P***
Printing/Binding/Publishing of Print Material	**P**
Professional Cleaning Services	**P**
Recording Studios	**P**
Sexually Oriented Business ***§7.26***	**S***
Communications	
Wireless Communications Support Structures (ex: cell towers) ***§7.22***	**S***
Construction & Contractors	
Lumber/Building Material Sales and Storage	**P**
Special trade contractors Offices & Showrooms with outdoor storage of materials & contractor's equipment (electrical, plumbing, heating, excavation, well-drilling, etc)	**P**
Educational Services & Religion	
Trade Schools (including Beauty Schools)	**P**
Energy	
Propane Distributor/Propane Supply Facilities	**P**
Solar Energy Facility (Utility-Scale)) ***§7.25***	**P***
Wind Energy Conversion Systems) ***§7.23***	**S***
Human Care & Social Assistance	
Hospitals, Sanitariums, and Charitable Institutions for Human Care (not for penal purposes)	**P**
Manufacturing, Industrial & Waste Mgmt	
Asphalt Mfg	**S**
Bulk Storage of Explosives	**S**
Concrete, Cement, Gypsum, Plaster of Paris, Corrosive Acid or Alkali Mfg	**S**
Fertilizer, Liquid Nitrogen, & Anhydrous Ammonia Handling	**S**
Junkyards/Salvage Yards/Scrap Yards/Motor Vehicle Impoundment or Wrecking Yards/ Recycling Facilities/Solid Waste Transfer Facilities	**S**

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P = *Permitted by right* ***S*** = *Permitted with a Special Use Permit* **supplemental development regulations*	**M-2**
Manufacturing, Industrial & Waste Mgmt (continued)	
Manufacturing, Light – including the production, processing, cleaning, testing, and distribution of materials, goods, foodstuffs, and products. ***Light Manufacturing are those industries in which the modes of operation of the industry have no external effects and do not directly affect nearby development. External effects shall include but are not limited to air contaminants, blown material, odor, noise, glare, gasses, electrical disturbance, heat, and vibration.***	**P**
Manufacturing, Heavy – including the production, processing, cleaning, testing, and distribution of materials, goods, foodstuffs, and products. ***Heavy Manufacturing are those industries in which the modes of operation of the industry do have external effects and may directly affect nearby development. External effects shall include but are not limited to air contaminants, blown material, odor, noise, glare, gasses, electrical disturbance, heat, and vibration.***	**P**
Miscellaneous	
Accessory Structures & Uses Incidental to Principal Uses ***§3.7***	**P***
Community Garden ***§7.7***	**P***
Planned Unit Developments, Commercial/Industrial ***§7.21***	**S***
Public Facilities	
Community Centers & Auditoriums (public)	**P**
Government Facilities	**P**
Transportation, Storage & Wholesale	
Airports, Aviation Support Services, Heliports & Landing Fields (aircraft/rotocraft)	**P**
Bus Garages	**P**
Couriers/Parcel Packing/Shipping/ Delivery Establishments/Mail Order Establishments	**P**
Crating and Packing Services	**P**
Drone (Unmanned Aerial) Centers	**P**
Freight Terminals/Trucking Facilities	**P**
Mini-Warehouses or Storage Facilities (including self-storage)	**P**
Rail yards	**P**
Parking and Storage Yards	**P**
Scenic & Sightseeing Transportation/Ground Passenger Transportation	**P**
Towing Businesses	**P**
Truck Washes	**P**

C. **Development Standards.**

Table 4.10

1. Lot & Structure Standards		
a.	Lot Area (min.)	None
b.	Lot Width (min.)	None
c.	Building Height (max.)	3 stories or 36' (over 3 stories up to 5 allowed as Special Use permit)
d.	Building Coverage (max.)	None
2. Setbacks		
a.	Front (min.)	10 feet
b.	Rear (min.)	10 feet
c.	Side (min.)	5 feet (15 feet when directly abutting residential district)
d.	Side - street - corner (min.)	10 feet when abutting a street
3. Additional Development Standards		
a.	Accessory Structures	Regulated by **§3.7**.
b.	Screening	When a non-residential use abuts a residential use or district, screening is required as per **§3.11**.
c.	Fences	Regulated by **Chapter 18, Article VII** of the Code of Ordinances.
d.	Parking	Regulated by **§3.12**.
e.	Outdoor Cafes	Regulated by **Chapter 22, Article IV** of the Code of Ordinances.
f.	Signs	Regulated by **Chapter 64** of the Code of Ordinances.

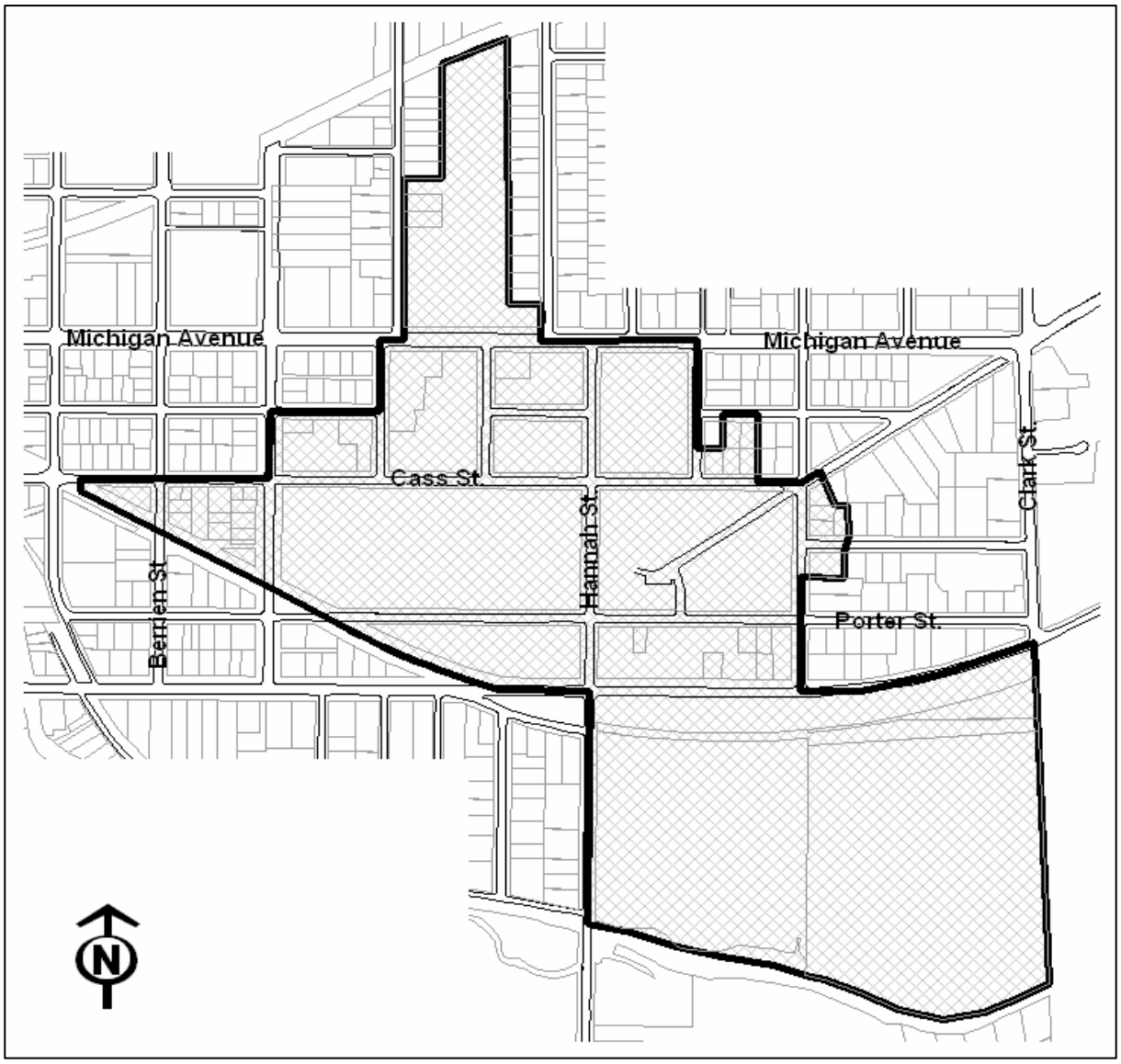


Section 4.11 CDD – Campus Development District

CDD

A. **Purpose**.

The Campus Development District shall encompass the territory as described on the attached map and will include certain properties within the territory owned by Albion College and will exclude other properties within the territory owned by others.



B. **Uses Allowed.**

Permitted and Special Land Uses shall be limited to those listed below (also in **Section 4.12: Full Table of Permitted and Special Land Uses**) and shall be subject to all applicable provisions of **Article 5: Plot Plan & Site Plan Review**, **Article 6: Special Use Review**, and **Article 7: Supplemental Regulations**.

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**CDD**
Arts, Entertainment & Recreation	
Campgrounds/RV Parks	**P**
Canoe/Kayak Liveries	**P**
Nature Parks/Nature Areas (Public)	**P**
Public Parks, Playgrounds, Playfields ***§7.3***	**P***
Educational Services & Religion	
Colleges/Universities:	
Academic Buildings (majority of floor space devoted to classroom space)	**P**
Administrative Buildings (majority of floor space used for offices)	**P**
Student Housing (excluding facilities within campus perimeter)	**P**
Student Housing (facilities within campus perimeter)	**S**
Parking areas devoted to meeting space needs for individual uses within the "campus perimeter"	**S**
Accessory Uses and Accessory parking linked to an individual site	**P**
Commercial Facilities for food service, entertainment, or similar use when not secondary and incidental to a permitted use	**S**
Utility Buildings or Essential Service Facilities (college-owned/operated)	**S**
Other uses not specifically listed and those lying within the "campus perimeter"	**S**
Other uses related to the academic mission of the college	**P**
Dormitories (college-owned), fraternity or sorority houses	**P**
Trade Schools	**P**

TABLE OF PERMITTED USES & SPECIAL LAND USES	
P *= Permitted by right* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	**CDD**
Energy	
Wind Energy Conversion Systems ***§7.23***	**S***
Miscellaneous	
Accessory Structures & Uses Incidental to Principal Uses ***§3.7***	**P***
Public Facilities	
Community Centers & Auditoriums (public)	**P**
Government Facilities	**P**

C. **Development Standards**.

1. **Central Campus Area**. Lot area, lot width, lot coverage and setbacks shall not be required within the "central campus area", although this shall be subject to site plan review for protection of health and safety. The "central campus area", shall be defined by 100% college ownership of land within any city block or an area bounded by public right-of-way, such as a street or river. Privately owned right-of-ways, such as railroad R.O.W., may also be utilized to define a block. This area must be a contiguous area, with this defined as though the public R.O.W. did not exist.

2. **Campus Perimeter Area**. The "campus perimeter area" shall be defined by all other college-owned land within a block where the college owns less than 100% of the land. Any development within this area shall meet the following standards:

Table 4.11

1. Setbacks	
a.	Development sites, including buildings and parking areas, shall be setback fifty (50) feet from any privately owned property. Any public right-of-way of fifty (50) feet or more shall satisfy this requirement. Where abutting a private property, this fifty (50) foot setback shall be maintained in natural open space, such as grass or other landscape treatment.
b.	Where the college owns property outside the Campus Development District, this property shall be subject to regulations within the zoning district in which it is located. Where this property abuts a college-owned property within the district, it may be utilized for purposes of meeting the setback requirement.
c.	Height of Structures. No use by right or accessory use structures shall exceed three stories or a height of thirty-six (36) feet. A special use permit shall be required for all other structure heights not to exceed seventy-two (72) feet or six (6) stories and such structures shall not be located within three hundred (300) feet of any privately owned property.
d.	Where individual properties within the "campus perimeter area" are controlled by the college through a private transfer agreement and where the owner of such properties has stipulated within the agreement that setback requirements may be waived, submission of this agreement during site plan review may allow for a waiver or reduction in the setback by the Planning Commission. In no instance shall this result in construction of a building or parking area on this private property, but shall allow for zero-lot line development provided no less than ten (10) feet of separation exists between buildings

2. Additional Development Standards		
a.	Accessory Structures	Regulated by **§3.7**.
b.	Screening	Regulated by **§3.11**
c.	Fences	Regulated by **Chapter 18, Article VII** of the Code of Ordinances.
d.	Parking	Regulated by **§3.12.**
e.	Signs	Regulated by **Chapter 64** of the Code of Ordinances.

Section 4.12 Full Table of Permitted & Special Land Uses

R-1	Single Family Residential District
R-2	Multiple-Family District
MU	Mixed Use District
CBD	Central Business District
C	General Business District
M-1	Light Industrial District
M-2	Heavy Industrial District
CDD	Campus Development District

Land Use Categories	Pg
Accommodation & Food/Event Services	4-42
Agriculture & Forest Products; Animals	4-43
Arts, Entertainment & Recreation	4-44
Commercial, Services & Retail	4-45
Communications	4-48
Construction & Contractors	4-48
Educational Services & Religion	4-48
Energy	4-49
Human Care & Social Assistance	4-49
Manufacturing, Industrial & Waste Mgmt	4-50
Miscellaneous	4-50
Public Facilities	4-51
Residential Uses	4-51
Transportation, Storage & Wholesale	4-51

Permitted and Special Land Uses shall be limited to those listed in the following Table of Permitted and Special Land Uses and listed in the individual use tables within each district section (above). Uses not listed are not permitted. Unlisted (unclassified) uses are subject to **Section 3.14**.

Table of Permitted Uses & Special Land Uses

P = Permitted S = Permitted with a Special Use Permit **supplemental development regulations*	R-1	R-2	MU	CBD	C	M-1	M-2	CDD
Accommodation & Food/Event Services								
Bakeries, Confectioneries, and Ice Cream Shops			P	P	P			
Banquet Halls/Wedding Venues			P	P	P			
Caterers/Food Service Contractors			P	P	P			
Coffee Shops			P	P	P			
Convention Centers/Conference Centers			P	P	P	P	P	
Delicatessens			P	P	P			
Drinking Establishments/Taverns/Bars with no food service			P	P	S			
Hotels and Motels (attached or detached units) §7.17				S*	P*	P*	P*	
Inns (Lodging Units within Other Commercial Establishment)			P	P				
Microbreweries & Distilleries (serving directly to the public)			P	P	P			
Night Club			P	P	S			
Restaurants without Drive-Through			P	P	P	P	P	
Restaurants with Drive-Through (Drive-In or Eat in Car)			P		P	P	P	
Rooming Houses/Boarding Houses §7.12		P*	P*					
Short Term Rental Homes	P	P						
Wineries			P	P	P			

Table of Permitted Uses & Special Land Uses								
P *= Permitted* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	R-1	R-2	MU	CBD	C	M-1	M-2	CDD
Agriculture & Forest Products; Animals								
Agricultural products processing and storage (excluding concentrated animal feeding operations)						P	P	
Animal Sales Yards/Auctions for Livestock						S	S	
Animal Shelter					P			
Bulk seed, feed, fertilizer and nursery stock outlet and distribution centers (including wholesale)						P	P	
Cider Mills			P	P	P			
Farm Product Sales			P	P	P			
Forest Products Processing (Saw Mills, Veneer Mills, Planing Mills & related operations); Firewood Sales						P	P	
Grain Elevators						P	P	
Greenhouse; Nursery; Hoophouse ***§7.8***					P*	P*	P*	
Kennels					P	P	P	
Landscaping Establishment ***§7.8***					P*	P*	P*	
Slaughter Houses						P	P	
Veterinary Clinic/Animal Hospital with or without outdoor animal area or overnight boarding			P	P	P			

Table of Permitted Uses & Special Land Uses								
P *= Permitted* ***S*** *= Permitted with a Special Use Permit* **supplemental development regulations*	R-1	R-2	MU	CBD	C	M-1	M-2	CDD
Arts, Entertainment & Recreation								
Amusement Arcades or Devices (Mechanical) & Similar Indoor Recreation			P	P	P			
Archery Ranges (& as accessory use), Indoor			P	P	P			
Art Galleries (Public)		S	P	P	P			
Art/Cultural Uses (such as Studios for painter, sculptor, musician, photographer, or similar) where the intent is to either educate/teach such craft through lessons or provide for retail sales of such produced art	S	S	P	P	P			
Bicycle Shops			P	P	P			
Billiards Halls			P	P	P			
Bowling Centers			P	P	P			
Campgrounds/RV Parks	S	S						P
Canoe/Kayak Liveries		S	P	P				P
Country Clubs ***§7.4***	P*							
Equipment Rental, Recreational (Outfitter)			P	P	P			
Firearms Range, Indoor			P	P	P			
Firearms Store			P	P	P			
Fitness & Recreational Sports (ex: health clubs, gym, tennis, swimming pool club)			P	P	P			
Golf Courses ***§7.4***	P*							
Golf Driving Ranges (Indoor or Outdoor)					P			
Museums		S		P				
Nature Parks/Nature Areas (Public)	P	P	P	P	P	P	P	P
Outdoor Performance Facilities					S			
Private Clubs; Lodges; Fraternal Organizations; and Other Organizations (not related to a gainful business)		S	P	P				
Public Parks, Playgrounds, Playfields ***§7.3***	P*	P*	P*	P*	P*	P*	P*	P*
Recreational Facility, Commercial (ex – go karts; miniature golf; disc golf; skating rinks)			S		P			
Theaters/Performing Arts Facilities			P	P	P			
Tours (Commercial Operations)			P	P	P			
Zoos, Petting					P			

Table of Permitted Uses & Special Land Uses

P = Permitted S = Permitted with a Special Use Permit **supplemental development regulations*	R-1	R-2	MU	CBD	C	M-1	M-2	CDD
Commercial, Services & Retail								
Agricultural Equipment Dealers/Repair					P			
Antique Stores			P	P	P			
Automotive Accessory Sales (auto parts)			P	P	P			
Auto Body/Paint/Interior & Glass; Auto Repair; Oil Change; Tire Sales ***§7.15***					S*	P*	P*	
Automobile Service Station ***§7.15***					S*	P*	P*	
Automobile Towing Businesses					P	P	P	
Bait & Tackle Shops			P	P	P			
Boat and Boating Accessory Sales			S		P			
Boat/RV/Recreational Equipment Repair & Storage					P	P	P	
Building & Garden Equipment & Supplies Dealers			S	S	P			
Business Incubator (Food Incubator listed under Manufacturing)			P	P	P	P	P	
Car Washes ***§7.15***			S*		P*			
Cash Advance Stores					P			
Clothing, Clothing Accessory, Jewelry & Shoe Stores (including shoe repair)			P	P	P			
Commercial/Industrial Equipment Rental & Leasing					P	P	P	
Commercial Equipment Repair & Maintenance					P	P	P	
Convenience Stores			P		P			
Crafts/Trade Offices/Shops (small scale craft making)			P	P	P			
Crematoriums						P	P	
Data Processing & Computer Centers including the servicing & maintenance of electronic data processing equipment			P	P	P			
Dry Cleaning & Laundry Collection/Distribution Station			P	P	P			
Dry cleaning and laundry plants serving more than one outlet					P	P	P	
Electronic & Precision Equipment Repair & Maintenance			P	P	P			
Electronics & Appliance Stores			P	P	P			
Extermination & Pest Control Services			P	S	P			
Farm & Feed Supply Stores					P	P	P	
Film Production Facilities including sound stages and other related activities			P	P	P	P	P	
Financial Institutions			P	P	P			
Fix-it Shops and Lawnmower Repair			P		P			
Flea Market			P	P	P			
Florists			P	P	P			
Funeral Homes & Mortuaries ***§7.9***	S*	S*	P*		P*			
Furniture & Home Furnishings Stores/Fixtures Stores (including wall/floor cover)			P	P	P			
Furniture Refinishing (Upholsterers)/Furniture Repair			P	S	P			

Table of Permitted Uses & Special Land Uses

P = Permitted S = Permitted with a Special Use Permit **supplemental development regulations*	R-1	R-2	MU	CBD	C	M-1	M-2	CDD
Commercial, Services & Retail								
Garden Supply Stores (not greenhouse or landscaping supply; no outdoor storage of materials)			P	P	P	P	P	
General Merchandise Stores/General Retail			P	P	P			
General Rental Centers (ex: furniture, appliances)			P		P			
Gift Shops			P	P	P			
Grocery and Meat Market			P	P	P			
Hardware Stores			P	P	P			
Health & Personal Care Stores			P	P	P			
Health Spa			P	P	P			
Home Improvement Centers (lumber stored in enclosed structure)					P			
Interior Designers/Showrooms ***§7.18***			P	P*	P			
Laundromat (self-service)			P	P	P			
Liquor Store (sale by package only) – where liquor is 51% or more of sales			P	S	P			
Liquor Store (sale by package only) – where liquor is less than 51% of sales (accessory to main purpose)			P	P	P			
Locksmiths			P	P	P			
Manufactured Home Dealers					P	P	P	
Medical Marihuana Grower Facility ***§7.24***						P*	P*	
Medical Marihuana Processor Facility ***§7.24***					P*	P*	P*	
Medical Marihuana Safety Compliance Facility ***§7.24***					P*	P*	P*	
Medical Marihuana Secure Transporter ***§7.24***					P*	P*	P*	
Movie Rental Stores			P	P	P			
Office Developments			P	P	P			
Office Supply Stores			P	P	P			
Outdoor Sales/Rental of automobiles, trucks, motorcycles, trailers, ATVs, marine craft, farm implements, contractor's equipment, recreational equipment			S		S			
Pawn Shops			P	P	P			
Personal Services			P	P	P			
Beauty Shops			P	P	P			
Barber Shops			P	P	P			
Massage Therapy			P		P			
Pet & Pet Care Stores (except Veterinary & Animal Shelters)			P	P	P			
Pharmacies/Medical & Optical Supplies			P	P	P			
Photofinishing/Photographers			P	P	P			
Printing/Binding/Publishing of Print Material			P	P	P	P	P	
Professional Cleaning Services					P	P	P	

Table of Permitted Uses & Special Land Uses

P = Permitted S = Permitted with a Special Use Permit **supplemental development regulations*	R-1	R-2	MU	CBD	C	M-1	M-2	CDD
Commercial, Services & Retail								
Professional Offices (in which chattels or goods, wares or merchandise are not commercially exchanged or sold)			P	P	P			
Attorney	S	S	P	P	P			
Architect	S	S	P	P	P			
CPA	S	S	P	P	P			
Financial Counseling	S	S	P	P	P			
Insurance Agencies	S	S	P	P	P			
Landscape Architect	S	S	P	P	P			
Registered Engineer	S	S	P	P	P			
Real Estate Agencies	S	S	P	P	P			
Securities and Stock Market Brokerages	S	S	P	P	P			
Tax Services	S	S	P	P	P			
Recording Studios			P	P	P	P	P	
Resale Shops/Thrift Shops			P	P	P			
Sexually Oriented Businesses **§7.26**							S*	
Shopping Center – Multiple Businesses			S		P			
Shoe Repair			P	P	P			
Small Engine Repair			P		P			
Sporting Goods, Toys, Hobby, Book & Music Stores (incl Musical Instruments)			P	P	P			
Studios for dance, physical exercise and music			P	P	P			
Tailors (pressing/altering/repair of apparel)			P	P	P			
Tattoo; Body Piercing Studio			S	P	P			
Taxidermy Shops			P		P			
Watch Repair			P	P	P			

Table of Permitted Uses & Special Land Uses

P = Permitted *S = Permitted with a Special Use Permit* **supplemental development regulations*	R-1	R-2	MU	CBD	C	M-1	M-2	CDD
Communications								
Television/Radio Broadcasting Studios (excluding transmission facilities)			P	P	P			
Wireless Communications Support Structures (ex: cell towers) ***§7.22***					S*	S*	S*	
Construction & Contractors								
Lumber/Building Material Sales and Storage					P	P	P	
Special Trade Contractors Offices & Showrooms – no outdoor storage ***§7.18***			P	P*	P			
Special trade contractors Offices & Showrooms with outdoor storage of materials & contractor's equipment (electrical, plumbing, heating, excavation, well-drilling, etc)						P	P	
Educational Services & Religion								
Business Schools				P				
Colleges/Universities:								
Academic Buildings (majority of floor space devoted to classroom space)			P	P				P
Administrative Buildings (majority of floor space used for offices)			P	P				P
Student Housing (excluding facilities within campus perimeter)								P
Student Housing (facilities within campus perimeter)								S
Parking areas devoted to meeting space needs for individual uses within the "campus perimeter"								S
Accessory Uses and Accessory parking linked to an individual site								P
Commercial Facilities for food service, entertainment, or similar use when not secondary and incidental to a permitted use								S
Utility Buildings or Essential Service Facilities (college-owned/operated)								S
Other uses not specifically listed and those lying within the "campus perimeter"								S
Other uses related to the academic mission of the college								P
Dormitories (college-owned), fraternity or sorority houses								P
Public, charter or private schools (elementary through high school)	P		P					
Religious Institutions & Customary Accessory Uses	S	S	P		P			
Trade Schools (including Beauty Schools)				P			P	P

Table of Permitted Uses & Special Land Uses

P = Permitted *S = Permitted with a Special Use Permit* **supplemental development regulations*	R-1	R-2	MU	CBD	C	M-1	M-2	CDD
Energy								
Propane Distributor/Propane Supply Facilities			S		S	P	P	
Solar Energy Facility (Utility-Scale) ***§7.25***						P*	P*	
Wind Energy Conversion Systems ***§7.23***	S*	S*	S*	S*	S*	S*	S*	S*
Human Care & Social Assistance								
Adult Commercial Day Care Facility – Small Group			P	P	P			
Adult Commercial Day Care Facility – Large Group			P	P	P			
Adult Foster Care Family Homes (6 or less adults)	P	P	P					
Adult Foster Care Small Group Home (7-12 adults)	S	S	P					
Adult Foster Care Large Group Home (13-20 adults)		S	P		P			
Adult Foster Care Congregate Facilities (over 20 adults)		S	P		P			
Ambulance Service			P	S	P			
Assisted Living Home/Nursing Home/Convalescent Home		S	P		P			
Child Care Home, Family (6 or less)	P	P	P					
Child Care Home, Group (7 -12)	S	S	S					
Child Care Center/Nursery School (not in home) (preschool) ***§7.5***	P*	P*	P*					
Child Caring Institution		S	P		P			
Laboratories (Medical or Dental)			P	P	P			
Hospitals, Sanitariums, and Charitable Institutions for Human Care (not for penal purposes)	S	S	P		P	P	P	
Institutions (headquarters for religious, philanthropic and charitable organizations). In R-2, those organizations shall only occupy buildings existing at the date of adoption of this Ordinance		P	P	P	P			
Offices/Clinics – Medical, dental, social worker, psychologist/psychiatrist, chiropractor		S	P	P	P			
Residences used by a governmental agency, a church, or other nonprofit corporation as a facility for providing emergency assistance of a temporary nature to individuals in need		S						
Residential Human Care and Treatment Facility								
Residential Facility for Battered Women and Children (in a private residence) – PERMIT REQUIRED	P	P	P					
State-Licensed Residential Facilities (Adult Foster Care 6 or less)	P	P	P					

Table of Permitted Uses & Special Land Uses

P = Permitted *S = Permitted with a Special Use Permit* **supplemental development regulations*	R-1	R-2	MU	CBD	C	M-1	M-2	CDD
Manufacturing, Industrial & Waste Management								
Asphalt Mfg							S	
Bulk Storage of Explosives							S	
Concrete, Cement, Gypsum, Plaster of Paris, Corrosive Acid or Alkali Mfg							S	
Fertilizer, Liquid Nitrogen, & Anhydrous Ammonia Handling							S	
Junkyards/Salvage Yards/Scrap Yards/Motor Vehicle Impoundment or Wrecking Yards/Recycling Facilities/ Solid Waste Transfer Facilities							S	
Manufacturing, Light – including the production, processing, cleaning, testing, and distribution of materials, goods, foodstuffs, and products. ***Light Manufacturing are those industries in which the modes of operation of the industry <u>have no</u> external effects and <u>do not</u> directly affect nearby development. External effects shall include but are not limited to air contaminants, blown material, odor, noise, glare, gasses, electrical disturbance, heat, and vibration.***						P	P	
Manufacturing, Heavy – including the production, processing, cleaning, testing, and distribution of materials, goods, foodstuffs, and products. ***Heavy Manufacturing are those industries in which the modes of operation of the industry <u>do have</u> external effects and <u>may</u> directly affect nearby development. External effects shall include but are not limited to air contaminants, blown material, odor, noise, glare, gasses, electrical disturbance, heat, and vibration.***							P	
Miscellaneous								
Accessory Structures & Uses Incidental to Principal Uses ***§3.7***	P*	P*	P*	P*	P*	P*	P*	P*
Cemeteries including Mausoleums (human or pet) ***§7.2***	P*	P*						
Community Garden ***§7.7***	P*	P*	P*	P*	P*	P*	P*	
Gardening of food crops and non-food ornamental crops such as flowers ***§7.6***	P*	P*	P*					
Mixed Uses (Commercial/Residential/Industrial in one building) **1. When a Mixed Use project involves a commercial use that is listed as Special Use in the district, then the entire Mixed Use project shall be considered a Special Use.** 2. **When a Mixed Use project involves an industrial use, then the entire Mixed Use project shall be considered a Special Use.**			P S	P S				
Parking Lots (as a principal use)			P	P	P			
Parking Structures			P	P	P			
Planned Unit Developments, Residential ***§7.21***	S*	S*	S*					
Planned Unit Developments, Commercial/Industrial ***§7.21***				S*	S*	S*	S*	
Site Condominium Development ***(Condominium Ordinance Chapter 35 of Code of Ordinances)***	S	S	S					
Swimming Pools, Permanent ***§7.14***	P*	P*	P*					

Table of Permitted Uses & Special Land Uses

P = Permitted *S = Permitted with a Special Use Permit* **supplemental development regulations*	R-1	R-2	MU	CBD	C	M-1	M-2	CDD
Public Facilities								
Community Centers & Auditoriums (public)	P	P	P	P	P	P	P	P
Government Facilities	P	P	P	P	P	P	P	P
Libraries	P	P	P	P				
Residential Uses								
Accessory Dwelling Units/Guest Houses ***§7.11***	S*	S*	S*					
Home Occupations ***§7.10***	P*	P*	P*					
Cottage Industries ***§7.10***			P*					
Manufactured Housing Community (with accessory uses such as laundry facilities, office building, and community building) ***§7.20***		S*						
Multiple-Family Dwelling Units (Apartments, Senior Housing, Residential Units in Conjunction with Commercial) ***§7.16*** ***1. In CBD, the first floor fronting the street shall exclusively consist of a non-residential use.***			P*	P*				
Single-Family Detached Dwelling	P	P	P					
Single-Family Attached Dwelling (Townhouses; Condominiums)	S	P	P					
Two-Family Dwelling (duplex); Conversion of Single-Family Dwelling into Two-Family Dwelling	S	P	P					
Two-Family Dwelling groups comprised of buildings containing not more than 2 families in any one building		P	P					
Transportation, Storage & Wholesale								
Airports, Aviation Support Services, Heliports & Landing Fields (aircraft/rotocraft)						P	P	
Bus Garages						P	P	
Couriers/Parcel Packing/Shipping/Delivery Establishments/Mail Order Establishments						P	P	
Crating and Packing Services				S	S	P	P	
Drone (Unmanned Aerial) Centers						P	P	
Freight Terminals/Trucking Facilities						P	P	
Mini-Warehouses or Storage Facilities (including self-storage)			S	S	S	P	P	
Rail yards						P	P	
Parking and Storage Yards			S			P	P	
Scenic & Sightseeing Transportation/Ground Passenger Transportation				S	P	P	P	
Towing Businesses			S		P	P	P	
Truck Washes					S	P	P	
Wholesale Businesses			S	S	P			

Section 4.13 Schedule of Regulations

	R-1	R-2	MU		CBD (H)	C	M-1	M-2	CDD
			Residential	Non-Residential					
Lot Area	6,000 square feet	3,500 square feet	3,500 square feet	None	None	None	None	None	See Section 4.11
Lot Width (min.)	60 feet	40 feet	40 feet	None	None	None	None	None	
Front Setback	25 feet (A)	10 feet (A)	10 feet (A)	10 feet (D)	None (E)	25 feet	10 feet	10 feet	
Rear Setback	25 feet	10 feet	10 feet	10 feet (D)	None	10 feet (I)	10 feet	10 feet	
Side Setback (interior)	10 feet	5 feet	5 feet	5 feet (D)	None (F)	None (I)	5 feet (I)	5 feet (I)	
Side Setback (street)	15 feet	10 feet	10 feet	5 feet (D)	None	10 feet	10 feet	10 feet	
Minimum Dwelling Size	1,000 square feet	400 square feet (B)	400 square feet (B)	----	----	----	----	----	
Building Height (max.)	2 ½ stories or 35 feet	2 ½ stories or 35 feet	2 ½ stories or 35 feet	3 stories or 36' (C)	4 stories or 50 feet, whichever is greater (G)	3 stories or 36' (C)	3 stories or 36' (C)	3 stories or 36' (C)	
Building Coverage (max.)	40%	70%	70%	None	None	None	None	None	

Footnotes to Schedule of Regulations:

A. **Front Setback Averaging**.

1. **R-1 District**. Where the average depth of at least two (2) existing front yards on lots within the same block and on the same side of the street of the lot in question are less or greater than the required front setback for the district, then the required setback on such lot shall be modified. In such case, this shall not be less than the average setback of said existing front yards, or the average setback of existing front yards on the two (2) lots immediately adjoining, or in the case of a corner lot, the setback of the front yard on the lot immediately adjoining; provided, however, that the front yard setback on any lot shall be not less than ten (10) feet and need not exceed fifty (50) feet.

2. **R-2 and M-U Districts**. If at least two (2) existing structures within the same block (on the same side of the street) are set back between ten (10') feet and twenty (20') feet, then required setback shall be the average of said existing setbacks and ten (10'). No required setback shall be greater than twenty (20') feet.

B. Four hundred (400 ft^2) square feet for single-family. Multiple-family dwellings shall conform to currently adopted building code in the City of Albion.

C. Buildings over three (3) stories and up to five (5) stories may be allowed as Special Use permit.

D. Interior side setback shall be fifteen (15') feet when abutting residential use. Planning Commission may approved lesser setbacks on all yards for non-residential uses using Special Use process.

E. Maximum front setback of fifteen (15') feet. Planning Commission may approve a site plan with a larger front setback for an approved functional outdoor use (i.e. outdoor dining).

F. None required, except for lots directly abutting any R district or residential use, then not less than fifteen (15') feet. No side setback shall be required when the residential district or residential use is separated from the CBD lot by a right-of-way.

G. Five (5) story buildings may be allowed as Special Use permit.

H. See Table 4.7 in **Section 4.7** for full set of downtown development standards.

I. Setback shall be fifteen (15') feet when yard directly abuts a residential district or residential use.

Article 5
Plot Plan and Site Plan Review

Sec	Name	Pg	Sec	Name	Pg
5.1	Purpose and Approval Table	5-1	5.7	Conformity to Approved Site Plan Required	5-10
5.2	Plot Plan Review & Approval	5-2	5.8	Planning Department Report on Every Site Plan	5-10
5.3	Site Plan Data Required	5-3	5.9	Amendments to Approved Site Plans	5-10
5.4	Designation of Major Projects & Minor Projects	5-4	5.10	Appeals of Final Site Plans	5-12
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Section 5.1 Purpose & Approval Table

Review and approval of all development proposals listed below is required by the provisions of this Article. The intent of this Article is to specify documents and review processes required so as to ensure that a proposed development activity is in compliance with this Ordinance and to provide for consultation and cooperation between the developer/property owner and the Planning Department so that both parties might realize maximum utilization of land and minimum adverse effects upon the surrounding land uses consistent with the requirements and purposes of this Ordinance. Through the application of the following provisions, the attainment of the Comprehensive Plan of Albion will be assured and the City will develop in an orderly fashion.

Table 5.1: Approval Table *Approving body determined by Major Project or Minor Project per §5.4

Type of Use	Type of Review
1. Single-Family Detached Dwellings	Plot Plan Review by ZA
2. Single-Family Attached Dwellings, Two-Family Dwellings	Site Plan Review by PC/ZA*
3. Multiple-family dwelling units	Site Plan Review by PC/ZA*
4. Special Uses	Review by PC
5. Parking Lots – In cases where the use is conforming and parking lot will be located on the same property as the principal use.	Site Plan Review by the ZA (ZA, at their discretion, may refer the review and approval to the PC)
6. Parking Lots – In cases where: a. The use is nonconforming; or b. The parking lot will be located on public property; or c. The parking lot will be located off-premise from the principal use.	Site Plan Review by the PC
7. Change of Use – permitted uses within district between or within use categories	Approval by ZA
8. Accessory Structures	Plot Plan Review by ZA
9. Accessory Structures for Non-Residential Buildings	Site Plan Review by PC/ZA*
10. Fences	Plot Plan Review by ZA
11. Essential Services (construction of buildings)	Site Plan Review by PC/ZA*
12. Non-Residential Uses	Site Plan Review by PC/ZA*

13. Expansion of an existing use, other than one single-family and two-family dwellings, which increases the existing floor area.	Plot Plan Review by ZA
14. Planned Unit Developments	Site Plan Review by PC
15. All other developments in which ownership interests in land are transferred for the purpose of development of a physical structure and which do not fall under the requirements of the Subdivision Control Act of 1967 as amended.	Site Plan Review by PC

PC = Planning Commission **ZA = Zoning Administrator**

Section 5.2 Plot Plan Review & Approval

A. **Plot Plan Submittal Requirements**.

The Zoning Administrator shall require that all applications for Zoning Permits, which do not require a Site Plan, be accompanied by a Plot Plan, drawn to scale, showing the items listed below. The Zoning Administrator may waive any of the plot plan requirements listed below when he/she finds that those requirements are not applicable or necessary. Nothing in this Section shall be construed as to prohibit a property owner or his agent from preparing plans and specifications, provided the same are clear and legible and that the information listed in **Table 5.2** is provided.

Table 5.2: Plot Plan Requirements

1. Address/Contact	Address or legal or tax description of the property where the proposed use will occur. Name, address, and telephone number of the property owner(s), developer(s), and designer(s), and their interest in said properties including evidence of ownership.
2. Lot Lines	The shape, location and dimensions of the lot, drawn to scale. The scale shall be of such size as deemed adequate by the Zoning Administrator to make a judgment that the application meets the requirements of this Ordinance. When deemed necessary by the Zoning Administrator, a survey may be required.
3. Structures	The location, shape and size of all buildings or other structures to be erected, altered or moved onto the lot and of any building or other structure already on the lot, drawn to scale. In addition, an elevation drawing of the proposed building(s) may be required by the Zoning Administrator in order to measure the height of the proposed structures.
4. Access	The location and configuration of the lot access and driveway, drawn to scale.
5. Use	The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
6. Natural Features	Natural features such as forests, water bodies, wetlands, high risk erosion areas, slopes over 10%, drainage and other similar features, if determined by the Zoning Administrator to be applicable.
7. Other	Other information concerning the lot or adjoining lots that may be essential for determining whether the provisions of this Ordinance are being observed.

B. **Plot Plan Administrative Procedure**.

Plot plans are reviewed and approved according to **Table 5.1** after an application has been submitted and applicable fees have been paid. The Zoning Administrator will issue a zoning permit pursuant to **Section 9.3** after determination that the application and proposed activity are in compliance with all

applicable sections of this Ordinance.

Section 5.3 Site Plan Data Required

An application for Site Plan Review shall be submitted to the Planning Department. The detailed site plan presented for consideration shall contain all information required in this Ordinance.

A. **Data Required on Site Plan**.

Each submittal for Site Plan Review shall be accompanied by an application and site plan. The application shall at a minimum, include the following information:

Table 5.3: Application and Site Plan Requirements

General Information
1. The applicant's name, address, and phone number in full.
2. A signed statement that the applicant is the owner of the property or officially acting on the owner's behalf.
3. The address or parcel identification number of the property.
4. Name and address of the developer (if different from the applicant). Name and address of engineer or architect.
5. Project description, including the total number of structures, square feet, total and usable floor area, parking spaces, garages, open space and related information as pertinent or otherwise required by the Ordinance.
6. A vicinity map with north point indicated.
7. The gross and net acreage of all parcels in the project.
8. The site plan shall consist of an accurate, reproducible drawing at a scale of 1"=100' or less, showing the site and all land within 150 feet of the site. If multiple sheets are used, each shall be labeled and the preparer identified. North arrow, scale and date of original submittal and last revision.
Site Development Features
9. **Structures**. Existing structures on the subject parcel.
10. **Dimensions.** Location of proposed and/or existing property lines, dimensions, legal descriptions and setback lines.
11. **Topography**. Existing topographic elevations at two foot intervals, proposed grades and direction of drainage flows.
12. **Vegetation**. Location and type of significant existing vegetation.
13. **Water**. Location and elevations of existing water courses and water bodies, including county drains and man-made surface drainage ways, flood plains and wetlands.

14.	**Buildings**. Location of existing and proposed buildings and intended uses thereof, as well as the length, width, and height of each building.
15.	**Other Structures**. Proposed location of accessory structures, buildings and uses, including but not limited to flagpoles, light poles, docks, storage sheds, transformers, air conditioners and the method of screening where applicable.
16.	**Roads/Easements**. Location of existing public roads, rights-of-way and private easements of record and abutting streets.
17.	**Parking**. Location of and dimensions of existing and/or proposed curbing, carports, barrier free access, parking areas (including indication of all spaces and method of surfacing), fire lanes and all lighting thereof.
18.	**Loading**. Location, size and characteristics of all loading and unloading areas.
19.	**Pedestrian Access**. Location and design of all sidewalks, walkways, bicycle paths and areas for public use.
20.	**Utilities**. Location of all other utilities on the site including but not limited to natural gas, electric, cable TV, telephone and steam.
21.	**Screening**. Location and specifications for all fences, walls, and other screening features. Location for all proposed perimeter and internal landscaping.
22.	**Trash**. Location, and size for screening of all trash receptacles and other solid waste disposal facilities.
23.	**Material Storage**. Location and specifications for any existing or proposed above or below ground storage facilities for any chemicals, salts, flammable materials, or hazardous materials as well as any containment structures or clear zones required by government authorities.
24.	**Natural Features**. Identification of any significant site amenities or unique natural features.
25.	**Groundwater Protection**. Provide information and address standards found in **§3.15 Groundwater and Wellhead Protection Standards**. Flood maps are available at the City Planning Department.

B. **Supplemental Material or Studies**.

The Planning Commission may request additional information to assist in the consideration of the proposed development. This could include, but not be limited to, an assessment of the proposed project's impact on environmental, historic, social, or economic conditions; traffic studies; or proposed measures to control or mitigate such impacts as noise, smoke, particulates, vibration, odors, or fire hazards.

Section 5.4 Designation of Major Projects & Minor Projects

A. **Major Projects**.

All developments greater than ten thousand (10,000 ft^2) square feet of structure or larger than two and one-half (2 ½) acres in size and all PUD's are major projects which require site plan review by the Planning Commission. **All other projects are either minor projects subject to review and approval by**

the Planning Department or amendments to existing site plans.

B. **Minor Projects.**

1. The Planning Department (or Zoning Administrator) may review and approve minor project site plans or amendments without their submission to the Planning Commission provided that the proposed modification or amendment does **not**:

   a. Increase required parking or decrease parking below that which is required;

   b. Change the approved vehicular or pedestrian circulation pattern on the site; and

   c. Include other site modifications that do require Planning Commission review and approval.

2. The Planning Department reserves the right to bring any "Minor Project" to the Planning Commission for final approval.

Section 5.5 Site Plan Review Procedures

A. **Pre-Application Conference**.

The Zoning Administrator alone or in conjunction with the Planning Commission Chair and/or Planning Commission shall have the authority to conduct a pre-application meeting with the applicant/developer to assist them in understanding the site plan review process and other Ordinance requirements and to provide insight as to what portions of their proposed development may be of special concern. Except for Planned Unit Developments, this conference is not mandatory, but is recommended for small and large projects alike. For large projects, a pre-application conference should be held several months in advance of the desired start of construction. Such an advance conference will allow the applicant/developer time to prepare the needed information for the Planning Commission to make a proper review.

B. **Submission Requirements**.

The applicant shall complete and submit the required number of copies of an application for Site Plan Approval, site plans, and other information where applicable. Compliance with the requirements of the Zoning Ordinance is mandatory. The procedure for processing major project site plans includes two phases: preliminary site plan review and final site plan review. Site plans shall be acted upon within thirty (30) days of receipt by the City of Albion Planning Department of a complete application and final site plan meeting the requirements of **Section 5.6**. This timeline may be extended if, in the opinion of the Planning Commission or Planning Department, more information is needed to make a final decision.

1. **Number of Copies for Major Projects**. The Application for Site Plan Approval must be obtained from the Planning Department. The applicant shall return the original and a minimum of two (2) copies of the application and site plan to the Planning Department at

least fifteen (15) days prior to the next regularly scheduled meeting of the Planning Commission for the purpose of preliminary site plan review. The Planning Department may require a digital copy of the site plan.

2. **Number of Copies for Minor Projects**. The Application for Site Plan Approval must be obtained from the Planning Department. The applicant shall return the original and a minimum of one (1) copy of the application and site plan to the Planning Department. The Planning Department may require a digital copy of the site plan.

3. **Fees**. Application fees as found in the Albion Fee Resolution must be paid when the application is submitted.

C. **Review for Completeness by the Zoning Administrator**.

The Zoning Administrator will review the materials submitted to assure all information required by the Ordinance has been provided. If the application is incomplete, the Zoning Administrator will send a notice with a detailed list of all deficiencies to the applicant. If a *Major Project* site plan, including all required additional or related information, is determined to be complete, it shall be placed on the agenda of the next Planning Commission meeting if the site plan was submitted at least fifteen (15) days prior to the meeting. If the site plan was submitted less than fifteen (15) days prior to the Planning Commission meeting, the site plan shall be placed on the agenda of the next available meeting.

D. **Distribution to Other Departments or Agencies**.

Prior to any final decision on a Major Project, the Planning Department and Planning Commission shall seek the recommendations of the City Inspector, City Engineer, Public Safety Chief, Fire Marshal, and Water and Sewer Department. The Planning Department may also distribute the site plan to other departments or agencies for comment or recommendation prior to consideration for approval, if determined to be necessary. For Minor Projects, copies may be distributed to other reviewing departments and agencies as determined necessary by the Planning Department.

E. **Representation at Scheduled Review**.

The applicant or his/her representative must be present at each scheduled Planning Commission review or the matter will be tabled for a maximum of two (2) consecutive meetings due to lack of representation.

F. **Preliminary Site Plan Review (Major Projects only)**.

A preliminary site plan meeting the submittal requirements of this Ordinance is reviewed by the Planning Department, and the changes necessary, if any, for final site plan approval are indicated in writing to the applicant. Each preliminary site plan shall comply with the "Standards for Granting a Site Plan Approval" as described in **Section 5.6** of this Ordinance.

G. **Final Site Plan Review**.

Each final site plan shall comply with the "Standards for Granting a Site Plan Approval" as described in **Section 5.6** of this Ordinance. Each action taken with reference to site plan review shall be duly recorded in the official record of action by the Planning Department or in the minutes of the Planning Commission. Those site plans which require Planning Commission review will then be submitted to the Planning Commission for action along with the recommendation of the Planning Department as to conformity or nonconformity with Ordinance requirements and what revisions or conditions, if any, would be necessary in order to be in conformance.

1. **Major Projects**. Final Site Plan approval shall be by the Planning Department (Zoning Administrator) following approval by the Planning Commission. The Planning Commission will consider all applications for site plan review submitted to it for approval, revision, or disapproval at a scheduled meeting.

    a. The Planning Commission shall review and approve, review and approve with conditions, or review and deny all site plans submitted under this Ordinance.

        (1) Upon determination of the Planning Commission that a final site plan is in compliance with the Zoning Ordinance and other plans or regulations, it shall be so indicated on the site plan along with a signature of the Zoning Administrator and a date of approval. The approving official shall indicate in writing that all requirements of the Ordinance have been met including any conditions that may be necessary.

        (2) Upon determination of the Planning Commission that a site plan is in compliance, except with minor revisions, said changes shall be so indicated. When these changes have been adequately provided, the petitioner shall resubmit the site plan for Final Site Plan Approval by the Planning Department.

        (3) If extensive revisions to the site plan are necessary to meet the Zoning Ordinance, and other applicable plans and regulations, the site plan shall be disapproved and the applicant requested to prepare an alternate site plan. In this case "DISAPPROVAL" shall be written on the plan and reasons for disapproval indicated in the Planning Commission's resolution.

    b. The Planning Commission, in its sole reasonable discretion, may approve site plans lacking all of the required items listed under **Section 5.6 Standards for Granting Site Plan Approval**.

    c. The Planning Commission may approve a deviation from the parking requirements as indicated in **Section 3.12.J**.

    d. Following approval of a site plan, the petitioner shall apply for the appropriate City of Albion, County and/or State permits as may be required by said agencies and present appropriate plans and specifications as may be required by such agencies.

2. **Minor Projects**.

a. Approval of a final site plan shall be by the Planning Department unless the applicant or Planning Director has requested final approval by the Planning Commission.

(1) Upon determination of the Planning Department that a final site plan is in compliance with the Zoning Ordinance and other plans or regulations, it shall be so indicated on the site plan along with a signature of the Zoning Administrator and a date of approval.

(2) Upon determination of the Planning Commission that a site plan is in compliance, except with minor revisions, said changes shall be so indicated. When these changes have been adequately provided, the petitioner shall resubmit the site plan for Final Site Plan Approval by the Planning Department.

(3) If extensive revisions to the site plan are necessary to meet the Zoning Ordinance, and other applicable plans and regulations, the site plan shall be disapproved and the applicant requested to prepare an alternate site plan. In this case "DISAPPROVAL" shall be written on the plan and reasons for disapproval indicated.

b. Following approval of a site plan, the petitioner shall apply for the appropriate City of Albion, County and/or State permits as may be required by said agencies and present appropriate plans and specifications as may be required by such agencies.

H. **Projects Dependent upon Zoning Board of Appeals Approval**.

Where the applicant is dependent upon the grant of any variances by the Zoning Board of Appeals, said favorable action by the Zoning Board of Appeals is necessary before final site plan approval can be granted. An approved site plan shall include a note referencing the case number and date of all variances granted.

Section 5.6 Standards for Granting Site Plan Approval

A. **Standards**.

Each site plan shall conform to applicable provisions of this Zoning Ordinance and the standards listed below:

1. **Lot and Adjacent Property.** All elements of the site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be so developed as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.

2. **Landscape**. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in maximum harmony with adjacent areas.

3. **Drainage.** Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring properties. The use of permeable parking lots may be approved to facilitate site drainage.

4. **Privacy.** The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.

5. **Emergency Access**. All buildings or groups of buildings shall be so arranged as to permit emergency vehicle access by some practical means to all sides.

6. **Access.** Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to public use.

7. **Pedestrian Circulation**. There shall be provided a pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system.

8. **Loading/Unloading and Trash/Storage**. All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from residential districts or public thoroughfares, shall be screened, by a vertical screen, consisting of structural or plant materials no less than six (6) feet in height.

9. **Lighting.** Exterior lighting shall be arranged that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets.

10. **Streets.** The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry. All streets shall be developed in accordance with the **Subdivision Control Ordinance** and the County Road Commission specifications.

11. **Other Laws and Permits.** Site plans shall conform to all applicable requirements of State and Federal statutes and approval may be conditioned on the applicant receiving necessary State and Federal permits before final site plan approval or an occupancy permit is granted.

B. **Conditional Approvals**.

The Planning Commission or Planning Department may condition approval of a site plan on conformance with the standards of another local, county or State agency. They may do so when such conditions:

1. Would insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity,

2. Would protect the natural environment and conserve natural resources and energy, would insure compatibility with adjacent uses of land, and

3. Would promote the use of land in a socially and economically desirable manner.

The Planning Commission and Planning Director may conditionally approve a site plan on conformance with fencing, screening, buffering or landscaping requirements. When so doing, the following finding shall be made and documented as part of the review process:

1. That such fencing, screening, buffering or landscaping would mitigate negative effects of noise, dust, lighting, vehicular or pedestrian traffic, loading or unloading, parking or other properties in the area.

Section 5.7 Conformity to Approved Site Plan Required

Following Final Approval of a site plan by the Planning Department, the applicant shall construct the site plan improvements in complete conformity with the approved plan. Failure to do so is a violation of this Ordinance and subject to the sanctions of **Section 9.13**.

Section 5.8 Planning Department Report on Every Site Plan

The Planning Department shall prepare a report of each and every site plan submitted in accordance with this Section, containing a synopsis of the relevant facts contained in and related to this site plan, together with the Planning Department's proposed determination. At each regular meeting of the Planning Commission, a member of the Planning Department shall make a presentation of said reports with respect to those site plans to be acted upon prior to the next regularly scheduled Planning Commission meeting. Upon request of a majority of members of the Planning Commission present, any pending site plan shall be fully reviewed by, and a recommendation made thereon by the Planning Commission.

Section 5.9 Amendments to Approved Site Plans

A. Amendments to an approved site plan may be made by the Planning Commission or Planning Department provided that such changes conform to the Zoning Ordinance and the land owner agrees.

1. **Minor Amendments**. Minor changes to an approved site plan may be approved by the Planning Department after construction has begun provided no such change results in any of the following:

   a. A significant change in the use or character of the development.

   b. An increase in overall coverage of structures.

   c. A significant increase in the intensity of use.

d. A reduction in required open space.

e. A reduction in required off-street parking and loading.

f. A reduction in required pavement widths or utility pipe sizes.

g. A significant increase in traffic on public streets or an increase in the burden on public utilities or services.

2. **List of Minor Amendments.** The following shall be considered minor amendments. No fee shall be charged for minor amendments.

a. Moving building walls within the confines of the smallest rectangle that would have enclosed each original approved buildings(s). Relocation of building entrances or exits, or shortening of building canopies.

b. Changing to a more restricted use provided there is no reduction in the amount of off-street parking as originally provided.

c. Changing the angle of parking or aisle width provided there is no reduction in the amount of required off-street parking or in reduction of aisle width below Ordinance requirements.

d. Moving of ingress and egress drives a distance of not more than one hundred (100') feet if required by the appropriate State, County or other local road authority with jurisdiction.

e. Substituting landscape plan species provided a nurseryman, landscape architect, engineer or architect certifies the substituted species is similar in nature and screening effects.

f. Change type and design of lighting fixtures provided an engineer or architect certifies there will be no change in the intensity of light at the property boundary.

g. Increase in peripheral yards.

h. Changing the location of an exterior building wall or location not more than ten (10') feet because of a natural impediment or hazard such as bedrock or muck soils, provided that in so doing no setback requirement of the Ordinance is violated and no significant reduction in safety or in the amount of open space is thereby affected.

B. If the Zoning Administrator finds that a proposed amendment to an approved site plan does not qualify as a minor change pursuant to **subsections A.1 and A.2** above, he or she shall immediately notify the permit holder, the City Inspector, the Planning Department and the Planning Commission in writing that site plan approval has been suspended pending approval by the Planning Department or Planning Commission, as applicable, of the proposed amendment.

The permit holder's notice shall be delivered by certified mail. If construction has begun, a stop

work order shall be issued by the City Inspector for the portion of the project which is not in compliance with the Ordinance. Once site plan approval for a project has been suspended, the permit holder has the option of changing the project plans to conform with the Ordinance requirements, or of restarting the Site Plan Review process. When the issue has been resolved, the Zoning Administrator shall send a written notice to the permit holder, the Building Inspector, the Planning Department and the Planning Commission that the project's site plan has again been approved. This provision is not to be construed to prohibit phased development of a project, provided that each phase is developed in accordance with an approved site plan.

Section 5.10 Appeals of Final Site Plans

Any person aggrieved by a decision of the Planning Commission or Planning Department in granting or denying approval of a final site plan may appeal the decision to the Zoning Board of Appeals. The appeal must be filed within ten (10) days of the decision and shall state the factual basis for the appeal. An appeal shall stay action on the issuance of any permit pursuant to an approved site plan.

The Zoning Board of Appeals shall review the record of action taken on the final site plan and shall determine whether the record supports the action taken. No new evidence shall be presented. The Zoning Board of Appeals shall approve the final site plan if the requirements of this Section and other applicable Ordinance requirements are met. The Zoning Board of Appeals shall make written findings in support of its opinion on the appeal.

Section 5.11 Expiration of Site Plans

A. Unless an alternate timeline has been approved by the Planning Commission during site plan review, failure to initiate construction of an approved site plan within one (1) year of approval shall require the applicant to appear before the Planning Commission and demonstrate why the approval should not be revoked. After a hearing, the Planning Commission may revoke a previously approved site plan for property on which no physical development activity has occurred upon making written findings that one or more of the following circumstances exist:

1. An error in the original approval is discovered either because of inaccurate information supplied by the applicant or administrative error by a staff member of other agency;

2. Zoning regulations applicable to the project have been changed and the previously approved site plan does not comply with them;

3. A change in State law, local charter, or other local ordinance affecting the previous approval has occurred;

4. Pollution, impairment or destruction of the environment or to another legally protected public interest would occur if the project were to be constructed as previously approved.

5. Any other circumstance which, in the opinion of the Planning Commission, warrants revocation of the approval. Such circumstances shall be stated in the minutes of the hearing.

B. Thirty (30) days prior to expiration of an approved site plan pursuant to this Section, above, an applicant may make application for a one (1) year extension of the site plan at no fee. The applicant shall explain in writing why the development has not proceeded, what the current time frame is and why an extension should be granted. If the original approval of the site plan was by the Planning Commission, the applicant shall present his/her case in person or by representative at the next meeting of the Planning Commission.

C. Revocation of an approved site plan shall be communicated in writing by certified mail to the property owner. The City Inspector shall also be notified to withhold any building permit until the new site plan is approved.

D. Any subsequent resubmittal shall be processed as a new request with new fees, except for minor amendments pursuant to **Section 5.9**.

Article 6
Special Use Review

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Section 6.1 Definition, Approval Power & Prerequisites

A. **Definition of Special Use**.

"Special uses" are those uses of land which are not essentially incompatible with the uses permitted in a zoning district but possess characteristics or locational qualities which require individual review and restriction in order to avoid incompatibility with the character of the surrounding area, public services and facilities, and adjacent uses of land. The procedures and criteria set forth herein shall be applied in the determination of requests to establish special uses.

B. **Approval Power**.

The Planning Commission shall have the authority for the review and issuance of special use permits.

C. **Prerequisites to Issuance**.

The Planning Commission shall grant a properly requested special use permit, provided:

1. The proposed use is one listed in **Article 4** as a special use for that district in which the use is located; and

2. The Planning Commission ensures before approving a special use permit that both:

   a. The standards of the district in which the special use is to be located are fulfilled; and

   b. The other standards and requirements set forth herein are fully complied with.

Section 6.2 Procedures

Any person owning or having an interest in the subject property may file an application for one (1) or more special use permits provided for in this Ordinance in the zoning district in which the land is situated. An application for permission to establish a special use permit shall be submitted and acted upon in accordance with the following procedures:

A. **Submittal Requirements**.

1. **Application**. Applications for special use permits shall be submitted to the Zoning Administrator at least thirty (30) days prior to the public hearing date. Copies of an application for special use permit shall be presented to the Zoning Administrator and accompanied by the following documents and information:

   a. A special use application form, supplied by the Zoning Administrator, which has been completed in full by the applicant;

   b. A site plan, drawn to a readable scale, of the property involved and adjacent property which describes:

      (1) all property boundaries;

      (2) the location and use of all existing and proposed structures;

      (3) the location of all existing and proposed streets, parking lots and driveways;

      (4) the current zoning classification.

   c. A statement and other evidence of proof by the applicant of present and future compliance with the criteria required for approval as set forth in this Ordinance and other criteria imposed by this Ordinance affecting the special use under consideration.

2. **Special Uses Requiring Major Project Site Plan Review**. For Special Uses which would require a Major Project site plan review by the Planning Commission, the applicant shall have the option of requesting the site plan review be conducted concurrently with Special Use review. In this case, the applicant shall also submit the site plan data pursuant to **Section 5.3**. The Planning Commission shall review the site plan using the approval standards in **Section 5.6**. At the meeting at which the site plan and special use review is conducted concurrently, the special use review shall be completed immediately prior to the site plan review.

3. **Special Uses Requiring Minor Project Site Plan Review** For projects which would require Minor Project site plan review by the Planning Department, the applicant shall submit the site plan data pursuant to **Section 5.3** and the Planning Department shall conduct the review pursuant to **Sections 5.5** and **5.6** after the Special Use approval by the Planning Commission.

4. **Fees.** Each application shall be accompanied by a check payable to the City of Albion, or a cash payment, in accordance with the schedule of fees adopted by the City Council resolution.

5. **Incomplete Application**. The Zoning Administrator will review the materials submitted to assure all information required by the Ordinance has been provided. An application which is incomplete or otherwise not in compliance with this Ordinance shall be returned to the

applicant with a detailed list of all deficiencies. No application shall be processed until properly prepared and submitted and all required fees paid in full.

6. **Position Statement.** Any person having an interest in an application for a special use permit may present any petition or documents supporting his or her position, or that of a group, for or against the application.

B. **Notification and Public Hearing**.

Upon receipt of an application for a Special Use which requires a decision on discretionary grounds, one (1) notice that a request for Special Use approval has been received shall be published pursuant to **Section 9.11**. An affidavit of mailing or delivery shall be maintained. The Planning Commission may, but is not required to, hold a public hearing on the requested special use. Notice of such public hearing shall comply with the requirements listed earlier in this same subsection.

C. **Consideration of Request and Decision**.

At the time and place set forth in the notice provided for above, the Planning Commission shall consider the special use request. The Planning Commission may deny, approve, or approve with conditions, the request for Special Use approval. The decision on a Special Use shall be incorporated in a statement of conclusions relative to the Special Use under consideration. The decision shall specify the basis for the decision and any conditions imposed. Such a decision shall be rendered within fifteen (15) days of the time that the request was considered.

D. **Record of Decisions**.

All decisions of the Planning Commission relating to special use applications, including the findings supporting any decision, shall be recorded in written form and retained as permanent records on file with the Zoning Administrator and a copy of the records shall be kept on file in the office of The City Clerk.

E. **Issuance of Permit**.

Upon approval by the Planning Commission, the Zoning Administrator shall issue a Special Use permit to the applicant. It shall be the responsibility of the Zoning Administrator to ensure compliance with the terms, conditions and restrictions of any special use permit.

F. **Appeals**.

Within ten (10) days following the date of decision on any special use permit, an applicant or any aggrieved party, including any governmental body or agency, may appeal the decision of the Planning Commission to the **Zoning Board of Appeals**. Upon the filing of an appeal, the application, all relevant documents and testimony, and the findings and decision of the Planning Commission shall be transmitted to the appropriate appeals forum.

Section 6.3 Special Use Approval Standards

Prior to approval of the special use application, the Planning Commission shall ensure that the standards specified in this Section, as well as applicable standards established elsewhere in this Ordinance, shall be satisfied by the completion and operation of the special use under consideration.

A. **General Standards**.

The Planning Commission shall review the particular circumstances of the special use request under consideration in terms of the following standards, and shall approve a special use only upon a finding in compliance with each of the following standards, as well as applicable standards established elsewhere in this Ordinance:

1. The special use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area and natural environment.

2. The special use shall not change the essential character of the surrounding area.

3. The special use shall not interfere with the general enjoyment of adjacent property.

4. The special use shall not be hazardous to the adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the excessive production of traffic, noise, smoke, odor, fumes or glare.

5. The special use shall protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

6. The special use shall be adequately served by essential public facilities and services or it shall be demonstrated that the person responsible for the proposed special use shall be able to continually provide adequately for the services and facilities deemed essential to the special use under consideration.

7. The special use shall not place demands on public services and facilities in excess of current capacity unless proper provision is made for an increased capacity of those services and facilities.

8. The special use shall be consistent with the intent and purpose of this Ordinance and the objectives of any currently adopted master plan.

B. **Conditions**.

1. The Planning Commission may impose conditions on the approval of the special use which are necessary to ensure compliance with the standards for approval stated in this Section, and

any other applicable standards contained in this Ordinance. Such conditions shall be considered an integral part of the special use permit and shall be enforced by the Zoning Administrator.

2. In authorizing a special use permit the Planning Commission, pursuant to **Section 9.9**, may require a cash deposit, certified check, surety bond, or other financial guarantee acceptable to the Planning Commission be furnished by the developer to ensure compliance with the special use requirements. In fixing the amount of any such financial guarantee, the Planning Commission shall take into account the size and scope of the proposed use, current prevailing cost of rehabilitating the premises upon default of the operator of the use, estimated expenses to compel the operator to comply with the requirements in the special use permit, and such other factors and conditions as may be relevant in determining the sum reasonable in light of all the facts and circumstances surrounding each application.

3. Conditions for special uses shall be part of the approval record and shall be changed only by the mutual consent of the Planning Commission and the owner of the subject property. The Planning Commission shall maintain a record of such changes.

4. The special use permit shall become effective when the application is approved by the Planning Commission, but a building permit shall not be issued until approval of such special use permit by the Planning Commission. The land subject to special use permit may not be used or occupied for purposes of such special use permit until after a certificate of occupancy has been issued.

Section 6.4 Validity

A. **Change of Ownership**.

1. Approval of a special use permit shall be valid regardless of change of ownership, provided all terms and conditions of the permit are met by any subsequent owner or user.

2. In the case where there are significant changes in the use of the property on which a Special Use exists after a change of ownership, the Zoning Administrator may bring the case to the Planning Commission to determine if a new Special Use approval process is needed.

B. **Special Use Not Commenced**.

Where development authorized by the special use permit has not been commenced within one (1) year from the date of issuance of the permit, the Planning Commission shall review the permit in relation to the applicable standards and requirements of this Ordinance in existence at that time. Upon a finding that there has been a change in conditions on the property or the surrounding area, or in provisions of this Ordinance applicable to the special use permit under review, so that the permit is no longer in conformance with the requirements of this Ordinance, the permit shall become null and void. Where it is determined that the permit is in conformance with the provisions of this Ordinance, and there has not been a change in the conditions affecting the appropriateness of the permit, the special use permit shall remain valid, subject to subsequent review in accordance with the

provisions of this Section.

C. **Special Use that has been Replaced or Superseded**.

The Special Use permit shall expire if replaced or superseded by a subsequent permitted use (except in the case where the Special Use is an accessory use on the premises) or a subsequent Special Use permit or if the applicant requests the rescinding of the Special Use Permit.

D. **Abandonment of Special Use**.

1. The Special Use permit shall expire if the Special Use has been abandoned for a period of one (1) year or more. When determining the intent of the property owner to abandon a Special Use, the Zoning Administrator shall consider the following factors:

    a. Whether utilities such as water, gas, and electricity to the property have been disconnected.

    b. Whether the property, buildings, and grounds have fallen into disrepair.

    c. Whether signs or other indications of the existence of the Special Use have been removed.

    d. Whether equipment or fixtures necessary for the operation of the Special Use have been removed.

    e. Other information or actions that evidence an intention on the part of the property owner to abandon the Special Use.

2. The Zoning Administrator shall take into consideration the fact that a property is for sale when determining the intent to abandon a Special Use.

E. **Special Use Suspension or Revocation**.

The Zoning Administrator may suspend or revoke a Special Use permit issued under the provisions of this Ordinance whenever the permit is issued erroneously on the basis of incorrect information supplied by the applicant or his agent and is in violation of any of the provisions of the special use approval, this Ordinance or of any other ordinances or regulations of the City.

Section 6.5 Special Uses Deemed Conforming

Any use for which a special use permit has been granted shall be deemed a conforming special use permitted in the district in which the use is located, provided:

A. The permit was issued in conformity with the provisions of this Ordinance; and

B. The permit shall be deemed to affect only the lot or portion thereof and uses thereon for which the special use permit shall have been expressly granted.

Section 6.6 Amendments to a Special Use

Amendments to a Special Use shall be required to as a new Special Use approval process.

Article 7
Supplemental Regulations

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Section 7.1 Purpose

The uses listed in this Article shall be subject to the requirements of this Article along with provisions listed elsewhere in this Ordinance. Uses marked with an "*" in the Table of Permitted and Special Land Uses are included in this Article.

Section 7.2 Cemeteries

Cemeteries shall be adjacent to or an extension to an existing cemetery.

Section 7.3 Parks, Playgrounds & Playfields

In the R-1, R-2, and MU Districts, any principal building and/or activity area shall be located not less than fifty (50') feet from any other lot in the R-1, R-2, and MU district.

Section 7.4 Golf Courses & Country Clubs

Any principal building and/or activity area shall be located not less than fifty (50') feet from any other lot in any R district.

Section 7.5 Pre-Schools, Nursery Schools & Child Day Care Centers

A. Buildings and/or activity areas shall be located not less than fifty (50') feet from any lot in any R district or residential use.

B. Outdoor play area maintained in connection with the school or center shall be completely and securely fenced and, if closer than fifty (50') feet to any property line, shall be screened by a masonry wall or compact evergreen hedge not less than five (5') feet in height.

C. The minimum required indoor and outdoor space shall comply with the State of Michigan Licensing Administrative Rules.

Section 7.6 Gardening of Food Crops & Non-Ornamental Crops such as Flowers

A. Garden produce may be grown on the property for use by the property owner and/or be sold in the City at a location properly zoned for the sale of garden produce. The gardening activity must comply with the applicable portions of the City's home occupation requirements.

B. The district front yard setback shall apply except when there are no residences on the same block face, in which case the front yard setback shall be five (5') feet.

C. The district side and rear yard setbacks shall apply except for those lot lines that border properties with no residence; in which case the setback requirement shall be five (5') feet from the respective lot line.

D. Livestock, farm animals and exotic animals are prohibited under this Section.

Section 7.7 Community Garden

A. **Approval Process**.

1. **Residential Zoning Districts**. A community garden in a residential district shall be reviewed and approved by the Planning Commission. The property owner and/or authorized agent shall file an application (provided by the City) with the City Clerk requesting Planning Commission approval.

2. **Commercial and Industrial Zoning Districts**. A community garden that is adjacent to property in a residential district shall be reviewed and approved by the Planning Commission. All others shall be reviewed and approved by the City Manager or his/her designated representative.

B. **Setback**.

All garden plots and any permitted structure shall meet the setbacks of the zoning district.

C. **Permitted Structures**.

Only the following temporary structures will be permitted in a community garden:

1. **Greenhouses, Storage Sheds, Planting Preparation Sheds and Hoophouses**.

   a. **Height**. No building or other structure may be greater than fourteen (14) feet in height.

   b. **Maximum coverage**. The combined area of all buildings (not including principal structures), excluding hoophouses, shall not exceed three hundred (300) square feet.

   c. All structures shall be properly maintained.

   d. Hoophouse coverings must be maintained and kept intact. The coverings must be removed during non-growing seasons.

   e. Temporary structures shall be removed if the property is no longer to be used for a community garden.

2. **Fences**.

   a. The installation of a permanent fence shall comply with the City's fence ordinance (**Article VII of Chapter 18 of the Code of Ordinances**).

   b. A temporary fence may be installed during the growing season. The fence shall be properly installed and maintained and be constructed of standard fence material. The temporary fence shall be removed at the end of the growing season.

3. Above ground water tanks, or tanks mounted to trailers or skids, provided that no tank shall have a capacity greater than one thousand (1,000) gallons.

4. Benches, picnic tables, trellises, arbors and garden art.

5. Planting beds raised up to forty-two (42") inches above grade.

6. Compost bins and rain barrel systems, which may not be located within the required setback or within ten (10') feet of a property line, whichever is greater.

D. **Trash Receptacles**.

Trash receptacles shall be provided on site and emptied in a timely manner.

E. **Parking**.

Parking on site shall only be permitted on an improved driveway/parking area. All other parking shall be in legally approved on-street parking areas or nearby off-street parking areas. Parking of vehicles in grass or unimproved areas is not permissible.

F. **Noise**.

The use or operation of power tools, mechanical equipment or agricultural implements used outdoors in a community garden area is prohibited between 9 p.m. and 7 a.m.

G. **Burning**.

Open burning of garden materials and associated waste products is prohibited.

H. **Composting**.

On-site composting of garden waste is permissible if proper composting standards are followed and if a nuisance is not created for abutting property owners.

I. **Operating Standards**.

1. The community garden shall be appropriately cultivated which includes regular weeding and maintenance of the garden area.

2. The area around the community garden shall also be properly maintained and comply with the City's noxious weed, grass and brush ordinance (**Article III of Chapter 90 of the Code of Ordinances**).

J. **Sale of Product**.

For residential districts, there shall be no on-site retail sales. Sale of product in other Zoning districts shall meet the zoning district requirements for retail sales activity.

K. **Signs**.

Each community garden may have one (1) sign. The sign may not exceed six (6') square feet in area nor exceed six (6') feet in height. The specific conditions for signage will be part of the review and approval of the application for a community garden.

L. **Application**.

An application (provided by the City) requesting approval for a community garden shall be filed with the City Clerk and shall include the following information:

1. The application shall be signed by the property owner giving permission for use of the property as a community garden.

2. The application shall also be signed by the individual and/or representative of the group or organization that will be responsible for the community garden.

3. A sketch plan showing the property location and size with dimensions.

    a. Show location of all existing and proposed structures.

    b. Proposed layout of garden plots, fencing, etc.

    c. Identify available parking areas on or near property.

    d. Identify source of water that will be used for irrigation.

M. **Termination**.

1. When the property owner or group or organization responsible for the community garden decides to no longer operate a community garden on the property, the property shall be brought into compliance with the City's noxious weed, grass and brush ordinance (**Article III of Chapter 90 of the Code of Ordinances**).

2. If the individual, group and/or organization responsible for a community garden fails to properly maintain the community garden in compliance with requirements of this Ordinance then the original approving authority (Planning Commission or City Manager) may, after reasonable notification, terminate the approval to operate a community garden. If the responsible party fails to terminate operation of the community garden, such failure will be considered a violation of this Ordinance.

Section 7.8 Nursery or Landscaping Establishment

The storage of any soil, fertilizer, or other loose, unpackaged materials shall be contained so as to prevent any effects on adjacent uses. Facilities which produce, process, and distribute federally controlled substances shall not be considered a "nursery."

Section 7.9 Funeral Homes & Mortuaries

A. **Facilities**.

Such buildings may contain space and facilities for:

1. Embalming and the performance of other related services used in the preparation of the dead human body for burial

2. The performance of autopsies and other surgical procedures used in conjunction with the performance of autopsies.

3. The storage of caskets, funeral urns, and other related funeral supplies.

4. The storage of funeral vehicles.

B. **Dimensional Regulations**.

Funeral homes and mortuaries shall comply with district dimensional regulations.

C. **Off-street Parking Requirements**.

Parking lot location and effect on neighboring properties will be reviewed as part of the approval process.

Section 7.10 Home Occupations & Cottage Industries

A. **Home Occupations**.

A Home Occupation is an occupation or profession carried on by the occupant of a dwelling unit which is conducted within a dwelling or accessory building and which is clearly incidental and secondary to the use of the lot and dwelling for residential purposes. Home Occupations are permitted in each dwelling unit, subject to the following qualifications:

1. **Location.** The Home Occupation shall be operated entirely within the dwelling unit or a garage or shed belonging to that dwelling unit.

2. **Floor Area.** The Home Occupation shall not utilize more than twenty-five (25%) percent of the gross floor area, but not to exceed three hundred (300 ft^2) square feet in the dwelling unit. A home occupation utilizing an accessory building may use the entire floor space of such accessory building.

3. **Structural Alterations.** No structural alteration shall be made to accommodate the Home Occupation which substantially reduces the marketability of the property as a residential dwelling.

4. **Conformity to Laws.** The Home Occupation shall conform to all relevant laws, ordinances, regulations, and codes, including those concerning health and safety.

5. **External Evidence.** The Home Occupation shall not display or create outside the building any externally visible evidence of the operation of the home occupation.

6. **Employees.** A Home Occupation may employ no more than one (1) person that works on the premises of the Home Occupation that does not physically reside on the premises containing the Home Occupation.

7. **External Effects.** A Home Occupation use shall not create a nuisance or endanger the health, safety, welfare, or enjoyment of any other person in the area, by reason of noise, vibration, glare, fumes, odor, unsanitary or unsightly conditions, fire hazards, or the like resulting from such Home Occupation.

8. **Traffic.** The Home Occupation may not generate more vehicular traffic than can be parked simultaneously along the premise's street frontage and in the premise's driveway. In the case of duplexes and multi-family dwellings, the parking shall be limited to that part of the premises street frontage and driveway legally controlled by the operator of the home occupation.

9. For the purpose of regulation, bed and breakfast operations shall not be considered Home Occupations or Cottage Industry but shall be regulated by **Chapter 22, Article 2 of the Code of Ordinances**.

B. **Cottage Industries**.

A Cottage Industry is a Home Occupation which, due to the nature of the investment or operation, includes one or more of the following aspects:

- requires regular visits by clients or customers;
- needs frequent delivery or shipment of goods;
- conducts regular operations or store materials outside of the residence;
- employs two (2) or more individuals who reside off premises;
- and, has the potential to rapidly increase in size and intensity

1. **Review.** Cottage Industries require Special Use approval by the Planning Commission. In reviewing a Cottage Industry, the Planning Commission will consider the following:

   a. **Entrances**. Separate entrances for the Cottage Industry shall not constitute a nuisance to neighboring property owners.

   b. **Parking**. The number of parking spaces required and location shall be evaluated and determined during the Special Use review.

   c. **Employees**. The number of employees (who work but do not reside on the premises) allowed for a specific Cottage Industry shall be evaluated and determined during the Special Use review.

   d. **Outside Storage**. The Planning Commission may permit outside storage of finished or unfinished goods and/or materials and may require screening from neighboring properties or the public right-of-way by a solid fence, decorative masonry wall, landscaped buffer, landscaped berm, or some combination thereof.

   e. **Outside Display.** The Planning Commission may permit outside display of finished goods. The location and percentage of yard utilized for outside display shall be determined by the Planning Commission during Special Use Review.

   f. **Floor Area**. The Planning Commission may allow a Cottage Industry to utilize a floor area of greater than twenty-five (25%) percent of the dwelling unit. Cottage Industries conducted within an accessory building may utilize one hundred (100%) percent of the floor space of the accessory building.

   g. **External Effects**. The Planning Commission shall consider external effects to ensure that a Cottage Industry shall not create a nuisance or endanger the health, safety, welfare, or enjoyment of any other person in the area, by reason of noise, vibration, glare, fumes, odor, unsanitary or unsightly conditions, fire hazards, or the like, resulting from such Cottage Industry.

h. **Traffic and Deliveries**. The Cottage Industry may not generate more vehicular traffic than can be parked simultaneously along the premises street frontage and in the premises driveway. In the case of duplexes and multi-family dwellings, the parking shall be limited to that part of the premises street frontage and driveway legally controlled by the operator of the home occupation. Delivery and shipment of materials and goods shall not constitute a nuisance to neighboring property owners or the public.

i. **Structural Alterations**. No structural alteration shall be made to accommodate the Cottage Industry which substantially reduces the marketability of the property as a residential dwelling.

j. **Hours of Operation**. Hours of operation shall be evaluated and approved by the Planning Commission.

2. **Conformity to Laws**. The Cottage Industry shall conform to all relevant laws, ordinances, regulations, and codes, including those concerning health and safety.

Section 7.11 Accessory Dwelling Units

The purpose of this Section is to allow a minor amount of space within a dwelling or upon a lot with a primary dwelling to be used, rented, or leased as separate living quarters for extended family or non-family members in residential neighborhoods within the City. These provisions are further intended to provide reasonable control in recognition of the high percentage of owner-occupied single-family homes in the City. The purpose of these standards is also to prevent the proliferation of permanent two-family units which could, over time, disrupt the character of single-family neighborhoods. The following regulations shall apply:

A. One (1) accessory dwelling unit is allowed per lot.

B. The accessory dwelling unit shall not exceed fifty (50%) percent of the total floor area of the principal dwelling so that it remains an accessory use to the principal dwelling and does not result in the creation of a duplex.

C. The accessory dwelling unit shall be provided electricity, plumbing, and heat.

D. The accessory unit shall be a self-contained unit and shall be one of the following:

   1. located above an attached or detached garage.
   2. attached to the principal dwelling or garage.
   3. totally within a principal dwelling.

E. The accessory unit shall have a separate exterior entrance.

F. The residents of the principal structure shall maintain the accessory unit and shall ensure that no excessive noise, traffic, or blight occurs on the property.

G. The accessory unit shall conform to current building code standards.

H. Adequate space shall be provided within the driveway to contain vehicles for the principal dwelling and accessory dwelling unit.

Section 7.12 Rooming & Boarding Houses

A. This use shall be considered as an accessory use; board or lodging shall not be furnished to more than five (5) persons in addition to the family.

B. The establishment shall be the principal dwelling unit on the property and shall be owner-occupied at all times.

C. In the case of renting rooms, such convenience shall not be furnished unless there shall be provided at least eighty (80 ft^2) square feet of floor area per guest in that part of the building directly occupied by such guests for rooming purposes.

D. Boarding and the renting of rooms shall not include the operating of what is normally termed a restaurant or similar use where meals are served to transient guests. No separate cooking areas shall be allowed in guestrooms.

E. Board shall not be provided to other than those rooming in the residence.

F. Off-street parking shall be required in accordance with **Section 3.12**.

G. The boarding house shall not alter the residential character of the building or structure.

Section 7.13 Garage/Yard Sales

This Section shall not be construed as prohibiting garage sales or yard sales, provided that there be no more than three (3) such sales per year on any one (1) particular residential premises, and that no such sale shall last longer than three (3) consecutive days. Such sales may be advertised through signs, with no sign permit required, provided that such signs be removed within one (1) day of the end of the sale.

Section 7.14 Swimming Pools (Permanent & Temporary)

A building permit is required for pools with a depth of twenty-four (24”) inches or more.

A. **Permanent Swimming Pools**.

Permanent swimming pools, exclusively for the use of the residents, shall be permitted provided that any wall of such swimming pool shall be located at least six (6’) feet from any building; and six (6’) feet from the rear or side property line; and at least thirty-five (35’) feet from any front property line, or six (6’) feet behind the front building line, whichever is greater. Such swimming pool shall be enclosed with an opaque wall, fence, or screen that is at least six (6’) feet in height so as to prevent nuisances to and uncontrolled access from the street or adjacent properties. All swimming pools shall conform to the building code in effect within the City of Albion.

B. **Portable/Temporary Swimming Pools**.

Portable/temporary swimming pools are regulated by **Section 3.6**.

Section 7.15 Automobile Service Stations/Auto Repair/Car Wash

A. Buildings used for such purposes shall not be nearer than fifty (50') feet from any R district or residential use. When the premises' side and/or rear yards abut an R district or residential use, any building used for such purposes shall have no openings adjoining said R district or residential use other than stationary windows or required fire exits.

B. All repair, painting, washing and installation operations shall be conducted within a completely enclosed principal building.

C. No overnight or weekend outside storage of trucks, trailers and/or tractors shall be permitted on the premises, and no partially dismantled, wrecked or junked vehicles shall be stored for more than a total of eight (8) hours outside the buildings on the premises except within an area enclosed by a solid wall or fence or shrubbery hedge designed to conceal such vehicles from public view.

D. A front yard of not less than twenty-five (25') feet shall be provided. This front yard may contain parking facilities plus accessory structures such as gas pumps, air pumps, vacuum cleaners for customer use, and/or a canopy or shelter over these structures.

Section 7.16 Dwelling Units in MU & CBD (in conjunction with commercial)

Dwelling units, which are contained within the same structure as a nonresidential use, shall not be located on the ground level facing a public street or within a basement. The minimum square footage shall comply with the building code in effect in the City of Albion.

Section 7.17 Hotels & Motels

A. Each unit shall contain not less than two hundred and fifty (250 ft^2) square feet of floor area.

B. A front yard of not less than twenty-five (25') feet shall be provided. This front yard may contain parking facilities, which shall comply with the **Section 3.12**.

Section 7.18 Offices & Retail Showrooms of Plumbers, Electricians, Decorators, or Similar Trades

In the CBD, the storage of non-retail materials and the making, assembling, remodeling, repairing, altering, finishing, or refinishing or its products or merchandise shall be permitted, provided that:

A. These activities are completely enclosed within the premises occupied by said establishment.

B. These activities are clearly accessory to sales and display activities.

C. In all cases, the first story premises facing upon or visible from any abutting street may not be used for other than retail display and associated office space.

Section 7.19 Storage of Hazard Materials/Flammable Liquids/Incinerators for the Burning of Solid Waste/Foundry for Ferrous Metals

Such facilities shall comply with all ordinances and regulations of the City of Albion, County of Calhoun, State of Michigan and the United States of America.

Section 7.20 Manufactured Housing Community

Manufactured Housing Community developments subject to all minimum requirements and standards as established in the **Mobile Home Commission Act, 1987 PA 96**, as amended, and all rules promulgated pursuant to Act 96, as may be amended, unless otherwise provided herein.

A. **Permitted Uses within the Manufactured Housing Community**.

The following shall be permitted uses subject to conditions:

1. A clubhouse, swimming pool, and recreation facilities.

2. On-site signs.

3. Family Day Care Homes.

4. Adult Foster Care Family Homes.

5. **Accessory Uses and Structures**. Accessory uses and structures, such as manager's offices, laundry facilities, tool or storage sheds, and other services for the residents of the park, shall be permitted. Adequate parking for such services shall be provided, as required by the **Manufactured Housing Administrative Code** currently in effect in the State of Michigan. The community manager may display manufactured homes and accessories for sale, provided the

accessories are contained within a manufactured home or an approved permanent structure. Such sales are to permit the development of the park and are not intended to be a retail operation. The business of selling new and/or used manufactured homes as a commercial operation in connection with the operation of a manufactured home development is prohibited. New or used manufactured homes located on lots within the manufactured home development to be used and occupied in that development may be sold by a licensed dealer and/or broker. This Section shall not prohibit the sale of a used manufactured home by a resident of the manufactured home development provided the development permits the sale.

B. **Approval Procedure**.

1. A manufactured housing community shall be subject to the review procedures in **Article 6 (Special Use Review)**.

2. **Review Process**. The Planning Commission shall review the submitted site plan and communicate its approval, approval with conditions, or disapproval of the site plan not more than sixty (60) days of receipt of the plan by the City. A meeting may be postponed by mutual agreement of the City and the developer. In cases where modifications have been recommended, the applicant shall resubmit a site plan incorporating those modifications to the Planning Commission for its review any required modifications shall be directed to the specific elimination of unsafe or hazardous health or safety conditions. Upon receipt of the modified site plan, the Planning Commission shall evaluate the changes which have been made and, if deemed acceptable, shall communicate its approval or disapproval of the site plan to the applicant within not more than forty-five (45) days after receipt of the modified site plan. Such modified site plan may be disapproved for any inadequacy found to be detrimental to the public health, safety, and general welfare.

3. **Noncompliance**. Any suspected noncompliance with the preliminary plan shall be reported to the Michigan Department of Licensing and Regulatory Affairs for remedy along with all pertaining evidence.

4. **Basis for Approval**. The Planning Commission shall approve a site plan only upon a finding that the proposed use will not, upon the facts known at the time of submission of the site plan, cause undue hardship, or create unsafe or hazardous health or safety conditions to the general public in accordance with the Act.

   In the process of reviewing the site plan, the Planning Commission shall consider the standards in **Section 5.6** and **Section 6.3** as well as the following:

   a. Impact on adjacent single-family residential or site condominium development.

   b. The location and design of driveways providing vehicular ingress to, and egress from, the site in relation to streets giving access to the site and in relation to pedestrian traffic.

   c. The traffic circulation features within the site and location of automobile parking areas; and may make such requirements with respect to any matters as will assure:

(1) Safety and convenience of both vehicular and pedestrian traffic both within the site and in relation to access streets; and

(2) Satisfactory and harmonious relations between the development of the site and the existing and prospective development of contiguous land and adjacent neighborhoods.

d. The Planning Commission may further require landscaping, fences, or walls in pursuance of these objectives and same shall be provided and maintained as a condition of the establishment and the continued maintenance of any use to which they are appurtenant.

e. The installation, erection, and construction of transmission systems for essential services.

f. The aforementioned site plan review criteria shall not be construed to supersede the requirements of this Ordinance and the **Mobile Home Commission Act**.

C. **Development Regulations**.

Each manufactured housing community, as a whole, and each individual lot within the manufactured housing community shall conform to the **Manufactured Housing Administrative Code** currently in effect in the State of Michigan.

D. **Landscaping, Ground Cover, and Open Space**.

Manufactured Housing Communities shall be landscaped as follows:

1. Exposed ground surfaces in all parts of the manufactured housing community shall be paved or covered with stone or other solid material or protected with grass, trees, or shrubs that are capable of preventing soil erosion. The ground surface in all parts of every manufactured housing community shall be graded and equipped to drain all surface water in a safe and efficient manner.

   a. If the manufactured housing community abuts an existing residential development, the community shall be required to provide screening along the community boundary abutting the residential development. If the community abuts a nonresidential development, the community need not provide screening.

   b. In all cases, however, a community shall provide screening along the community boundary abutting a public right-of-way.

2. The manufactured housing community developer shall provide a landscape buffer planting screen along those portions of the community that abut other developed residential property lines and public right-of-way lines. The landscaping shall consist of evergreen trees or shrubs of minimum three (3') feet in height which are spaced so they provide a continuous screen at maturity. Alternative screening devices may be utilized if they conceal the manufactured

housing community as effectively as the required landscaping described above. The required planting screen shall be located within the manufactured housing community's required setback.

3. Alternative screening devices subject to prior approval may be utilized if they conceal the manufactured housing community as effectively as the required landscaping described above and provided the screening is kept in good repair.

4. Open space shall be provided as required by Rule 946 of the **Michigan Administrative Code** for Manufactured Housing and shall be designated on the site plan. Should recreational areas also be proposed, these shall also be shown on the plans.

E. **Public Health and Safety.**

1. Fire hydrants shall be installed in all manufactured housing communities for which public water systems are available and shall be in compliance with the requirements and provisions of the current local fire code, including the requirement that there be no more than five hundred (500') feet between hydrants as measured along adjacent roadways within the manufactured housing community.

2. For the protection of the public safety, an orderly street name system and numbering system shall be established by the manufactured housing community owner and a plan of this system shall be verified with the City Public Safety Department. Manufactured home space numbers shall be located uniformly on each space, manufactured home unit or identification marker, throughout the manufactured housing community and street names shall be adequately marked.

3. Cooking shelters, barbecue pits, fireplaces, and wood burning stoves or incinerators shall be so located, constructed, maintained, and used as to minimize fire hazards and smoke nuisance both on the site and on neighborhood property. Open fires shall not be allowed except in facilities provided and all such fires must be attended. No fuel shall be used or items burned which emit dense smoke or objectionable odors.

4. Individual fuel oil, liquid petroleum, or other fuel tanks shall not be permitted to be stored in or under any manufactured home unit in a manufactured housing community.

5. Each manufactured home site shall be provided with approved garbage containers per Rule 715 of the **Michigan Administrative Code for Manufactured Housing**. The containers shall be kept in a sanitary condition at all times.

   a. It shall be the responsibility of the manufactured housing community operator to ensure that garbage containers do not overflow.

   b. Exterior property areas shall be maintained free from organic and inorganic material that might become a health, accident, or fire hazard.

6. Community grounds shall be maintained in a neat condition at all times.

7. Every home shall be equipped at all times with fire extinguishing equipment in good working order, of a type, size, and number and so located within the community as to be in compliance with the applicable regulations of the Rule 702a of the **Michigan Administrative Code for Manufactured Homes**.

    a. No open fire shall be permitted at any place which may endanger life or property.

    b. No fire shall be left unattended at any time.

    c. Each fire extinguisher shall be periodically examined and kept at all times in a useable condition in compliance with regulations of the State Police.

8. There shall be no storage of any kind underneath any manufactured home and each manufactured home shall be maintained in a clean and presentable condition at all times.

9. No personal property shall be stored outside or under any manufactured home. Storage sheds may be used but need not be supplied by the owner of the manufactured home development.

10. Two (2) access points shall be provided to the public thoroughfare to allow a secondary access for emergency vehicles. A boulevard entrance extending to the first intersection of interior community roads shall be interpreted as satisfying this requirement.

11. Each manufactured home shall have a safe and unobstructed primary exit and an emergency exit located away from the primary exit.

F. **Miscellaneous Provisions**.

1. **Removal of Towing Mechanisms**. Towing mechanisms shall be removed from the manufactured home dwelling at the time of dwelling installations and stored so as not to be visible from the exterior of the manufactured housing community.

2. The grounds of a manufactured housing community shall be graded to drain properly.

3. The business of selling new and/or used manufactured homes as a commercial operation within the location of a manufactured home development is prohibited. New or used manufactured homes located on lots within the manufactured home development to be used and occupied in the community may be sold by a licensed dealer and/or broker. This Section shall not prohibit the sale of a used manufactured home by a resident of the manufactured home development provided the development permits the sale.

4. All requirements of the **Mobile Home Commission Act, 1987 PA 96**, as amended, shall apply.

5. The owner or operator of any manufactured housing community shall be responsible for all street construction and street maintenance within the confines of the manufactured housing community shall be responsible for all snow removal within the confines of the manufactured

housing community and shall be responsible for picking up trash and garbage within the confines of the manufactured housing community.

6. No manufactured home shall be occupied by more than one (1) family.

7. No manufactured home shall be occupied for dwelling purposes unless the manufactured home is placed on a site or lot and connected to water, sanitary sewer, electrical, and other facilities as may be necessary or prior to building official inspection and permit approval.

8. Street lighting shall be provided and paid for by the owner of the community and shall be approved by the **State of Michigan Bureau of Licensing and Regulatory Affairs** as to the adequacy of illumination.

9. Street name signs shall be provided by the owner at all street intersections in accordance with **Michigan Administrative Code for Manufactured Housing** requirements. Community street names shall not duplicate or be confusingly similar to the name of any existing street within the areas served by the Post Office or the City Public Safety Department.

10. If permitted, fences on individual home sites shall be uniform in height, not to exceed thirty-six (36") inches, and shall be constructed in such a manner as to provide Public Safety Officers an access to at least two (2) gates.

11. Manufactured housing communities shall be located with access to a public thoroughfare.

12. There shall be a maximum of one (1) sign per road frontage with an entrance. Such a sign shall be located from the street a distance equal to the setbacks established in Rule 944(2) of the **Michigan Administrative Code for Manufactured Housing** and may be lighted, provided that the source of light is not visible and is not of the flashing or intermittent type. One (1) sign, not exceeding thirty-two (32 ft^2) square feet in area, with copy on both sides, shall be permitted for the first entrance provided to the community. For multiple entrances, a sixteen (16 ft^2) square foot sign with copy on both sides, shall be permitted at each entrance after the first.

13. Expandable units on manufactured homes may be utilized, provided that the minimum spacing between manufactured homes as herein provided is maintained.

G. **Site Constructed Buildings and Dwellings**.

1. Site constructed buildings within the manufactured housing community such as community buildings or laundries, but not including manufactured homes and their accessory storage buildings, shall be reviewed by the City at the time of submittal for a building permit and shall meet the requirements of applicable building codes and required **Michigan Administrative Code for Manufactured Housing** setbacks.

2. Site built single-family dwellings may be located in a manufactured housing community as follows:

a. One single-family dwelling may be permitted for the exclusive use of the manufactured housing community owner or manager in a community of thirty (30) acres or less.

b. Two single-family dwellings may be permitted for the exclusive use of the community owner, manager, or caretaker in a community in excess of thirty (30) acres.

c. Any such dwellings shall comply in all respects with the requirements for single-family dwellings in the R-2, Residential District.

Section 7.21 Planned Unit Development (PUD)

A. **Intent**.

The purpose of this district is to permit flexibility in the regulation of land development; encourage innovation in land use and variety in design, layout and type of structures constructed; achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities; encourage provision of useful open space; provide adequate housing, employment and shopping opportunities particularly suited to the needs of the residents of the City; and encourage the use, reuse and improvement of existing sites and buildings when developed in a compatible way with surrounding uses and when the uniform regulations contained in other zoning districts do not provide adequate protections and safeguards for the site or surrounding area.

B. **Permitted Principal Uses**.

A PUD may contain any combination of uses permitted in any district pursuant to **Article 4**, provided that such principal uses are included in the approved development plan.

A PUD may exclude residential development and allow other uses if the applicant can demonstrate that the proposed PUD is sufficiently well-designed to accomplish the intent of this Ordinance with respect to adjoining land uses both existing and anticipated. A PUD excluding residential uses may not be located in the R-1 or R-2 Districts.

C. **Permitted Accessory Uses**.

Any use which is accessory to the uses allowed as permitted principal uses is allowed provided that such accessory uses are included in the approved development plan.

D. **Ownership/Criteria for Application**.

Any planned unit development zoning application may be initiated only by the owner or owners, or by persons with an executed option to purchase (hereinafter, "the petitioner"). The entire parcel for which application is made must be under one ownership, or the application must be made with the written authorization of all property owners.

E. **Development Standards Permitted Deviation**.

Minimum development standards set forth by the district in which the proposed PUD is located shall act as general guideline. To encourage flexibility and creativity consistent with the intent of PUD regulations, the City may permit specific departures from standards within this Ordinance as a part of the approval process. Any regulatory modification shall be approved through a finding by the Planning Commission that the deviation shall result in a higher quality of development than would be possible using conventional zoning methods.

F. **Review Standards for Approval of a Planned Unit Development Proposal**.

Approval, denial or request for an amendment of a planned unit development shall be reviewed based upon the following standards:

1. **Beneficial Effect.** The uses proposed would have a beneficial effect, in terms of public health, safety, welfare or convenience or any combination thereof, on present and potential surrounding land uses. The uses proposed will not adversely affect the public utility and circulation systems, surrounding properties, or the environment.

2. **Compatibility.** Proposed uses should be so designed and located as to promote appropriate interaction between uses and limit or buffer incompatibilities both with other uses within the PUD and existing uses adjacent to the PUD site.

3. **Open Space.**

   a. All planned unit developments shall maintain a minimum of twenty (20) percent of the gross parcel area as common open space, which is readily accessible and available to the residents of the planned unit development. Wetland, floodplain, and/or open water areas may fulfill a portion of the common open space requirement, provided that not more than ten (10%) percent of the designated common open space area is wetland area, floodplain, and/or open water.

   b. Both public and private nonresidential uses of an educational or recreational nature, including but not limited to golf courses, tennis clubs, swim clubs, and necessary accessory uses and structures, designed as an integral part of the overall planned unit development, may occupy appropriate portions of the site. The area so occupied may be applied, at the discretion of the Planning Commission, to satisfy a percentage of the total common open space requirement. Recreational uses may be used to satisfy up to sixty (60%) percent of the common open space requirement, provided such use is integrated into the overall development.

4. **Parking.** Off-street parking sufficient to meet the minimum required in **Section 3.12** shall be provided. The Planning Commission may, if deemed appropriate, require the planned unit development to have more or less parking than that required by this Ordinance.

5. **Landscaping.** Landscaping shall be provided so as to insure that proposed uses will be adequately buffered from one another and from surrounding public and private property to meet the minimum requirements of **Section 3.11**. The Planning Commission may, if deemed

appropriate, require the planned unit development to have more or less landscaping than that required by this Ordinance.

6. **Circulation.** Vehicular and pedestrian circulation, allowing safe, convenient, uncongested, and well-defined circulation within and to the district, shall be provided.

7. **Natural, Historical, and Architectural Features.** Major natural, historical and architectural features of the district shall be preserved, unless, in the judgment of the Planning Commission, the preservation of such features is not in the public interest.

8. **Other Site Improvements.** Signage, lighting, exterior building materials, and other features of the project shall be designed and constructed with the objective of creating an integrated and controlled development, consistent with the character of the community, the surrounding developments, and the site's natural features.

9. **Perimeter Setback and Buffering**.

   a. The proposed location and arrangement of structures shall not be materially detrimental to existing or prospective adjacent structures or to existing or prospective development of the neighborhood. There shall be a perimeter setback and landscaping and/or berming, as recommended by the Planning Commission, for the purpose of buffering the adjacent properties from the planned unit development. The setback distance and buffering treatment need not be uniform at all points on the perimeter of the development.

   b. However, in cases where nonresidential uses in the planned unit development are adjacent to residentially zoned property, such uses shall be visually screened by a landscape berm, evergreen screen, or a decorative wall, as provided for in **Section 3.11**.

G. **Residential Development Phases**.

1. Each phase shall be designed to stand-alone and provide a residential environment which is compatible with the surrounding existing development. Further, each development phase shall be designed to provide a proportional amount of common open space in each proposed phase.

2. A minimum of fifty (50%) percent of the total number of residential dwelling units in any planned unit development must be constructed and be ready for sale prior to the construction of any commercial portion of the planned unit development, except that site grading, road construction, and utility installations related to the commercial portions of the planned unit development may be undertaken concurrent with the development of residential units. The Planning Commission may waive this requirement.

H. **Planned Unit Development Agreement**.

The plan shall contain such proposed covenants, deed restrictions, easements, road dedications and other provisions relating to the bulk, location, intensity and density of such residential units, nonresidential uses and public facilities, and provision for the ownership and maintenance of the

common open space as are necessary for the welfare of the planned unit development and are not inconsistent with the best interests of the City. Said covenants, deed restrictions, easements, road dedications and other provisions, which are a part of the plan as finally approved, may be modified, removed, or released only in accordance with regulations and standards as may be subsequently set forth by the City Council. An association formed by the residents of the planned unit development shall carry out the enforcement of covenants, deed restrictions, and easements. Further, the bylaws of such association shall provide for the assessment of fees to finance enforcement actions undertaken by the association.

The petitioner shall make such easements, covenants and other arrangements, and shall furnish such performance guarantees, as may be required, to assure performance in accordance with the plan and to protect the public interest in the event of abandonment of proposed development before completion.

I. **Platted Lots**.

All portions of the planned unit development, including single-family lots, multiple-family dwellings, commercial and industrial areas shall be platted in conformance with the requirements of the State of **Michigan Land Division Act, 1967 PA 288**, as amended, (formerly known as the Subdivision Control Act, MCL 560.101 et seq.) and with the **City of Albion Subdivision Control Ordinance**; or prepared in conformance with the requirements of the State of Michigan **Condominium Act, 1978 PA 59**, as amended, MCL 559.101 et seq, and the provisions of the **Condominium Ordinance**.

J. **Industrial Development**.

Uses for industrial development within the planned unit development shall be required to show the proposed intensity projected by the development.

K. **General Procedure for Submittal for Preliminary and Final Approval Phases**.

The planned unit development approval shall involve two phases.

1. The preliminary approval phase shall involve a review of the conceptual plan of the proposed planned unit development to determine its suitability.

2. The final approval phase shall require detailed site plans for any part of the conceptual planned unit development prior to the issuance of building permits.

3. The preliminary and final approval phases may run concurrently if, in the judgment of and by resolution of the Planning Commission, the size and nature of the project and the readiness of the petitioner warrant such action.

L. **Preliminary Approval Materials for Submission**.

The petitioner for any planned unit development shall submit, to the Planning Department, the following technical and/or graphic materials describing the conceptual planned unit development

plan, together with an application for a planned unit development preliminary phase approval.

1. The planned unit development conceptual plan shall indicate the following (the Planning Director may waive specific requirements below if he/she finds that they are not relevant to the proposal):

   a. The entire holdings of the owner or owners or petitioner which are contiguous to the parcel or any parts thereof; together with the identities of all owners, investors, managers, and all others with vested interests in the proposed project.

   b. The area and use of land adjacent to the parcel to be developed.

   c. Any unusual problems of topography, utility service, land usage or land ownership, to include but not limited to, means of serving the development with water, sanitary waste disposal, and storm water drainage.

   d. All existing and proposed structures, streets, and open spaces; along with major natural, historical, and architectural features of the site and its surrounding area and a statement of anticipated impact on natural features, public facilities and services such as, but not limited, to wetlands and flood plains, police and fire protection, roads and schools.

   e. All uses and allotted spaces, gross site area, street and vehicular access areas, number of each variety of habitable space, total number of dwelling units, floor area per habitable space, and total open space.

   f. Total project area, description of existing site characteristics, description of proposed character of the development, densities, intensity, total land areas and setbacks for various residential types, and proposed project phasing and estimated timing schedule by phase to completion.

   g. Overall map at a minimum scale of 1 inch equals 2,000 feet (1:24,000) showing the relationship of the proposed planned unit development to its surroundings, including section lines, parcel boundaries, major roads, collector streets, among other landmarks.

   h. Generalized graph depiction at a scale of 1 inch equals 100 feet (1:1,200) showing the following:

      (1) Major access roads serving the site, including right-of-way widths, and existing and proposed road surfacing.

      (2) Existing utility lines including but not limited to, sanitary sewer, storm sewer, water main, and gas and electric service.

      (3) Existing adjacent land uses and structures within two hundred (200) feet of the proposed planned unit development boundary.

      (4) Proposed internal pedestrian and vehicular circulation system.

(5) Areas to be developed for residential, commercial, institutional, industrial, recreational, and common open space uses and structure locations.

(6) Other data or graphics, which will serve to further, describe the proposed planned unit development.

(7) Topography drawn at a two (2') foot contour interval. Topography must be based on UAGA datum (1:24,000) and be extended a minimum distance of two hundred (200) feet outside the proposed planned unit development boundaries.

i. **Proposed Development Features**.

(1) Layout of internal roads indicating proposed road names, right-of-way widths, and connections to adjoining platted roads, and also the widths and location of alleys, easements and pedestrian ways.

(2) Layout, numbers and dimensions of single-family lots, including buildings setback lines.

(3) Layout of proposed multiple-family dwellings, including setbacks, buildings, drives, parking spaces, pedestrian ways, and landscaping.

(4) Location and function of both developed and undeveloped open spaces, as well as the layout of facilities to be included on developed open spaces.

(5) Indications of the proposed sewage, water supply, and storm drainage system.

(6) Conceptual site grading and conceptual landscaping plan.

(7) Depiction of proposed development phases.

(8) Tabulations.

(a) Total site acreage and percent of total project in various uses, including developed and undeveloped open space.

(b) Acreage and number of single-family lots, multiple-family dwellings (including number of bedrooms) to be included in development phases.

(c) Total site density of single-family and multiple-family dwellings and the percent of ground area covered of multiple-family dwellings and their associated structures.

(d) Total gross land area for industrial, institutional, and commercial uses.

(e) Total building coverage for industrial, institutional, and commercial uses. (Coverage being the proportion of the lot area, expressed as a percent that is covered by the maximum horizontal cross-section of a building(s).

j. **Planned Unit Development Agreement**.

(1) Legal description of the total site.

(2) Statement of petitioner's interest in the land proposed for development.

(3) Statement regarding the manner in which open space is to be maintained.

(4) Statement regarding the petitioner's intentions regarding sale and/or lease of all or portions of the planned unit development, including land areas, units, and recreational facilities.

(5) Statement of covenants, grants of easements, road dedications, (including easements for public utilities), and other restrictions to be imposed upon the uses of the land and structures.

(6) Statement of requested modifications to the district regulations, which are otherwise applicable to the site.

(7) Schedule indicating the time within which applications for final approval of each development phase of the planned unit development are intended to be filed.

k. The petitioner shall present material as to the development's objectives and purposes to be served; management plan, economic feasibility, conformity to plans and policies of the City, market needs, impact on public schools, utilities and circulation facilities, impact on natural resources, impact on the general area and adjacent property, estimated cost, and a staging plan showing the general time schedule of and expected completion dates of the various elements of the plan.

l. All applications shall include photographs of all sides of all existing buildings.

m. Any additional graphics, scale models, or written materials requested by Planning Commission to assist the City in visualizing and understanding the proposal shall be submitted.

M. **Conceptual Plan Review for Preliminary Approval Phase of Planned Unit Development**.

1. **Pre-Application Meeting.** The Planning Commission shall hold a meeting at which the petitioner shall present a written proposal for a planned unit development discussing the petitioner's intentions and the Planning Commission shall provide the petitioner with its comments after holding such a meeting. No fees shall be charged for said meeting.

2. **Submission of Conceptual Plan.** The petitioner shall next submit, to the Planning Department, sufficient copies of the planned unit development conceptual plan together with appropriate review fees. The Planning Department shall designate this date as the petitioner's date of filing. Copies of the plan as submitted shall be distributed promptly by the Planning Department to the City Manager and the appropriate City agencies for review to determine if the development concept can be accommodated by the existing public utility, street, and general City service facilities, or if any additions to, or extension of facilities are necessary for the project.

3. **Departmental Review**. The Planning Director shall compile the results of the above departmental review. The Planning Department shall notify the petitioner of any questions raised by the City agencies during said review and shall submit like information to the Planning Commission for its consideration, along with a report which evaluates the planning aspects of the project and its impact on the present and future development of that part of the City in which it is located.

4. **Public Hearing.** The commission shall hold at least one (1) public hearing on said planned unit development conceptual plan. Notice of such hearing shall be provided in the same manner as is required for special use permits under **Section 9.11**. The commission shall hold additional public hearings, as it deems necessary.

5. **Decision by Planning Commission.** Upon reviewing said conceptual development plan and reports, the commission shall make its decision on said plan at its next regularly scheduled meeting after holding its last public hearing; unless said time is agreed to be extended by the petitioner in writing; provided that the commission may extend this time for periods not to exceed thirty (30) days each if such extensions are necessary for adequate review.

   If the commission rejects the planned unit development, its reasons therefor shall be specified in writing and approved by the commission.

6. **Conditions.** Any conditions of approval required by the Planning Commission shall be satisfied by the petitioner or owner prior to subsequent final phase site plan approval and prior to the issuance of any building permits. The Planning Director shall keep a special record of all approved planned unit developments and approval conditions.

N. **Effect of Preliminary Approval Phase of Planned Unit Development**.

Preliminary phase approval of the planned unit development by the Planning Commission shall confer, upon the owner, the right to proceed through the subsequent planning phase in accordance with regulations and ordinances in effect at the time of said approval for a period not to exceed two (2) years from date of approval, unless subsequent regulations or ordinances are specifically made applicable to developments which have been so approved. If final phase site plans have not been submitted for approval before the termination of said two-year period, said subsequent site planning must conform to the regulations, ordinances and laws in effect at the time said final phase site plan is submitted.

O. **Final Approval Phase for a Planned Unit Development Site Plan**.

The final planned unit development submittal must be prepared as one of the following:

1. **PUD's Not Part of a Subdivision or Condominium Development**. PUD's may be approved which are not processed as a Subdivision or Condominium as indicated by subsection O.2 and O.3 below. Such PUD's shall adhere to the review procedure in **subsection Q** below.

2. **Subdivision Plat as Defined by the Land Division Act**. The final planned unit development submittal must be prepared in the form of a preliminary plat in detail sufficient to be granted tentative preliminary plat approval in conformance with the State of Michigan Land Division Act, City of Albion **Subdivision Control Ordinance**, and conditions established in the preliminary planned unit development submittal and planned unit development agreement.

3. **Condominium Plan as Defined by the Condominium Act**. The final planned unit development submittal must be prepared in the form of a condominium plan pursuant to the requirements of the **Condominium Act** in detail sufficient to be granted approval in conformance with the **condominium provisions of the City of Albion** and the conditions established in the preliminary planned unit development submittal and planned unit development agreement.

P. **Submittal Requirements for Final Site Plan**.

The following minimum information must be provided by the developer at the time of filing the final site plan for all or a portion (phase) of a planned unit development:

1. Detailed building site plan with a scale of 1"=20'

2. Detailed grading plan with a scale of 1"=100'

3. Detailed landscaping plan with a scale of 1"=20'

4. Detailed utilities layout with a scale of 1"=100'

5. Tabulations showing the following:

   a. Total phase acreage and percent of total planned unit development.

   b. Acreage and percent for each portion or phase and total planned unit development occupied by single-family, developed and undeveloped open space.

   c. Total phase density, intensity and percent of total planned unit development.

   d. Number of bedrooms per multiple-family dwelling unit by type (i.e., efficiency, one bedroom).

   e. Percent of ground area covered by structures other than detached single- family dwelling units.

f. Gross total land area and total building coverage for all industrial and commercial use (to include number of stories).

6. Supporting Materials.

a. Legal description of the total phase, each use area, and dedicated open space.

b. Copies of covenants, easements, and other restrictions to be imposed.

c. Proposed dates of start of construction and completion.

d. The final planned unit development submittal shall not:

(1) Vary the proposed gross residential density or intensity of use in any portion of the planned unit development by more than ten (10) percent; or

(2) Involve a reduction of the area set aside for common space; or

(3) Increase by more than ten (10%) percent of the floor area proposed for nonresidential use; or

(4) Increase by more than five (5%) percent of the total ground area covered by buildings.

Q. **Submittal and Review Procedure for Final Site Plan**.

1. **Materials.** The petitioner shall submit, to the Planning Department, four (4) copies of the planned unit development final site plan for all or any part or phase of the development, in accordance with the uses and concepts as shown on the approved planned unit development conceptual plan together with appropriate review fees. The final site plan for each phase shall include detailed information as required in **subsection O.** An electronic copy of the final site plan may be required by the Planning Department.

a. All applications shall include photographs of all sides of all existing buildings. Any additional graphics, scale models, or written materials requested by Planning Commission to assist the City in visualizing and understanding the proposal shall be submitted.

b. A detailed listing of existing and/or proposed exterior materials shall be provided and will become part of the planned unit development site plan.

2. **Departmental Review.** Copies of this planned unit development final site plan as submitted, shall be distributed promptly by the Planning Department to the appropriate City departments for review and comment regarding the legal requirements of the City.

3. **Notification of Issues.** The Planning Department shall notify the petitioner of any questions raised by the City agencies during said review and shall submit like information to the Planning Commission for its consideration.

4. **Public Hearing.** The Planning Commission shall, after holding a public hearing on said planned unit development site plan, make its recommendation at its next regularly scheduled meeting unless said time is agreed to be extended by the petitioner in writing; provided that the commission may extend such time for periods not to exceed thirty (30) days each if such extensions are necessary for adequate review.

   If the Planning Commission rejects the planned unit development site plan, its reasons therefore shall be specified in writing and approved by the commission.

R. **Effect of Final Phase Approval of Planned Unit Development**.

1. Following approval of a final planned unit development, the petitioner may begin processing a subdivision plat through the Planning Commission in conformance with the Land Division Act and the City of Albion **Subdivision Control Ordinance** or the condominium plan through the Planning Commission and the City Council in conformance with the Condominium Act and condominium provisions of the City of Albion.

2. Approval of final planned unit development site plan shall entitle the owner to apply for building permits provided that all platting and condominium plan approvals have been received.

S. **Time for Completion of Development**.

1. The Planning Commission shall consider the size, scope, and complexity of the proposed project; generally accepted construction standards; plus the impact of an incomplete project on the community; and establish reasonable deadlines for the completion of the various aspects of the project. In projects which require phased construction the Planning Commission may require whatever accommodation it deems appropriate to ensure that continuing construction activities do not detract from land uses in the immediate area.

2. Said deadlines may be extended if applied for by the petitioner and granted by the Planning Commission in writing following public notice and a public hearing. Failure on the part of the petitioner to secure this written extension may result in stoppage of all construction.

3. In all cases, the proposed planned unit development and all proposed buildings, parking spaces, landscaping, useable open spaces, and amenities must be started within two (2) years after the final plan approval, and work must be continued in a reasonably diligent manner and completed on or before the deadlines as established or revised by the competent authority pursuant to this Section.

T. **Recording of Action**.

The petitioner shall record an affidavit with the Register of Deeds containing the full legal description of the project site, specifying the date of final Planning Commission approval, and declaring that all improvements will be carried out in accordance with the approved planned unit development plan unless an amendment is adopted by the Planning Commission. In addition, all deed restrictions,

dedications and easements shall be duly filed with the Register of Deeds of the County and copies of recorded documents presented to the City Clerk's office.

U. **Financial Guarantee**.

Pursuant to **Section 9.9**, in approving the final development plan, the Planning Commission may, if it deems necessary, require that a cash deposit, certified check, surety bond, or other financial guarantee acceptable to the City be furnished by the petitioner to ensure compliance with the planned unit development requirements. In fixing the amount of such financial guarantee, the Planning Commission shall consider the size and scope of the project, current prevailing costs of rehabilitating or completing the premises upon default by the petitioner, estimated expense to compel the petitioner to comply with the requirements of the final planned unit development approval, and such other factors and conditions as may be relevant in determining the sum reasonable in light of all the facts and circumstances surrounding the proposed planned unit development.

V. **Deviations from Approved Planned Unit Development Site Plan**.

Minor changes to a previously approved planned unit development site plan may be approved without the necessity of Planning Commission action thereon if the appropriate planning, zoning, streets, traffic and parking, fire, utilities, and building officials certify in writing that the proposed revisions constitutes a minor alteration and does not alter the basic design nor any specific conditions of the plan as agreed upon by the competent authority. The Planning Director shall record all such changes on the original planned unit development site plan and shall advise the Planning Commission and City Council of all said minor revisions within fifteen (15) days of said administrative approval. Minor alterations or revisions under this Section shall be limited to:

1. Addition or relocation of all fire escapes.

2. Shifting of building heights and elevations, providing such shifting does not exceed ten (10%) percent of the previously approved dimensions and providing such shifting does not significantly alter the conceptual integrity of the plan.

3. Construction of additional, or alteration of, approved sidewalks, provided that the full intent of pedestrian movement through and around the site is not inhibited thereby.

4. Shifting of, additions to, or changes in species of landscape materials, provided that such change does not reduce minimum landscape requirements.

5. Relocation of refuse collection stations.

6. Internal rearrangement of parking lots and curb cut locations provided such functional rearrangement does not reduce the total number of parking spaces which have been approved and further provided that the minimum landscape requirements are maintained, and further provided that such rearrangement does not inhibit good traffic flow or circulation.

7. Any decrease in building size or changes in bedroom counts per dwelling unit in no more than ten (10%) per cent of the total number of units.

8. Construction and location of bus stop stations.

9. Installation of recreational or maintenance facilities that do not require erection of a structure intended for human use or occupancy.

All changes not considered minor changes may be approved by the Planning Commission after a required public hearing. Any deviation from the approved plan which has not been approved administratively or by the Planning Commission shall be considered a violation of this Ordinance and is subject to penalties stated for Zoning Ordinance violations.

W. **Terms Defined Related to Planned Unit Development Projects**.

Planned Unit Development Conceptual Plan means a plan that presents the petitioner's tentative development proposal. A conceptual plan, if approved, takes on the status of the preliminary phase of the planned unit development project.

Planned Unit Development Agreement means a written agreement specifying the details of a planned unit development submittal and the conditions under which the submittal received final approval.

Section 7.22 Wireless Communications Facilities

A. **Intent**.

It is the general purpose and intent of this Division to establish general guidelines for the siting of wireless communication towers and antennas. The goals of this Ordinance are to:

1. Protect residential areas and the Central Business District from the potential adverse impact of towers and antennas;

2. Encourage the location of towers in nonresidential areas;

3. Minimize the negative visual impact of towers throughout the community;

4. Strongly encourage the joint use of new and existing tower sites rather than construction of additional single-use towers;

5. Require the disclosure of information about plans for wireless communication facilities so as to permit the City to effectively plan for the location of such facilities, and

6. Minimize the adverse effect of technological obsolescence of such facilities, including a requirement to remove unused and/or unnecessary facilities in a timely manner.

In furtherance of these goals, the City of Albion shall give due consideration to the City of Albion's comprehensive plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

B. **Applicability**.

All towers or antennas erected in the City after the adoption of this Ordinance shall be subject to the provisions of this Section except as otherwise provided herein.

C. **Exceptions**.

1. This Ordinance shall not govern any tower, or the installation of any antenna, that is under fifty (50) feet in height or extends no more than fifteen (15') feet above the roof line of the structure upon which it is placed, whichever is lesser, and is either wholly owned and used by a federally licensed amateur radio station operator or is used exclusively for receive only antennas.

2. Pre-existing towers and pre-existing antennas shall not be required to meet the requirements of this Ordinance other than to conform with FAA, FCC and applicable State construction, building and electrical codes.

3. For the purpose of this Ordinance, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurement for setbacks and separation distance shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

4. The co-location of a small cell wireless facility and associated support structure within a public right of way ("ROW") is not subject to zoning reviews or approvals under this Ordinance to the extent exempt from such reviews under the **Small Wireless Communications Facilities Deployment Act, 2018 PA 365**, as amended. In such case, a utility pole in the ROW may not exceed forty (40) feet above ground level without special land use approval and a small cell wireless facility in the ROW shall not extend more than five (5) feet above a utility pole or wireless support structure on which the small cell wireless facility is co-located

D. **General Requirements**.

1. **Uses**. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

2. **Lot Size**. For purposes of determining whether the installation of a tower or antenna complies with zoning district regulation, including but not limited to setback requirements, lot coverage requirements, land division requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

3. **Inventory of Sites**.

a. **Inventory Required.** Each applicant for an antenna and/or tower shall provide to the Planning Department an inventory of its existing towers, antennas or sites approved for towers or antennas that are either within the City or within one (1) mile of the corporate limits thereof, including specific information about the location, height and design, including the capacity for co-location of additional antennas, of each tower.

b. **Sharing of Information.** The Planning Department may share such information with other applicants applying for administrative approvals or special use permits under this Ordinance or other organizations seeking to locate antennas within the City. However, the Planning Department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable for co-location.

c. **Franchise or Permit Required**. Owners and/or operators of towers or antennas shall certify that any franchise or permit required by law for the construction and/or operation of a wireless communication system in the City has been obtained and shall file a copy of same with the City Clerk.

4. **Multiple Use Desired**. The City encourages users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites.

E. **General Standards for All Towers**.

1. **Aesthetics**. Towers and antennas shall meet the following aesthetic requirements:

a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use the material, colors, textures, screening and landscaping that will blend them into the natural settings and surrounding buildings.

c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color as identical or closely compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

2. **Lighting**. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required the lighting alternatives and design chosen must cause the least disturbance to surrounding views.

3. **Compliance with Other Regulations**. All towers must meet or exceed current standards and regulations of the FAA, FCC and any other agency of the State of Michigan or Federal Government with authority to regulate towers and antennas. Should such standards and regulations be changed, then the owners of the towers and antennas governed by this Ordinance shall bring their towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective dates of such revised standards and regulations unless a different compliance schedule is mandated by the controlling State or

Federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute a violation of the Zoning Ordinance and the removal of the tower or antenna at the owner's expense.

4. **Compliance with Construction and Electrical Codes**. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with the standards contained in State and local construction, building, property maintenance, and electrical codes. If upon inspection the City concludes that a tower fails to comply with such codes and standards, and constitutes a danger to persons or property, then upon notice provided to the owner, the tower shall be brought into compliance with such standards within thirty (30) days following notice. Failure to bring the tower into compliance within thirty (30) days shall constitute a violation of the Zoning Ordinance and the removal of the tower or antenna at the owner's expense.

5. **Signs.** No advertising or identification signs visible from off-site shall be allowed or permitted on an antenna or tower.

6. **Other Buildings and Equipment**. Buildings and support equipment associated with antennas or towers shall comply with the requirements set forth in this Ordinance.

F. **Permitted Uses Requiring No Approval**.

The uses listed in this Section are deemed to be permitted uses and shall not require administrative approval or special use permits:

1. Antennas or towers located on property owned, leased or otherwise controlled by the City provided a license or lease authorizing such antenna or tower has been approved by the City Council.

2. Receive-only antennas less than fifty (50') feet in height or extends less than fifteen (15') feet above the roof line of the structure upon which it is placed, whichever is lesser.

3. Antennas and towers less than fifty (50') feet in height or extends less than fifteen (15') feet above the roof line of the structure upon which it is placed, whichever is lesser, when wholly owned and used by a federally licensed amateur radio operator.

G. **Administratively Approved Uses**.

The following permitted uses may be approved by the Planning Department after conducting an administrative review:

1. Locating an antenna on existing structures other than a tower may be approved by the Planning Department as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure of eight (8) or more dwelling units provided that:

   a. The antenna does not extend more than thirty (30') feet above the highest point of the structure;

b. The antenna complies with all applicable FCC and FAA regulations;

c. The antenna complies with all applicable building codes; and

d. The antenna is not located in or within one hundred (100') feet of the CBD (Central Business District).

2. Locating an antenna on an existing tower may be approved by the Planning Department and, to minimize adverse visual impact associated with the proliferation and clustering of towers, co-location of antennas by more than one (1) carrier on existing towers shall take precedence over the construction of new towers, provided such co-locations is accomplished in a manner consistent with the following:

   a. **Modifications**. A tower which is modified or reconstructed to accommodate the co-location of an additional antenna shall be of the same tower type as the existing tower unless the Planning Department allows reconstruction as a monopole.

   b. **Increase in Height of Tower**. An existing tower may be modified or rebuilt to a taller height not to exceed thirty (30') feet over the tower's existing height only to accommodate the co-location of an additional antenna. The height change permitted by this subsection may only occur one time per communication tower. The additional height permitted by this subsection shall not require an additional distance separation as set forth elsewhere in this subsection. The tower's pre-modification height shall be used to calculate such distance separations.

   c. **On-Site Relocation**. A tower which is being rebuilt to accommodate the co-location of an additional antenna may be moved on a lot within fifty (50') feet of its existing location. After such tower is rebuilt to accommodate, only one (1) tower may remain on the lot. A relocated on-site tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to other provisions of this Section. The on-site relocation of a tower under this Section shall not be deemed to be a violation of those provisions of this Section regarding separation of distances between towers. However, the on-site relocation of a tower which comes within the separation distances to off-site uses and designated areas as set forth at **subsection M** shall be permitted only when a variance has been approved by the Zoning Board of Appeals.

3. Small cell wireless facilities or installation of an associated support structure which are not exempt from zoning review under **2018 PA 365**, as amended, are administratively approved. The co-location of a small cell wireless facility and associated support structure *within a public right of way* is not subject to zoning reviews or approvals under this Ordinance to the extent exempt from such reviews under **2018 PA 365**, as amended. In such case, a utility pole in the right of way may not exceed forty (40') feet above ground level without special land use approval and a small cell wireless facility in the right of way shall not extend more than five (5') feet above a utility pole or wireless support structure on which the small cell wireless facility is co-located.

H. **Administrative Approval Procedures**.

The following procedures shall govern the issuance of administrative approvals for towers and antennas:

1. Each applicant for administrative approval shall submit the following information, along with a nonrefundable fee, as established by resolution of the City Council, to reimburse the costs to the City for reviewing the application:

    a. A scaled site plan clearly indicating the location, type and height of the structure or existing or relocated on-site tower, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, setbacks for property lines, elevation drawings of the structure or existing or relocated on-site tower and any other proposed structures, and topography of the lot.

    b. A legal description of the lot and the leased parcel, as applicable.

    c. Evidence of the tower or structure owner's consent to place the proposed antenna.

    d. The setback distances between the existing or relocated on-site tower and the nearest residential unit, platted residential zoned property, the Central Business District, and any unplatted residentially zoned property.

    e. The separation distance from other towers described in the inventory of existing sites set forth at **subsection M**.

    f. A landscaped plan showing specific landscaped materials.

    g. Method of fencing and finish color and, if applicable, the method of camouflage and illumination.

    h. A signed and notarized statement of the applicants as to whether the co-location of the proposed antenna will accommodate co-location of additional antennas for future users.

    i. Identification of the entities providing the backhaul network for the tower and antennas.

2. The Planning Department shall review the application for administrative approval and determine if the proposed use complies with the general standards set forth in **subsection E**, as well as the setback and separation distance established by **subsection L** and **subsection M**.

3. In connection with any administrative approval, the Planning Department may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.

4. The Planning Department shall respond to each application within sixty-three (63) days after its receipt by approving with or without modification or denying the application. If the

Planning Department fails to respond to the applicant within sixty-three (63) days, the application shall be deemed approved.

5. If an administrative approval is denied, the applicant shall be required to file an application for special use permit pursuant to this Section prior to filing any appeal that may be available under the City Zoning Ordinance.

6. **Approval Procedure for Small Cell Wireless Facilities (which are not exempt from zoning).**

   a. Within thirty (30) days after receiving an application under this Section, the Planning Director shall notify the applicant in writing whether the application is complete. The notice tolls the running of the 30-day period.

   b. The running of the time period tolled under subsection H.6.a resumes when the applicant makes a supplemental submission in response to the Planning Director's notice of incompleteness.

   c. The Planning Director shall approve or deny the application and notify the applicant in writing within ninety (90) days after an application for installation of a small cell wireless facility is received. The time period for approval may be extended by mutual agreement between the applicant and the Planning Director.

I. **Special Use Permits**.

The following provisions shall govern the issuance of special use permits for towers or antennas by the Planning Commission:

1. If a tower or antenna is not permitted under **Subsection F (Permitted Uses Requiring No Approval) or Subsection G (Administratively Approved Uses)**, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.

2. Applications for special use permits under this Section shall be subject to the procedures and requirements of **Article 6 (Special Use Review)**, as modified by this Section. In granting a special use permit the Planning Commission may impose conditions to the extent the Planning Commission concludes such conditions are necessary to minimize any adverse effects of the proposed tower on adjoining properties.

3. Any information of an engineering nature that the applicant submits, whether civil, mechanical or electrical, shall be certified by a licensed professional engineer.

4. An applicant for a special use permit shall submit the information described in this Section accompanied by a nonrefundable fee as established by resolution of the City Council to reimburse the City for the costs of reviewing the special use permit.

5. **Information Required**. In addition to any information required for applications for special use permits pursuant to **Article 6**, applicants for a special use permit for a tower shall submit the following additional information:

   a. A scaled site plan clearly showing the location, type and height of the proposed tower, on-site land uses, adjacent land uses and zoning, master plan classification of the site, adjacent roadways, setbacks from property lines, elevation drawings of the proposed tower and any other structures, and the topography of the parcel.

   b. A legal description of the parent lot and leased parcel, if applicable.

   c. Evidence of the lot's owner's consent to place the proposed tower.

   d. The set-back distance between the proposed tower and the nearest residential unit, platted residentially, zoned property, the Central Business District, and unplatted residentially zoned property.

   e. The separation distance from other towers described in the inventory of existing tower sites set forth in **subsection M**.

   f. A landscape plan showing specific landscape materials.

   g. The method of fencing and finished color and, if applicable, the method of camouflage and illumination.

   h. Certification of compliance with all applicable Federal, State, and local laws.

   i. A sworn statement by the applicant as to whether construction of the tower will accommodate co-location of additional antennas for future users.

   j. Other tower and antenna sites owned, or leased or operated by the applicant.

   k. Identification of the entities providing the backhaul network for the proposed tower.

   l. A description of the suitability for the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed tower.

   m. A description of feasible locations of future towers or antenna within the City based upon existing physical engineering technological or geographical limitations in the event the proposed tower is approved.

   n. A statement by the applicant that the proposed tower is needed:

      (1) Because proximity to an interstate or Michigan highway, or its proximity to areas of population concentration or commercial, business or industrial centers; or

(2) Because there are areas where signal interference occurs due to tall buildings, masses of tress, or other obstructions; and

(3) Because the proposed antenna is needed to complete a communication grid as it relates to the needs of the City and surrounding areas, and

(4) The telecommunications provider is not able to co-locate its antenna on another tower.

J. **Special Use Permit Approval Procedures**.

1. After an application for a Special Land Use approval is filed, the Zoning Administrator shall determine whether the application is administratively complete. The application shall be considered to be administratively complete when the Zoning Administrator makes that determination or fourteen (14) business days after the Zoning Administrator receives the application, whichever is first.

2. If, before the expiration of the fourteen (14) day period under **subsection J.1**, the Zoning Administrator notifies the applicant that the application is not administratively complete, specifying the information necessary to make the application administratively complete, or notifies the applicant that a fee required to accompany the application has not been paid, specifying the amount due, the running of the fourteen (14) day period under **subsection J.1** is tolled until the applicant submits to the body or official the specified information or fee amount due. The notice shall be given in writing or by electronic notification.

3. With the exception of the timeline specified in this **subsection J**, special use approval procedures shall adhere to the process outlined in **Article 6**.

4. The Planning Commission shall approve or deny the application not more than ninety (90) days after the application is considered to be administratively complete. If the Planning Commission fails to timely approve or deny the application, the application shall be considered approved and the Planning Commission shall be considered to have made any determination required for approval.

K. **Factors to be Considered in Granting Special Use Permits**.

In addition to any standards for consideration of special use permit applications pursuant to **Article 6**, the Planning Commission shall also consider the following factors in determining whether to issue a special use permit for a tower. The Planning Commission is empowered to waive or reduce the burden on the applicant of one (1) or more of these criteria if the Planning Commission concludes that the goals of the Ordinance are better served thereby. The factors to be considered are:

1. Whether the height of the proposed tower does not exceed that which is minimally required to function in accordance with Federal requirements and permit the co-location of additional antennas.

2. Proximity of the tower to residential structures structure located in the Central Business District and to residential and Central Business District boundaries.

3. Nature of uses on adjacent and nearby properties.

4. Surrounding topography, tree coverage and foliage.

5. Design of the antenna or tower with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.

6. Proposed ingress and egress.

7. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures.

8. A willingness to permit other communication service providers to co-locate antenna on the tower, upon agreement to reasonable terms and conditions. This factor does not require the tower owner to permit access where doing so will interfere with owner's ability to provide or receive signals.

   No new tower shall be permitted unless the applicant can demonstrate by a preponderance of the evidence submitted on the record to the Planning Commission that no existing tower, structure, or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. The applicant shall submit information to the Planning Commission relating to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

   a. No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.

   b. Existing towers or structure are not of sufficient height to meet applicants engineering requirements.

   c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

   d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

   e. The fees, costs, or other contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

f. The applicant demonstrates there are other limiting factors that render existing towers and structures unsuitable.

g. The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as cable micro cell network using multiple low powered transmitters/receivers attached to a wire line system, is unsuitable. Costs of alternative technology that would exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

L. **Setbacks**.

The following setback requirements shall apply to all towers for which either administrative approval or a special use permit is required.

1. Towers must be set back at a distance equal to the fall zone for the tower proposed, or at a distance of at least seventy-five (75%) percent of the height of the tower, whichever is greater, from any adjoining lot line, and

2. Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

M. **Separation**.

The following separation requirements shall apply to all towers for which either administrative approval or a special use permit is required:

1. **Separation from Off-Site Uses and Designated Areas**.

   a. Tower separation shall be measured from the base of the tower to the lot line at the off-site use designated area.

   b. A tower shall be located two hundred (200') feet or three (3) times the height of the tower, whichever is greater, from the Central Business District and from any single-family residential units or vacant single family residentially zoned land which is platted or had received preliminary subdivision plan approval which is not expired.

   c. A tower shall be located one hundred (100') feet or two (2) times the height of the tower, whichever is greater, from any vacant unplatted residentially zoned land or existing multi-family residential units.

   d. A tower shall comply with the setback distance set forth in **subsection L** for any non-residentially zoned land or nonresidential use.

2. **Separation Distances Between Towers**.

   a. Separation distances between towers shall be measured between the proposed tower and preexisting tower, separation distances shall be measured by drawing or following a

straight line between the base of the existing tower and the proposed base as indicated on the Site Plan of the proposed tower.

b. Separation distances between towers shall be based upon their construction as follows:

Required Tower Separation Distances

Proposed	Existing	Separation Distance Required
Lattice or guyed tower	Lattice or guyed tower	5,000 ft
	Monopole seventy-five (75') or more feet in height	1,500 ft
	Monopole less than seventy-five (75') feet in height	750 ft
Monopole seventy-five (75') or more feet in height	Lattice or guyed tower	1,500 ft
	Monopole seventy-five (75') or more feet in height	1,500 ft
	Monopole less than seventy-five (75') feet in height	750 ft
Monopole less than seventy-five (75') feet in height	Any type of existing tower	750'

N. **Fencing, Landscaping, and Equipment**.

1. The tower shall be enclosed by security fencing not less than six (6') feet in height and shall be equipped with an appropriate anti-climbing device, provided, however, that the Planning Commission may waive such requirements if it deems appropriate.

2. The tower facility shall be landscaped with a buffer of plant material that effectively screens the view of the tower compound from property used for residences. The buffer shall consist, at a minimum, of a landscaped strip four (4') feet wide outside the perimeter of the tower compound. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible so as to permit any natural growth surrounding or on the site to provide a sufficient buffer. In locations where the visual impact of a tower would be minimal, the landscaping requirements set forth herein may be reduced or waived by the Planning Commission.

3. Any unmanned equipment structure associated with a communication tower shall not exceed six hundred (600 ft^2) square feet and be located on the lot in accordance with the height, yard, and building coverage requirements for the applicable zoning district classification of the parcel.

O. **Removal of Abandoned Antennas and Towers**.

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned and the owner of such antenna or tower shall remove such within ninety (90) days after receipt of notice from the City notifying the owner of such abandonment. Failure to remove an abandoned tower or antenna within ninety (90) days shall be grounds to remove the tower or antenna at the owner's expense. If there are two (2) or more users of a single tower, then this provision shall not be effective until all owners cease using the tower.

P. **Nonconforming Uses**.

1. Towers that are constructed and antennas that are installed in accordance with provisions of this Ordinance shall not be deemed to constitute the expansion of the nonconforming use or structure.

2. Towers existing on the date of adoption of this Ordinance shall be allowed to continue their use as they presently exist. Routine maintenance, including replacement with a new tower of like construction and height, shall be permitted on pre-existing towers. New construction, other than routine maintenance on a pre-existing tower, shall comply with the requirements of this Ordinance.

3. Notwithstanding **subsection O**, nonconforming towers or antennas that are damaged or destroyed shall be subject to the requirements of **Section 3.9: Nonconformities.** If damaged or destroyed towers are eligible under **Section 3.9** to be rebuilt, zoning and building permits to rebuild the facility shall be obtained within one hundred eighty (180) days from the date the facility is damaged or destroyed. If no permit is obtained or said permit expires, the tower and antenna shall be deemed abandoned as specified by this Section.

Section 7.23 Wind Energy Conversion Systems

A. **Purpose**.

The regulation of wind energy conversion systems, including the height, minimum lot area and required setbacks for such systems, is intended to provide for an alternative source of power generation while protecting the health, safety and welfare of City residents.

B. **Technological Advances and Design Standards Flexibility**.

The City recognizes the accelerated pace at which the technology of wind energy generation is constantly evolving, and the impact these technological changes may have on the use and placement of wind energy systems within the City. Consequently, in order to effectively incorporate new technology that may outpace the regulations established herein, the Planning Commission may approve wind energy systems that do not fully comply with the strict development standards of these regulations, if, in the opinion of the Commission, they comply with the intent of the regulations and do not create significant adverse impacts on the petitioned property, abutting properties or the

immediate neighborhood.

C. **Approval**.

1. **Special Land Use**. Due to the concerns related to health, safety and welfare, such systems shall be regulated as special uses within all zoning districts, provided such land area is sufficient to support their development and operation. The following requirements shall be met and the Planning Commission may impose additional conditions where appropriate.

2. In addition to the requirements of **Article 5: Plot Plan and Site Plan Review**, the site plan of the property shall show the location of overhead electrical transmission or distribution lines, whether utilized or not, and the location of the WECS with its specific dimensions, including the entire area through which the rotor(s) may pass, the location of any guy wires or other support devices, and the location of all dwelling units within three hundred (300) feet of the WECS.

3. Each special use permit application shall be accompanied by a complete set (either the original or an accurately reproduced copy) of the manufacturer's instructions which shall, at a minimum, include the following:

   a. A standard foundation and anchor design or specifications for normal soil conditions.

   b. Detailed instructions for operation and maintenance of the WECS on site.

   c. A copy of all warnings and/or documents provided by the manufacturer of the WECS.

   d. Grounding and lightning procedures protection which follow the **National Electrical Code**, Articles 250 (Grounding) and 280 (Lightning Arresters).

   e. Proof of Insurance.

   f. In addition, the Underwriters Label shall be attached to the base of the tower and any subsystem, such as the generator, and the following information shall be included:

      (1) The name, address, and telephone number of the owner of the tower/subsystem.
      (2) Manufacturer's name and address.
      (3) Model number.
      (4) Serial number.
      (5) Emergency and normal shutdown procedures.
      (6) The survival wind speed in miles per hour and meters per second for the tower and the maximum power output for the generator.
      (7) Name of installer.
      (8) Name of person responsible for maintenance.
      (9) Emergency telephone number in force for the installer and the person responsible for maintenance.

D. **Standards**.

1. **Electromagnetic Interference**. The entire WECS (including turbines, alternators, generators, and interconnect systems) shall be filtered and/or shielded to prevent the emission of generated radio frequency energy which would cause any interference with radio, and /or television broadcasting or reception, and shall comply with **Federal Communication Rules, 47 CFR**, parts 15 and 18.

2. **Noise**. The maximum level of noise permitted to be generated by any WECS shall be fifty (50) decibels, as measured on the DBA scale, measured at the property line nearest the WECS. The Planning Commission may request that a baseline study of the decibel levels existing prior to the installation be included as required documentation for review.

3. **Minimum Lot Area/Setbacks**.

   a. **Small Turbine or On-Site WECS.** No WECS shall be erected on any lot or parcel less than one (1) acre in area, unless for a roof-mounted system, and shall be situated on the lot or parcel so that no portion of the tower or turbine is closer to above ground utility lines and/or property lines than one hundred fifty (150%) percent of the height of the tower as defined in **Article 2**. See exemption/waiver provision under **subsection D.6** below. No WECS shall be located in the front yard area.

   b. **Large Turbine or Utility Grid WECS**. All large turbine or utility grid WECS shall be located on a parcel of property that is at least ten (10) acres or more in size. See exemption/waiver provision under **subsection D.6** below.

4. **Height**.

   a. **Small Turbine or On-Site WECS.** The maximum allowable height for any "small turbine or on-site" WECS, based upon the combined tower and rotor blade length, shall be:

      (1) Sixty (60') feet for parcels of one (1) to less than five (5) acres.

      (2) Ninety (90') feet for parcels of five (5) to less than ten (10) acres.

      (3) One hundred and twenty (120') feet for parcels of ten (10) acres or more.

   b. **Large Turbine or Utility Grid WECS**. The maximum allowable height for any "large turbine or utility grid" WECS, based upon the combined tower and rotor blade length, shall be three hundred (300') feet.

5. **Ground Clearance**. For both horizontal and vertical axis turbines, the WECS rotor shall be located on the tower or support such that the minimum blade clearance above ground level is twenty (20') feet.

6. **Exemption/Waiver**. The Planning Commission, in consideration of such request, may waive these lot area, setback and height requirements where such proposed location does not

negatively impact adjoining properties. No such waiver shall be granted from the noise standards listed under **subsection D.2** above.

7. **Accessibility**. Towers shall be designed and constructed in such a manner that climbing devices are only accessible with a separate ladder to a height of twelve (12) feet or by a secured access ladder.

8. **Connection to Power Grid**. In the case of the WECS to be interconnected with the power grid of the local electric utility, the applicant shall provide proof of written notice to the utility of the proposed interconnection and the utility's response thereto.

9. **Vibration**. Under no circumstances shall a WECS produce vibrations humanly perceptible beyond lot boundaries.

10. **Potential Ice Throw.** Any potential ice throw or ice shedding from a WECS shall not cross the property lines of the site nor impinge on any right-of-way or overhead utility line.

11. **Shadow Flicker.** The property owner of a WECS shall make reasonable efforts to minimize shadow flicker to any occupied building on nearby properties.

12. **Lighting**. Lighting shall consist of the minimum required by the Federal Aviation Administration or the Michigan Aeronautics Commission or other applicable authority, or otherwise necessary for the reasonable safety and security thereof. If lighting is required, the lighting alternatives and design chosen:

    a. Shall be the intensity required under State or Federal regulations.

    b. Shall not be strobe lighting or other intermittent white lighting fixtures, unless expressly required by State or Federal regulations. Such intermittent lighting shall be alternated with steady red lights at night if acceptable to State or Federal regulations.

    c. All tower lighting required by State or Federal regulations shall be shielded to the extent possible to reduce glare and visibility from the ground.

13. **Additional Studies**. The applicant may offer and submit, or the Planning Commission may require, that the applicant submit studies related to noise, vibration, or similar issues that may be considered a nuisance. In addition, such studies may include avian and wildlife impact, visual impacts, shadow flicker (changes in light intensity caused by the moving blade) or similar issues based upon compatibility of the proposed use in the requested location.

E. **Decommission Plan/Site Reclamation**.

The applicant shall submit a plan that indicates the anticipated life of the project, the estimated cost and the manner in which the tower will be removed and the site will be reclaimed. The City may impose a bond or similar surety related to the cost of such removal and reclamation.

F. **Building Permit**.

All WECS installations shall obtain approval from the Building Inspector that said installation meets all of the Michigan Construction Code requirements. The WECS shall not be placed in operation until the installation is in compliance with all ordinance and Code requirements.

G. **Equipment Replacement**.

A WECS in its entirety or major components of the WECS may be replaced without a modification of the special use permit provided all regulations contained herein are adhered to.

Section 7.24 Medical Marihuana Establishments

A. All State-Licensed Medical Marihuana Facilities with an approved Medical Marihuana Facilities license pursuant to **Chapter 22, Article V of the City Code of Ordinance** shall be subject to the following:

1. No Marihuana Facility shall be located within five hundred (500') feet of real property comprising a public or private elementary, licensed child care facility, vocational or secondary school.

2. No Marihuana Facility shall be located within two hundred fifty (250') feet of real property comprising of a public park. Any Marihuana Facility located more than two hundred fifty (250') feet but less than five hundred (500') feet or real property comprising a public park shall have perimeter surrounded by an eight (8') foot fence. Fence shall not consist of over forty (40%) percent opaque fence material. Fence material utilized shall be in the form of traditional fencing sold for retail purposed, including metal, vinyl or wood.

3. No Marihuana Facility shall be located within two hundred fifty (250') feet of real property comprising a place of religious worship. Any Marihuana Facility located more than two hundred fifty (250') feet but less than five hundred (500') feet of real property comprising a place of religious worship shall have perimeter surrounded by an eight (8') foot fence. Fence shall not consist of over forty (40%) percent opaque fence material. Fence material utilized shall be in the form of traditional fencing sold for retail purposes, including metal, vinyl or wood.

B. **Dimensional Regulations for Marihuana Facilities in the M-2 District**.

1. No minimum lot area required.

2. Front yard setback shall be no less than thirty (30') feet.

3. Side yard setback shall be no less than twenty (20') feet.

4. Rear yard setback shall be no less than thirty (30') feet.

5. Structure height shall not exceed three (3) stories or fifty (50') feet.

Section 7.25 Solar Energy Facilities (Utility-Scale)

A. **Reflection/Glare**.

Attached, building-integrated or freestanding solar collection devices, or combination of devices, shall be designed and located to avoid glare or reflection onto adjacent properties and adjacent roadways and shall not interfere with traffic or create a safety hazard. This may be accomplished by both the placement and angle of the collection devices as well as human-made or environmental barriers. Glare intensity is considered an issue if it measures more than twenty (20%) percent of the incident sun intensity. Plans to reduce glare may be required in the initial materials submitted.

B. **Impervious Surface/Stormwater.**

If more than eight thousand (8,000 ft^2) square feet of impervious surface will be located on the site, the application shall include a drainage plan prepared by a registered civil engineer showing how stormwater runoff will be managed. If detergents will be used to clean solar panels, details on the type of detergent, frequency and quantity of use, and stormwater quality protection measures shall be provided. Any necessary permits from outside agencies for off-site discharge shall be provided.

C. **Screening.**

Solar devices shall be screened from view from any residential district or residential use by use of a masonry screen wall, evergreen vegetation or other screening of a similar effectiveness and quality, as determined by the Planning Commission.

D. **Setbacks.**

The setbacks of all solar collection devices and ancillary equipment, including power storage devices, shall be at least fifty (50) feet from all property lines.

E. **Abandonment.**

Any freestanding solar collection site or device which is not operational for twelve (12) months shall be deemed to be abandoned. The applicant/permit holder will be so notified in writing by the City and requested to dismantle the site and return it to its original state within ninety (90) days after receipt of notice from the City. If there are mitigating circumstances as to why the site has been non-operational, the applicant/permit holder may contact the City and request a twelve (12) month extension. If a site has been deemed abandoned and no request for an extension is received within ninety (90) days, the City will have the removal and restoration done at the owner/applicant's expense. Removal shall include removing posts, equipment, panels, foundations and other items so that the ground is restored to its preconstruction state and is ready for development as another land use.

Section 7.26 Sexually Oriented Businesses

The purpose and intent of the Section of this Ordinance pertaining to the regulation of sexually oriented businesses is to regulate the location and operation of, but not to exclude, sexually oriented businesses within the City, and to minimize their negative secondary effects. It is recognized that sexually oriented businesses, because of their very nature, have serious objectionable operational characteristics which cause negative secondary effects upon nearby residential, educational, religious, and other similar public and private uses. The regulation of sexually oriented businesses is necessary to ensure that their negative secondary effects will not contribute to the blighting and downgrading of surrounding areas and will not negatively impact the health, safety, and general welfare of City residents. The provisions of this Ordinance are not intended to offend the guarantees of the First Amendment to the United States Constitution or to deny adults access to sexually oriented businesses and their products, or to deny sexually oriented businesses access to their intended market. Neither is it the intent of this Ordinance to legitimatize activities which are prohibited by City Ordinances, State or Federal law. If any portion of this Ordinance relating to the regulation of sexually oriented businesses or referenced in those sections is found to be invalid or unconstitutional by a court of competent jurisdiction, the City intends said portion to be disregarded, reduced, and/or revised so as to be recognized to the fullest extent possible by law. The City further states that it would have passed and adopted what remains of any portion of this Ordinance relating to regulation of sexually oriented businesses following the removal, reduction, or revision of any portion so found to be invalid or unconstitutional.

A. No sexually oriented business shall be greater than five thousand (5,000 ft^2) square feet.

B. No sexually oriented business shall be established on a parcel within five hundred (500') feet of any residence, public or private school, church, public park, State-licensed child care facility, or residential zoning district.

C. No sexually-oriented business shall be permitted in a location in which any principal or accessory structure, including signs, is within one thousand (1,000') feet of any principal or accessory structure of another sexually-oriented business.

D. For the purpose of this Section, measurements shall be made in a straight line in all directions without regard to intervening structures or objects, from the closest part of any structure, including signs and roof overhangs, used in conjunction with the sexually oriented business to the closest point on a property boundary or right-of-way associated with any of the land use(s) or zoning district identified in **subsections B and C** above.

E. The proposed use shall conform to all specific density and setback regulations of the zoning district in which it is located.

F. The proposed use must meet all applicable written and duly promulgated standards of the City and other governments or governmental agencies having jurisdiction, and that to the extent required, the approval of these governments and/or governmental agencies has been obtained or is reasonably assured.

G. The outdoor storage of garbage and refuse shall be contained, screened from view and located so as not to be visible from neighboring properties or adjacent roadways.

H. Any sign or signs proposed for the sexually oriented business must comply with the provisions of this Ordinance, and shall not otherwise include photographs, silhouettes, drawings, or pictorial representations of any type, or include animated or flashing illumination.

I. Entrances to the proposed sexually oriented business must be posted on both the exterior and interior walls in a location clearly visible to those entering and exiting the business, and using lettering no less than two (2") inches in height that: 1) "persons under the age of 18 are not permitted to enter the premises," and 2) "No alcoholic beverages of any type are permitted within the premises unless specifically allowed pursuant to a license duly issued by the Michigan Liquor Control Commission."

J. No product or service for sale or gift, or any picture or other representation of any product or service or gift, shall be displayed so as to be visible from the nearest adjoining sidewalk, street, or a neighboring property.

K. Hours of operation shall be limited to 12:00 PM (noon) to 12:00 AM (Midnight).

L. Any booth, room, or cubicle available in any sexually oriented business, excepting an adult motel, used by patrons for the viewing of any entertainment characterized by the showing of Specified Anatomical Areas or Specified Sexual Activities:

1. Shall be handicap accessible to the extent required by the **Americans With Disabilities Act**;

2. Shall be unobstructed by any door, lock, or other entrance and exit control device;

3. Has at least one (1) side totally open to a public, lighted aisle so that there is an unobstructed view at all times from the adjoining aisle of any occupant;

4. Is illuminated such that a person of normal visual acuity looking into the booth, room or cubicle from its entrance adjoining the public lighted aisle can clearly determine the number of people within.

5. Has no holes or openings in any interior or exterior walls not relating to utility, ventilation or temperature control services or otherwise required by any governmental building code or authority.

Article 8
Zoning Board of Appeals

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Section 8.1 Membership & Appointment

The Zoning Board of Appeals (ZBA), as constituted at the time of enactment of this Ordinance, shall continue in power. The Zoning Board of Appeals shall perform its duties and exercise its powers as provided in Section 601 of **2006 PA 110**, as amended, and in such a way that the objectives of this Ordinance shall be observed, public safety secured, and justice done.

A. **Membership and Terms of Office**.

The Zoning Board of Appeals shall consist of seven (7) members. Future appointments to the seven-member Board by the City Council shall be for a term of three (3) years each; provided that two (2) of the members shall serve for a term of one (1) year, two (2) for a term of two (2) years, thereafter each member to hold office for the full three-year term. No elected official or employee of the City of Albion may be appointed to the Zoning Board of Appeals.

B. **Alternates**.

The Mayor, with the consent of City Council, shall also appoint two (2) alternate members with three-year terms. An alternate member may be called to sit as a regular member of the Zoning Board of Appeals in the absence of a regular member if a regular member is absent from or unable to attend two (2) or more consecutive meetings of the Zoning Board of Appeals or for a period of more than thirty (30) consecutive days. An alternate member may also be called to serve in the place of a regular Board member for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate Board member shall have the same voting rights as a regular member of the Zoning Board of Appeals.

C. **Removal of Member**.

Members of the Board shall be removable for misfeasance, malfeasance, or nonfeasance (nonperformance of duty, misconduct in office, or other cause) by the City Council upon written charges having been filed with the council and after a public hearing has been held regarding such charges. The member shall be given an opportunity to be heard and answer such charges. Vacancies

shall be filled by the City Council and shall be for the unexpired term.

Section 8.2 Meetings

A. **Meetings and Rules of Procedure**.

The Zoning Board of Appeals shall adopt its own rules of procedure and meetings shall be held at the call of the Chairperson and at such other times as the Board may determine.

B. **Open Meetings.**

Such meetings shall be open to the public in compliance with the **Open Meetings Act, 1976 P.A. 267**, as amended.

C. **Records.**

A record of its proceedings, showing the action of the Board and the vote of each of the members on every question considered, shall be kept.

D. **Quorum.**

The presence of four (4) members shall be necessary to constitute a quorum. The Zoning Board of Appeals shall not conduct business unless a majority of those Zoning Board of Appeals members qualified to sit for a particular matter are present to constitute a quorum, regardless of whether the members are regular members or alternate members.

Section 8.3 Procedures

A. **Applications; when and by whom taken**.

An application, in cases in which the Zoning Board of Appeals has original jurisdiction under the provisions of this Section, may be taken by any property owner, including a tenant, or by any officer, department, board or bureau. Such application shall be filed with the Zoning Administrator who shall transmit same to the Board.

B. **Appeals; when and by whom taken**.

An appeal to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the Zoning Administrator. Such appeal shall be taken within ten (10) days after the decision, by filing with the Zoning Administrator and the Board of Appeals a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed was taken.

C. **Documents Required**.

The applicant shall submit eight (8) copies of surveys, plans and data or other information which is requested by the Zoning Administrator or Chair of the ZBA and which is reasonably necessary.

D. **Fee**.

Before accepting for filing any requests in which the Zoning Board of Appeals has appellate or original jurisdiction under the provisions of this Article, the City of Albion shall charge and collect the fees in accordance with the schedule of fees adopted by the City Council resolution. If an applicant requests and receives a postponement of the hearing subsequent to the mailing of notices and advertisement of public hearing, said applicant shall pay the necessary expenses incurred by the City to re-notice the hearing.

E. **Hearings and Public Notice**.

The Zoning Board of Appeals shall fix a reasonable time for the hearing of the application or appeal and shall give notice of the hearing pursuant to **Section 9.11**. At the hearing, any party may appear in person or by agent or by attorney.

F. **Adjournment of Hearings**.

Upon the day for hearing any application or appeal, the Board may adjourn the hearing in order to permit the obtaining of additional information, or to cause such further notice as it deems proper to be served upon such other property owners or occupants as it decides may be substantially interested in said application or appeal. In the case of an adjourned hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing, unless the Board so decides.

G. **Decisions of the Board**.

1. The concurring majority vote of the full membership of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of any administrative official or body, or to decide in favor of the applicant any matter upon which they are required to pass under this Ordinance, or to grant a non-use variance. The granting of a use variance requires the concurring vote of two-thirds (2/3) of the full membership of the Zoning Board of Appeals.

2. The Board shall decide all applications and appeals within thirty (30) days after the final hearing thereon. A certified copy of the Board's decision shall be transmitted to the applicant or appellant and to the Zoning Administrator. Such decision shall be binding upon the Zoning Administrator and observed by the Zoning Administrator, and he/she shall incorporate the terms and conditions of the same in the permit to the applicant or appellant, whenever a permit is authorized by the Board.

3. A decision of the Board shall not become final until the expiration of five (5) days from the date such decision is made, unless the Board shall find the immediate effect of such decision is necessary for the preservation of property or personal rights and shall so certify on the record.

4. A decision or variance granted by the Zoning Board of Appeals runs with the land and shall be valid after transfer of property ownership.

H. **Conditions**.

In granting the variance, the Zoning Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.

I. **Stay of Proceedings**.

An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certified to the Board of Appeals after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by an order which may, on due cause shown, be granted by the Board of Appeals on application after notice to the Zoning Administrator, or by judicial proceedings. When an appeal is filed, the Zoning Administrator shall immediately notify personally or by mail all parties concerned.

J. **Review by Circuit Court**.

Any party aggrieved by any order, determination or decision of any office, agency, board, commission, or Board of Appeals may obtain a review thereof both on the facts and law, in the circuit court for Calhoun County; provided, that application is made to the court within thirty (30) days after delivery of a copy of such order, determination or decision, by certiorari or by any other method permissible under the rules and practices of the circuit courts of Michigan. On such review the courts shall have jurisdiction to make such further orders in respect thereto as justice may require.

Section 8.4 Powers

The Zoning Board of Appeals shall have all powers and authority granted by **2006 PA 110** of, as amended (Michigan Zoning Enabling Act, being MCL 125.3101 et. seq.), together with such other powers and duties as are given to such Board by the provisions of this Ordinance, including the following specific powers:

A. **Interpretations**.

1. Where there is a question as to the location of any boundary line between zoning districts, as provided for in **Article 4** of this Ordinance, the Board shall interpret the map in such a way as to carry out the intent and purpose of this Ordinance.

2. The Board shall hear and decide requests for interpretation of the text of this Ordinance.

B. **Appeals from Administrative Decision**.

The Board shall have the power to hear and decide appeals, filed as provided for in **Section 8.3,** where it is alleged by the appellant that there is an error in any order, requirement, decision, grant or refusal made by the Zoning Administrator or other administrative official or body in the interpretation of this Ordinance.

C. **Non-Use Variances**.

The Zoning Board of Appeals shall have the power to authorize non-use variances, filed as provided for in **Section 8.3,** subject to conditions stipulated by the Board, as will not be contrary to the public interest and upon the finding of practical difficulties. In authorizing a non-use variance, the Board shall require such evidence and a guarantee or bond as it may deem necessary that the conditions attached are being and will be complied with. To establish practical difficulty, the applicant must establish all of the following beyond reasonable doubt:

1. That there are exceptional or extraordinary conditions applying to the property that do not apply to other properties in the same zoning district.

2. That strict compliance with regulations governing area, setback, frontage, height, bulk, density or other non-use requirements will unreasonably prevent the property owner from using the property for a permitted purpose or will render conformity with those regulations unnecessarily burdensome.

3. That the need for the requested variance is not the result of actions of the property owner or previous property owners (self-created).

4. Whether granting the requested variance would do substantial justice to the applicant as well as to other property owners in the district, or whether granting a lesser variance than requested would give a substantial relief to the property owner and be more consistent with justice to other property owners.

5. That the authorizing of such variance will not be of substantial detriment to adjacent property and will not impair the purposes of this Ordinance or the public interest.

D. **Use Variances**.

The Zoning Board of Appeals shall have the power to authorize use variances, filed as provided for in **Section 8.3**, subject to conditions stipulated by the Board, as will not be contrary to the public interest and upon the finding of unnecessary hardship. In authorizing a use variance, the Board shall require such evidence and a guarantee or bond as it may deem necessary that the conditions attached are being and will be complied with. To establish unnecessary hardship, the applicant must establish all of the following beyond reasonable doubt:

1. The building, structure, or land cannot be reasonably used for any of the uses permitted by right or by special use permit in the zoning district in which it is located.

2. That there are exceptional or extraordinary conditions applying to the property that do not apply to other properties or classes of uses in the same zoning district.

3. The proposed use will not alter the essential character of the neighborhood.

4. The immediate hardship causing the need for the use variance was not created by the property owner or previous property owners (self-created).

E. **Special Land Use and PUD**.

The ZBA has jurisdiction to hear appeals from Planning Commission decisions concerning Special Land Use approvals and Planned Unit Developments.

Section 8.5 Resubmittal

No application for the variance which has been denied, wholly or in part, by the Zoning Board of Appeals shall be resubmitted for a period of one (1) year from the date of the last denial, except on the grounds of newly discovered evidence or proof of changed conditions found upon inspection by the ZBA to be valid.

Article 9
Administration and Enforcement

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Section 9.1 Zoning Administrator

A. There is hereby established the office of Zoning Administrator, and for the purpose of this Ordinance the building inspector may be designated as said Zoning Administrator.

B. It shall be the duty of the Zoning Administrator to administer and enforce this Ordinance in accordance with the provisions contained herein.

C. In the performance of his/her duties, the Zoning Administrator or employees properly authorized to represent him/her shall have the right to enter any building or premise for the purpose of investigation or inspection.

Section 9.2 Coordination with Other Departments

The Zoning Administrator shall furnish to the various departments, officers or employees, vested with the duty or authority to issue permits or licenses such information as will ensure proper administration of this Ordinance. It shall be the duty of said departments, officers and employees to cooperate with the Zoning Administrator in the performance of his/her duties. Any permit or license issued by said departments, officials and employees in conflict with the provisions of this Ordinance shall be null and void.

Section 9.3 Zoning Permit

A. **Zoning Permit Required**.

No land shall be used or occupied and no structure shall be designed, erected, altered or used hereafter until a zoning permit shall have been issued by the Zoning Administrator. It shall be the duty of the Zoning Administrator to issue a zoning permit, provided he/she is satisfied that the building, structure or premises, and the proposed use thereof, conform with all the requirements of this

Ordinance. A zoning permit issued by the Zoning Administrator shall be required prior to the issuance of any building permit.

1. **Administrative Approval (per Section 5.1)**. If the Zoning Administrator finds the plot plan/site plan conforms with the requirements of the Ordinance, two (2) copies shall be signed and dated. One (1) copy shall be filed with the City and one returned to the applicant.

2. **Planning Commission Approval (per Section 5.1)**. The Zoning Administrator shall issue a zoning permit for applications that have been approved by the Planning Commission through the Site Plan Review process. One (1) signed and dated copy of the site plan shall be filed with the City and one (1) returned to the applicant.

3. If plans, as required under **subsection B,** are not approved, the Zoning Administrator must state, in writing, reasons for disapproval.

4. All permits and plans or data relating thereto shall be kept on permanent file by the Zoning Administrator.

B. **Plot Plan or Site Plan Required**.

Every application for a zoning permit shall be accompanied by plans in duplicate, drawn to scale in black line or blueprint, containing the data required in **Article 5.** One (1) copy of such plans, signed and dated by the Zoning Administrator and applicant, shall be returned to the applicant when such plans shall have been approved by the Zoning Administrator together with a zoning permit as may be granted.

C. **Other Required Permits**.

A Zoning Permit shall not be issued until all other necessary permits required by statute have been obtained or waived with the exception of those permits which are contingent upon the issuance of a zoning permit.

D. **Zoning Permit Expiration**.

Zoning permits for structures on which work has not started within one (1) year following the date of issue, and permits for structures upon which work has been abandoned for a period of one (1) year, shall lapse and cease to be in effect unless an alternate timelines has been approved by the Planning Commission during the site plan review process. In either of the above instances, the zoning permit may be renewed upon reapplication and payment according to the fee established by the City Council. Expiration of site plans are regulated by **Section 5.11** and expiration of special land uses are regulated in **Section 6.4**.

E. **Payment of Fees**.

No Zoning Permit shall be valid until the required fees have been paid. Applications and petitions filed pursuant to the provisions of this Ordinance shall be accompanied by the filing fees as specified by the City Council.

F. **Conformance with Approved Plans**.

Permits issued on the basis of plans and applications approved by the Zoning Administrator or Planning Commission authorize only the use, arrangement and construction set forth in such approved plans and applications. Any other use, arrangement or construction at variance with that authorized shall be deemed a violation of this Ordinance.

G. **Failure to Obtain a Zoning Permit**.

Any person, partnership, limited liability company, corporation, association or other entity who fails to obtain any necessary zoning permit shall be subject to **Section 9.13: Enforcement and Penalties**.

Section 9.4 Administrative Forms

The City Planning Commission may recommend that certain standardized forms be adopted so as to assure uniform presentation of facts and assist the Zoning Administrator in the performance of his/her duties.

Section 9.5 Inspections

The construction or usage affected by any Zoning Permit shall be subject to the following inspections by the Zoning Administrator:

A. At time of staking out of building foundation or location of structure. The property owner is responsible for determining and marking the correct location of property lines from which setbacks are measured.

B. Upon completion of the construction authorized by the permit.

C. It shall be the duty of the holder of every permit to notify the Zoning Administrator when construction is ready for inspection.

D. Should the Zoning Administrator determine that the building or structure is not located according to the plot plan or site plan filed, or is in violation of any provision of this Ordinance, or any other applicable law, he shall so notify in writing, the holder of the permit or his agent. Further construction shall be stayed until correction of the defects set forth has been accomplished and approved upon notice and request for re-inspection by the applicant and those inspections completed and compliance certified by the Zoning Administrator.

Section 9.6 Report to City Council

Following the enactment of this Ordinance, the City Planning Commission shall from time to time prepare and file, with the City Council a report on the operations of said Ordinance, including recommendations as to amendments, supplements or changes thereto, at least once a year.

Section 9.7 Interpretation & Conflicts

A. In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirement where this Ordinance imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the provisions of this Ordinance shall control, except where legally superseded. Where any provision of this Ordinance differs from any other provision of this Ordinance, the more restrictive requirement shall prevail.

B. The graphics, tables and text used throughout this Ordinance are regulatory. In case of a conflict, text shall control over tables and graphics; tables shall control over graphics.

Section 9.8 Fees

A. **Standard Fees**.

To assist in defraying the costs of investigating, reviewing, and administering zoning applications, appeals, rezoning requests from individual property owners, and other types of decisions which result in extra costs to the City, the City Council may from time to time adopt by resolution a fee schedule establishing basic zoning fees. The amount of these zoning fees shall be applied to costs associated with the review of the application or appeal, including but not limited to the costs associated with conducting public hearings, publishing notices in the newspaper, sending required notices to property owners, postage, photocopying, mileage, time spent by planning staff, and time spent by the members of the Planning Commission and/or Zoning Board of Appeals. The basic zoning fees are non-refundable, even when an application or appeal is withdrawn by the applicant.

B. **Additional Fees**.

If the Zoning Administrator, Planning Commission or Zoning Board of Appeals determines that the basic zoning fees will not cover the actual costs of the application review or appeal, or if the Zoning Administrator, Planning Commission or Zoning Board of Appeals determines that review of the application and/or participation in the review process or appeal by qualified professional planners, engineers, attorneys, or other professionals is necessary, then upon approval of the City Council, the applicant shall deposit with the City such additional fees equal to the estimated additional costs. The additional zoning fees shall be held in escrow in the applicant's name and shall be used solely to pay these additional costs. If the amount held in escrow becomes less than ten percent (10%) of the initial escrow deposit or less than ten percent (10%) of the latest additional escrow deposit and review of the application or decision on the appeal is not completed, then the City Council may require the applicant to deposit additional fees into escrow in an amount equal to the estimated costs to

complete the review or decide the appeal. Failure of the applicant to make any escrow deposit required under this Ordinance shall be deemed to make the application incomplete or the appeal procedurally defective thereby justifying the denial of the application or the dismissal of the appeal. Any unexpended funds held in escrow shall be returned to the applicant following final action on the application or the final decision on the appeal. Any actual costs incurred by the City in excess of the amount held in escrow shall be billed to the applicant and shall be paid by the applicant prior to the issuance of any permit or the release of a final decision on an appeal.

Section 9.9 Performance Guarantee

In connection with the construction of improvements through site plan approval, Special Land Use approval, or a PUD project, the Planning Commission may require the applicant to furnish the City with a performance guarantee in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the City in an amount equal to the estimated costs associated with the construction of public and site improvements or the restoration of property to its original condition. Public improvements mean, by way of example and not limitation, roads, parking lots, and water and sewer systems which are located within the development or which the applicant has agreed to construct even though located outside the development. Site improvements mean landscaping, buffering, and the completion of conditions imposed by the Planning Commission which are located within the development. For purposes of this Section, the costs covered by the performance guarantee shall include all of the following: (1) the purchase, construction, and/or installation of the improvements or restoration work, (2) architectural and engineering design and testing fees and related professional costs, and (3) an amount for contingencies consistent with generally accepted engineering and/or planning practice. The performance guarantee shall be deposited with the City at or before the time the City issues the permit authorizing the development, or if the development has been approved in phases, then the performance guarantee shall be deposited with the City prior to the commencement of construction of a new phase. The performance guarantee shall ensure completion of the public and site improvements in accordance with the plans approved by the Planning Commission. Any cash deposit or certified funds shall be refunded for the development or each phase of a multi-phase development in the following manner:

A. One-third (1/3) of the cash deposit after completion of one-third (1/3) of the public and site improvements by the applicant;

B. Another one-third (1/3) of the cash deposit after completion of two-thirds (2/3) of the public and site improvements by the applicant; and

C. The balance at the completion of the public and site improvements by the applicant.

Any irrevocable bank letter of credit or surety bond shall be returned to the applicant upon completion of the public improvements by the applicant. If a development is to be completed in phases, then the Planning Commission may require the applicant to furnish a performance guarantee as provided in this Section for each phase of the development. If an applicant has contracted with a third-party to construct the public and site improvements and the third-party has provided a bond meeting the requirements described above and the bond also names the City as a third-party beneficiary of the bond, then the Planning Commission may accept that bond as meeting all or a

portion of the performance guarantee required by this Section.

Section 9.10 Use of Consultants

From time to time, the City Council, Planning Commission, or Zoning Board of Appeals may employ planning, engineering, legal, traffic or other special consultants to assist in the review of Special Land Use permits, site plans, re-zonings or other matters related to the planning and development of the City.

Section 9.11 Public Notification

All applications for development approval requiring a public hearing (including but not limited to Special Land Uses, rezonings, and ZBA requests) shall comply with the **Michigan Zoning Enabling Act, 2006 PA 110** as amended, MCL 125.3101 et. seq. and the other provisions of this Section with regard to public notification.

A. **Published Notice**.

When the provisions of this Ordinance or the Michigan Zoning Enabling Act require that notice be published, the Zoning Administrator shall be responsible for preparing the content of the notice, having it published in a newspaper of general circulation in the City and mailed or delivered as provided in this Section.

B. **Content**.

All mail, personal and newspaper notices for public hearings shall:

1. **Describe the nature of the request**. Identify whether the request is for a rezoning, text amendment, Special Land Use, planned unit development, variance, appeal, Ordinance interpretation or other purpose.

2. **Location**. Indicate the property that is subject to the request if applicable. The notice shall include a listing of all existing street addresses within the subject property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used such as a tax parcel identification number, identification of the nearest cross street, or the inclusion of a map showing the location of the property. No street addresses must be listed when eleven (11) or more adjacent properties are proposed for rezoning, or when the request is for an Ordinance interpretation not involving a specific property.

3. **Date, Time, and Location**. When and where the request will be considered: indicate the date, time and place of the public hearing(s).

4. **Written comments**. Include a statement describing when and where written comments will be received concerning the request. Include a statement that the public may appear at the public hearing in person or by counsel.

5. **Disabled access**. Information concerning how disabled access will be accommodated if the meeting facility is not disabled accessible.

C. **Notice**.

1. Except as noted in **Section 9.11.C.2** and **Section 9.11.C.3** below, notices for all public hearings shall be given as follows:

   a. Notice of the hearing shall be not less than fifteen (15) days before the date of the public hearing.

   b. Notice of the hearing shall be published in a newspaper of general circulation.

   c. Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered and the applicant, if different than the owner(s) of the property.

   d. Notice shall also be sent by mail to all persons to whom real property is assessed within three hundred (300') feet of the property and to the occupants of all structures within three hundred (300') feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction.

      (1) If the name of the occupant is not known, the term "occupant" may be used in making notification under this subsection.

      (2) Notification need not be given to more than one (1) occupant of a structure, except that if a structure contains more than one (1) dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one (1) occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four (4) dwelling units or other distinct spatial areas owned or leased by different individuals, partnerships, businesses or organizations, notice may be given to the manager or owner of the structure who shall be requested to post the notice at the primary entrance to the structure.

   e. An affidavit of mailing shall be maintained.

2. Newspaper publication as required in **Section 9.11.C.1** above shall be the only notice required for an amendment to the Zoning Ordinance or the zoning map that affects eleven (11) or more properties.

3. For ordinance interpretations and appeals of administrative decisions by the Zoning Board of Appeals, notice that does not affect a specific property shall be only to the applicant and by newspaper publication, as required in **Section 9.11.C.1** above

4. **Notice Deemed Given**. Notice shall be deemed given when personally delivered or by its deposit in the United States mail, first class, properly addressed, and postage paid. The Zoning Administrator shall prepare a list of property owners and registrants to whom notice was mailed, as well as of anyone to whom personal notice was delivered.

5. **Addresses not on File**. Failure to send notice by mail to any such property owner where the address of such owner is not a matter of record in the assessor's office shall not invalidate any proceedings in connection with proposed amendment, supplement or change.

6. **Registration to Receive Notice by Mail**.

   a. **General**. Any neighborhood organization, public utility company, railroad or any other person may register with the City to receive written notice of all applications for development approval or written notice of all applications for development approval within the zoning district in which they are located. The City Clerk shall be responsible for providing this notification.

   b. **Requirements**. The requesting party must provide the City information to ensure notification can be made.

Section 9.12 Conditions

The Planning Commission and Zoning Board of Appeals may attach reasonable conditions on zoning decisions under its respective jurisdiction. These conditions may include those necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Any conditions imposed, however, shall meet all of the following requirements:

A. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

B. Be related to the valid exercise of the police power, and purposes which are affected by the proposed use or activity.

C. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

Section 9.13 Enforcement & Penalties

A. **Enforcement**.

In case any building, except as otherwise provided in this Ordinance, is, or is proposed to be, located, erected, constructed, enlarged, changed, maintained or used, or any land is, or is proposed to be, used in violation of this Ordinance or any amendment, the Zoning Administrator shall have the authority to implement the enforcement thereof by any of the following means:

1. The Zoning Administrator may serve notice requiring the removal of any use in violation of this Ordinance upon the owner, agent or tenant of the building or land, or upon the architect, builder, contractor or other person who commits or assists in any such violation.

2. The Zoning Administrator may call upon the attorney for the City of Albion to institute any necessary legal proceedings to enforce the provisions of this Ordinance, and the attorney is hereby authorized to institute appropriate actions to that end.

3. The Zoning Administrator may call upon the local law enforcement officer or his deputies to assist in the enforcement of this Ordinance.

4. In addition to the authority vested in the Zoning Administrator, the attorney for the City of Albion or any adjacent or neighboring property owner who would be specially damaged by violation of this Ordinance may institute injunction to restrain or abate, to cause the correction or removal of any violation of this Ordinance.

B. **Penalties**.

Any person, firm or corporation violating any of the provisions of this Ordinance, or any amendment thereto, shall be deemed guilty of a municipal civil infraction. Each and every day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. Municipal civil infractions are regulated under **Section 1-26 of Chapter 1 of the Code of Ordinances**.

Section 9.14 Rehearing Process

No application for variances or special exceptions which has been denied shall be resubmitted within one (1) year from the last date of denial, except as provided below:

A. **Rehearing Performed by Planning Commission or ZBA**.

The Planning Commission or Zoning Board of Appeals may grant a rehearing under exceptional circumstances for any decision made by it. A rehearing shall mean that the body which originally reviewed the request shall be the body which reviews the same request again. Exceptional circumstances shall mean any of the following:

1. The applicant who brought the matter before the Planning Commission or Zoning Board of Appeals made misrepresentations concerning a material issue, which was relied upon by the Planning Commission or Zoning Board of Appeals in reaching its decision.

2. There has been a material change in circumstances regarding the Planning Commission or Zoning Board of Appeals' findings of fact, which occurred after the site plan review or public hearing.

3. The City attorney, by written opinion, states that, in the attorney's professional opinion, the decision made by the Planning Commission or Zoning Board of Appeals or the procedure used in the matter was clearly erroneous.

B. **Rehearing Procedure**.

A rehearing may be requested by the applicant or by the Zoning Administrator, or a rehearing may be granted by the Planning Commission or Zoning Board of Appeals on its own motion.

1. **Time Limit**. A request for a rehearing which is made by an applicant must be made within twenty-one (21) days from the date on which the applicant receives notification regarding the decision for which the rehearing is being requested.

2. A request for a rehearing made by the Zoning Administrator or a rehearing granted by the Planning Commission or Zoning Board of Appeals on its own motion may be granted at any time as long as the applicant has not been prejudiced by any delay.

3. Whenever the Planning Commission or Zoning Board of Appeals considers granting a rehearing, it shall provide notice, pursuant to **Section 9.11**.

4. If the Planning Commission or Zoning Board of Appeals grants a rehearing, then the rehearing shall not be held until all notice requirements for the type of decision being reheard have been satisfied.

Section 9.15 Action Table

The following table is a summary of basic requirements for various administrative actions under this Zoning Ordinance. It supplements the preceding text, but is not a substitute for it.

Type of action	Parties who may initiate action	Body making decision	Public hearing required	Published notice(s)- Number of days before hearing	Mailed notice to all owners and occupants within 300 feet - Days before hearing	Body to which applicant may appeal a denial
Plot plan approval	Applicant	ZA	No	-----	-----	ZBA
Site plan approval	Applicant	PC	No	-----	-----	ZBA
Special use permit	Applicant	PC	Yes	Not less than 15 days	Not less than 15 days	ZBA
Planned unit development	Applicant	PC	Yes	Not less than 15 days	Not less than 15 days	ZBA
Variance	Applicant	ZBA	Yes	Not less than 15 days	Not less than 15 days	Circuit Court
Interpretation	Applicant, PC, or ZA	ZBA	Yes	Not less than 15 days	Not less than 15 days	Circuit Court
Appeal from decision	Any aggrieved party	ZBA	Yes	Not less than 15 days	Not less than 15 days	Circuit Court
Rezoning or Text Change (Amendment)	Applicant, PC	Step 1: PC recommends to CC	Yes	Not less than 15 days	Not less than 15 days	No action until after CC decision
		Step 2: CC	No	------	------	-----
		Step 3: CC publishes Notice of Adoption in newspaper (within 15 days after adoption). Amendment goes into effect on the 8th day after publication.				
Zoning Ordinance Enforcement	ZA	------	------	------	------	ZBA

ZA = Zoning Administrator PC = Planning Commission CC = City Council ZBA = Zoning Board of Appeals

Article 10
Adoption and Amendment

Sec	Name	Pg	Sec		Pg
10.1	Initiating Amendments	10-1	10.5	Validity & Repeal	10-7
10.2	Amendment Procedures	10-1	10.6	Vested Right	10-7
10.3	Rezoning Standards	10-3	10.7	Repeal & Savings Clause	10-7
10.4	Conditional Rezoning	10-3	10.8	Enactment & Effective Date	10-8

Section 10.1 Initiating Amendments

A. **General**.

Whenever the public necessity, general welfare or good zoning practice require, the City Council may, by ordinance and subject to the procedure provided by **2006 PA 110,** as amended, amend, supplement or change the regulations, district boundaries or classification of property, now, or hereafter established by this Ordinance or amendments thereof.

B. **Persons Authorized to Initiate**.

1. Any proposed amendments to this Ordinance may be initiated by any person, firm, or corporation filing an application therefor.

2. Whenever deemed necessary for public convenience, general welfare or good zoning practice, the City Planning Commission or the City Council may initiate an amendment by a majority vote of the full membership of either of the respective council and/or commission. Such proposed amendment, to this Ordinance shall then follow the same procedure herein set forth for filing an application for zoning amendment.

Section 10.2 Amendment Procedures

A. **Filing of Application**.

1. **Application**. The application for any proposed amendment shall be directed to the City Planning Commission on forms prescribed for such purpose, accompanied by sufficient information so as to assure the fullest presentation of facts for the permanent record.

2. **Fees**. Each application for a zoning amendment shall be accompanied by a check payable to the City of Albion, or a cash payment, in accordance with the schedule of fees adopted by the City Council resolution.

B. **Action by Planning Commission**.

1. **Public Hearing**. The City Planning Commission shall then hold a public hearing on such proposed amendment, supplement or change as set forth in the application, notice of the time and place of which shall be given pursuant to **Section 9.11**. The City Planning Commission shall adopt rules and regulations for the conduct of public hearings consistent with law or ordinance. After providing the notice required under this Section and without further notice, except that as required under the **Open Meetings Act**, the Planning Commission may adjourn from time to time a duly called public hearing by passing a motion specifying the time, date, and place of the continued public hearing.

2. **Planning Commission Recommendation**. After the public hearing on such amendment, the City Planning Commission shall make its recommendation. Such recommendation shall be by resolution of the City Planning Commission carried by the affirmative votes of not less than five (5) members of the commission.

C. **Action by City Council**.

1. **Approval or Denial of Amendment.** Such amendment, accompanied by the recommendations of the City Planning Commission, shall then be presented to the City Council. Such amendment, supplement or change may be adopted or denied only by the affirmative votes of not less than four (4) members of the City Council.

2. **Modification of Amendment**. If the City Council modifies the amendment, such shall be submitted to the Planning Commission for review and comment. Following review and comment by the Planning Commission, the City Council shall reconsider the amendment.

3. **Notice of Adoption.** Following City Council adoption, one (1) notice of adoption shall be published in a newspaper of general circulation within fifteen (15) days after adoption. The notice of adoption shall include the following:

   a. A summary of the regulatory effect of the amendment, including the geographic area(s) affected, or the text of the amendment as adopted.

   b. The amendment shall take effect upon the expiration of seven (7) days after publication or at such later date after publication as specified by the City Council.

   c. The place and time where a copy of the amendment may be purchased or inspected.

D. **Resubmission of Denied Amendment**.

Whenever a proposed amendment, supplement or change has not been approved by the City Planning Commission and the City Council concurs by not adopting it, such amendment, supplement or change shall not be resubmitted to the City Council for at least one (1) year from the effective date of final action thereon, excepting whereas it is established that there has been a material change in circumstances and attested thereto.

Section 10.3 Rezoning Standards

In considering any petition for an amendment to the official zoning map (rezoning), the Planning Commission shall and the City Council may consider the criteria listed below in making its findings, recommendations, and decision. Where a rezoning is reasonable given the criteria below, a determination shall be made that the requested zoning district is more appropriate than another district or amending the list of permitted or Special Land Uses within a district.

A. Are all of the allowable uses in the proposed district reasonably consistent with surrounding uses in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure, and potential influence on property values?

B. Will there be an adverse physical impact on surrounding properties?

C. Will rezoning create a deterrent to the improvement or development of adjacent property in accordance with existing regulations?

D. Is the proposed rezoning consistent with the goals and objectives of the Comprehensive Plan, including any subarea or corridor studies? If conditions have changed since the Comprehensive Plan was adopted, is the proposed rezoning consistent with recent development trends in the area?

E. Are the physical, geological, hydrological and other environmental features of the site compatible with the potential uses allowed in the proposed zoning district?

F. Is the capacity of infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety and welfare" of residents?

G. Will rezoning grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public (i.e. will rezoning result in spot zoning)?

Section 10.4 Conditional Rezoning

A. **Intent**.

It is recognized that there are certain instances where it would be in the best interests of the City, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with Section 405 of the **Michigan Zoning Enabling Act, 2006 PA 110,** as amended, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

B. **Application and Offer of Conditions**.

1. An owner of land may voluntarily offer, in writing, conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the

time the application for rezoning is filed or may be made at a later time during the rezoning process.

2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.

3. The owner's offer of conditions may not authorize uses or developments not permitted in the requested new zoning district.

4. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.

5. Any use or development proposed as part of an offer of conditions that would require a Special Use permit, variance, or site plan approval under the terms of this Ordinance may only be commenced if the Special Use permit, variance, or site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.

6. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the City Council provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

C. **Planning Commission Review**.

The Planning Commission, after public hearing as set forth in **Section 9.11** of this Ordinance and consideration of the factors set forth in **Section 10.3 (except 10.3.G)** of this Section, may recommend approval, approval with recommended changes, or denial of rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

D. **City Council Review**.

After receipt of the Planning Commission's recommendation, the City Council shall deliberate upon the requested conditional rezoning and may approve or deny the request. Should the City Council consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the City Council shall, in accordance with Section 401 of the **Michigan Zoning Enabling Act, 2006 PA 110,** as amended, refer such amendments to the Planning Commission for a report thereon within a time specified by the City Council, and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

E. **Approval**.

1. If the City Council finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or otherwise as an inseparable part of the Ordinance adopted by the City Council to accomplish the requested rezoning.

2. The Statement of Conditions shall:

   a. Be in a form recordable with the County Register of Deeds, or as an alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the City Council.

   b. Contain the legal description and tax identification number of the land to which it pertains.

   c. Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.

   d. Incorporate by attachment or reference any diagram, plans, or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.

   e. Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the City with the County Register of Deeds.

   f. Contain the notarized signatures of all owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.

3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation the land was rezoned with a Statement of Conditions. The City shall maintain a listing of all lands rezoned with a Statement of Conditions.

4. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the City with the County Register of Deeds. The City Council shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the timeframe within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the City or to any subsequent owner of the land.

5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

F. **Compliance with Conditions**.

1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Ordinance and be punishable accordingly.

2. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

G. **Time Period for Establishing Development or Use**.

Unless another time period is specified in the Ordinance, the approved development and/or use of the land pursuant to building or other required permits must be commenced upon the land within twenty-four (24) months after the rezoning took effect and thereafter proceeded diligently to completion. This time limitation may upon written request be extended by the City Council if (1) it is demonstrated to City Council's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion, and (2) the City Council finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

H. **Reversion of Zoning**.

If the approved development and/or use of the rezoned land does not occur within the timeframe specified under **subsection G** above, then the land shall revert to its former zoning classification. The reversion process shall be initiated by the City Council requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall be the same as applies to all other rezoning requests.

I. **Subsequent Rezoning of Land**.

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification, but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to **subsection H** above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. The City shall record with the County Register of Deeds that the Statement of Conditions is no longer in effect.

J. **Amendment of Conditions**.

1. During the time period for commencement of an approved development and/or use specified pursuant to **subsection G** above or during any extension thereof granted by the City Council,

the City shall not add to or alter the conditions in the Statement of Conditions.

2. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

K. **City Right to Rezone**.

Nothing in the Statement of Conditions or in the provisions of this Section shall be deemed to prohibit the City from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the **Michigan Zoning Enabling Act, 2006 PA 110,** as amended.

L. **Failure to Offer Conditions**.

The City shall not require any owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

Section 10.5 Validity & Repeal

If any article, section, subsection, paragraph, sentence, or phrase of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 10.6 Vested Right

Nothing in this Ordinance should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety and welfare.

Section 10.7 Repeal & Savings Clause

A. This Ordinance repeals and replaces any previous City of Albion Zoning Ordinance in its entirety.

B. The repeal of any previous Zoning Ordinance, as provided, shall not affect or impair any act done, offense committed or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted. Said Ordinance or Ordinance sections repealed is hereby continued in force and effect after the passage, approval and publication of this Ordinance for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions therefore.

Section 10.8 Enactment & Effective Date

A. The required public hearing was held before the City of Albion Planning Commission on the day of _____, 2019, for this Zoning Ordinance of the City of Albion. The Ordinance was adopted by the Albion City Council at a regular meeting held on the _____ day of _____, 2019.

B. Notice of adoption shall be published in a newspaper having general circulation in the City of Albion within fifteen (15) days after adoption.

C. Amendments or revision to this Ordinance or Map of Zoning Districts shall become effective on the expiration of seven (7) days or at a later date specified by the Albion City Council after publication of a notice of adoption of said amendments.

I hereby certify that the above Ordinance was adopted by the Albion City Council at a regular meeting held on _____, 2019.

_____
City Clerk

Published: _____ Effective Date: _____

Affidavit of Publication Required.