



Albion Borough Zoning Ordinance

**Adopted
August 13, 2019**

ALBION BOROUGH
ERIE COUNTY, PENNSYLVANIA

ALBION BOROUGH ZONING ORDINANCE

Ordinance # 02-2019

An ordinance of the Borough of Albion, Erie County, Pennsylvania, dividing the Borough into various zoning districts and regulating the construction, alteration and use of structures and land within each district; providing for the administration of this ordinance; and prescribing penalties for violation.

WHEREAS, it is the duty and function of the Albion Borough Planning Commission to prepare and recommend zoning regulations in the Borough of Albion; and

WHEREAS, the Albion Borough Planning Commission determined that a comprehensive rezoning, and development and adoption of a new Ordinance is necessary to establish updated procedures and standards needed to better address the policies, goals and objectives set forth in the Albion Borough Comprehensive Plan; and

WHEREAS, pursuant to public notice, the Albion Borough Planning Commission held a public meeting regarding the Ordinance on May 21, 2019; and

WHEREAS, the Albion Borough Planning Commission recommended adoption of the Ordinance; and

WHEREAS, the Borough of Albion has received no substantial comments from the Erie County Planning Commission within forty-five (45) days of submission of the Ordinance; and

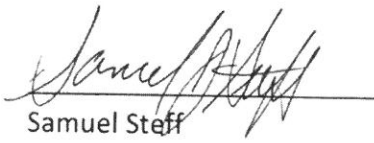
WHEREAS, pursuant to public notice, the Borough Council held a public hearing regarding the Ordinance on July 16, 2019; and

WHEREAS, the Borough Council, after consideration of comments received (or lack thereof, as the case may be), has determined that the Ordinance should not be substantially revised in whole or in part.

NOW, THEREFORE, BE IT ENACTED, by the Borough Council, and by authority of same, that the Ordinance, known as the Albion Borough Zoning Ordinance, in the form attached hereto, and including the maps, charts, textual matter and other matters intended to form the whole Ordinance is hereby enacted and ordained, to become effective immediately.

BE IT FURTHER ENACTED that the previous Albion Borough Zoning Ordinance, adopted December 18, 1997, as amended, is hereby repealed.

ENACTED AND ORDAINED, this 13 day of August, 2019.



Samuel Steff
President, Albion Borough Council



Jason White
Mayor

ATTEST:



Albion Borough Zoning Ordinance

Prepared By:

The Albion Borough Planning Commission

Assisted by:

The Erie County Department of Planning & Community Development

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Article 1 General Provisions

101 Authority

This Ordinance is enacted and ordained under the grant of powers contained in the Pennsylvania Municipalities Planning Code.

102 Title

This Ordinance shall be known and may be cited as the Albion Borough Zoning Ordinance. The accompanying district map shall be known, and may be cited, as the Albion Borough Zoning Map.

103 Effective Date

This ordinance shall take effect upon its enactment by the Albion Borough Council.

104 Purpose and Provisions

The purpose and provisions of this Ordinance are those as set forth by Sections 603, 603.1 and 604 of the Pennsylvania Municipalities Planning Code, to implement the goals and objectives of the Albion Borough Comprehensive Plan, and to implement the Community Development Objectives of the Borough of Albion. See Section 105 of this Ordinance.

105 Community Development Objectives

The Community Development Objectives of the Borough of Albion and of this Ordinance are as follows:

- A. To promote consistent and compatible land use patterns both within the Borough and with adjacent municipalities in order to preserve neighborhood character and quality of life.
- B. To ensure that the scale, layout and design of new development minimizes negative impacts on surrounding parcels and infrastructure.
- C. To encourage development of a variety of housing types and densities in safe and affordable neighborhoods with access to services and amenities that meet the needs of residents.
- D. To support a healthy and aesthetically pleasing environment with clean air, clean water, and development that is sensitive to natural features, preserves scenic views and conserves open space.
- E. To minimize pollution or disruption of the environment by objectionable noise, vibrations, smoke, fumes, odors, harsh lights, solid wastes and liquid home effluents.
- F. To promote the establishment of new businesses in the Borough to create jobs and increase the tax base.
- G. To assure that businesses and institutions in the Borough provide sufficient and well-designed off-street parking that manages traffic flow safely and effectively and accommodates demand efficiently.
- H. To create a safe and well-planned traffic circulation pattern that effectively facilitates the movement of goods and people, and promotes good access to neighborhoods, workplaces, shopping destinations, businesses and recreational areas.

- I. To prevent unsafe construction in floodplain areas.
- J. To ensure that future growth occurs in suitable areas with stable soils, necessary utilities and sufficient street capacity and access.

106 Applicability

- A. This Zoning Ordinance shall apply throughout the Borough of Albion.
- B. Any of the following activities or any other activity regulated by this Ordinance shall only be carried out in conformity with this Ordinance:
 - 1. Use, occupation, erection, construction, reconstruction, movement, alteration, razing, demolition, removal, placement or extension (vertical or horizontal) of a structure, building or sign, unless relief is granted by the Zoning Hearing Board.
 - 2. Change of the type of use or expansion of the use of a structure, building or area of land.
 - 3. Creation of a lot or alteration of lot lines.
 - 4. Creation of a new use.
- C. This Ordinance shall not apply to an existing or proposed building or extension thereof, used or to be used by a public utility corporation, if upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public. It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and the municipality have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties, and otherwise exercise the rights of a party to the proceedings.

107 Interpretation

In interpreting and applying this Ordinance, its provisions shall be held to be the minimum requirements for promotion of the health, safety, morals and general welfare of the Borough of Albion. Any use permitted subject to the regulations prescribed by the provisions of this Ordinance shall conform with all the regulations of the zoning district in which it is located and with all other pertinent regulations of this and other related ordinances. This Ordinance is not intended to interfere with, abrogate, annul, supersede, or cancel any easements, covenants, restrictions or reservations contained in deeds or other agreements, but if this Ordinance imposes more stringent restrictions upon the use of buildings, structures and land than are elsewhere established, the provisions of this Ordinance shall prevail. Wherever and whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted laws, rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern. Where more than one provision of this Ordinance controls a particular matter, the provision that is more restrictive shall apply. In interpreting the language of this Ordinance to determine the extent of the restriction upon the use of property, the language shall be interpreted, where doubt exists as to the intended meaning of the adopted language, in favor of the property owner and against any implied extension of the restriction.

108 Municipality Liability

The granting of a Zoning Permit for the erection and/or use of a structure, building or lot shall not constitute a representation, guarantee or warranty of any kind or nature by the municipality, or an official or employee, thereof, of the safety of any structure, building, use or other proposed plan from cause whatsoever, and shall create no liability upon or a course of action against such public official or employee for any damage that may be pursuant thereto.

109 Disclaimer

It is recognized that: the Act of June 22, 1937 (P.L. 1987, NO. 394) known as "The Clean Streams Law"; the Act of May 31, 1945 (P.L. 1198, No 418) known as the "Surface Mining Conservation and Reclamation Act"; the Act of April 27, 1966 (1st Special Session, P.L. 31, No. 1) known as "The Bituminous Mine Subsidence and Land Conservation Act"; the Act of September 24, 1968 (P.L. 1040, No. 318) known as the "Coal Refuse Disposal Control Act"; the Act of December 19, 1984 (P.L. 1140, No. 223) known as the "Non-coal Surface Mining Conservation and Reclamation Act"; the Act of June 30, 1981 (P.L. 128, No. 43) known as the "Agricultural Area Security Law"; the Act of June 10, 1982 (P.L. 454, No. 133) entitled "An act protecting agricultural operations from nuisance suits and ordinances under certain circumstances"; and the Act of May 20, 1993 (P.L. 12, No 6) known as the "Nutrient Management Act" preempt zoning ordinances. Therefore, suggestions, recommendations, options or directives contained herein are intended to be implemented only to the extent that they are consistent with and do not exceed the requirements of those Acts. Nothing contrary to those Acts shall be mandated by this Zoning Ordinance.

110 Validity/Severability

If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, or word in this Ordinance or the zoning district boundaries as shown on the zoning map, shall, for any reason, be declared to be illegal, unconstitutional, or invalid by any court of competent jurisdiction, such decision shall not effect or impair the validity of this Ordinance as a whole or any of the remaining article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase, word, or remaining portion of the Ordinance. The remaining portions of the Ordinance shall remain in effect as though the part or section declared unconstitutional or invalid was never a part thereof.

111 Repeal

The pre-existing Albion Borough Zoning Ordinance, as amended, is hereby expressly repealed; provided, further that nothing in this Ordinance shall be construed to affect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any permit issued or approval granted or any cause or causes of action arising prior to the enactment of this Ordinance. All ordinances or parts of ordinances and all resolutions or parts of resolutions which are inconsistent herewith by virtue of references or incorporation of requirements contained in the pre-existing Zoning Ordinance as amended shall, as nearly as possible, be construed to reference this Ordinance.

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Article 2 Definitions

201 Interpretation

For the purpose of this Ordinance, words used in the present tense shall include the future. The singular number shall include the plural and the plural shall include the singular. The masculine shall include the feminine and the neuter. The word "shall" is always mandatory. The phrase "used for" includes "arranged for," "person" includes an individual, corporation, partnership, incorporated association, or any other legal entity. The word "includes" or "including" shall not limit the term to the specified example, but is intended to extend its meaning to all other instances of like kind and character. Except as defined within this Ordinance, all words and phrases shall have their normal meanings and usage.

202 Specific Terms

Abandoned Sign: Defined in Section 903.

Abandonment: The relinquishment of property, or a cessation of the use of the property, by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the use of the property.

Abut or Abutting: To physically touch or border on; or to share a common property line but not overlap. Buildings which physically touch. Areas of contiguous lots that share a common lot line, not including lots entirely separated by a street, public alley open to traffic or a perennial waterway.

Access or Access Drive: A way or means of approach to provide vehicular or pedestrian physical entrance to a property.

Accessory Building: A building subordinate to and detached from the main building on the same lot and used for purposes customarily incidental to the main building.

Accessory Structure: A structure detached from a principal building located on the same lot and customarily incidental and subordinate to the principal building or use. An accessory structure shall exclude any vehicle as defined by the Pennsylvania Motor Vehicle Code.

Accessory Use: A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

Acre: A measure of land area containing 43,560 square feet.

Activity: The use of land for a specific purpose.

Addition: (1) A structure added to the original structure at some time after the completion of the original; (2) an extension or increase in floor area or height of a building or structure.

Address Sign: Defined in Section 903.

Adjacent Land: See "Adjoining Lot or Land"

Adjoining Lot or Land: A lot or parcel of land which shares all or part of a common lot line with another lot or parcel of land. (See Abut)

Adult Related Use: An establishment consisting of, including, or having the characteristics of any or all of the following:

1. Adult Bookstore, Newsstand, Video Store, or Combination: An establishment having more than 40 percent of its stock-in-trade, floor area, or display area used for the sale or rental of books, magazines, publications, tapes, or films that are distinguished or characterized by the emphasis on sexually oriented material depicting, describing, or relating to sexual activities or anatomical genital areas.
2. Sex Shop: Any establishment offering, for sale or rent, items from any two of the following categories: sexually oriented books, magazines, and videos; leather goods marketed or presented in a context to suggest their use for sexual activities; sexually oriented toys and novelties; or video viewing booths; or an establishment that advertises or holds itself out in any forum as a sexually oriented business.
3. Video Viewing Booths: Often referred to a peep shows and characterized by small private booths rented to individuals to view sexually explicit films or tapes
4. Adult Motion Picture Theater: A building used for presenting films distinguished or characterized by an emphasis on matter depicting, describing, or relating to sexual activities or anatomical genital areas.
5. Adult Cabaret: An establishment, either with or without a liquor license, offering sexually oriented live entertainment, which may include topless and go-go dancers, strippers, or male or female impersonators.

Agriculture: The use of land which shall include, but not be limited to, the tilling of the soil, the raising of crops, horticulture, apiculture, floriculture, viticulture and gardening. The production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock, including beef cattle, sheep, swine horses ponies, mules, or goats, or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program.

Aisle: The traveled way by which cars enter and depart parking spaces.

Alley: A service roadway providing a secondary means of access to abutting property and not intended for general traffic circulation.

Alteration: Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors, windows, means of ingress or egress, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

Alternative Fuels: known as non-conventional or advanced fuels, alternative fuels are any materials or substances that can be used as fuels, other than conventional fuels like fossil fuels (petroleum (oil), coal, and natural gas), nuclear materials, or artificial radioisotope fuels that are made in nuclear reactors. Some well-known alternative fuels include biodiesel, bio alcohol (methanol, ethanol, butanol), chemically stored electricity (batteries and fuel cells), hydrogen, non-fossil methane, non-fossil natural gas, vegetable oil, propane, and other biomass sources.

Amendment: A change in use in any district or change in zoning district, which includes revisions to the zoning text and/or the official zoning map.

Animal: A living organism other than a plant or bacterium, including fish, amphibians, birds, and mammals, excluding humans.

Animal, Domestic: Any animal that has been bred and/or raised to live in or about the habitation of humans and is dependent on people for food and shelter.

Animal Feeding Operation (AFO): A facility where animals have been, are/or will be stabled or confined and fed or maintained for a total of 45 days or more in any twelve-month period, and where crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

Animal Shelter: A facility used to house or contain stray, homeless, abandoned, or unwanted animals and that is owned, operated, or maintained by a public body, established humane society, animal welfare society (such as the Society for the Prevention of Cruelty to Animals), or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals.

Animal Unit (AU): A standard unit used in calculating the relative grazing impact of different kinds and classes of livestock. One animal unit is defined as a 1,000 lb (450 kg) beef cow with or without a nursing calf, with a daily dry matter forage requirement of 26 lb (11.8 kg)

Applicant: A landowner or developer (as herein defined) who has filed an application for development including his personal representatives, heirs, successors and assigns.

Application: The application form and all accompanying documents and exhibits required of an applicant by an approving authority for review and approval purposes.

Architecturally Compatible (or Compatible Design): The visual relationship between adjacent and nearby buildings and the immediate streetscape, in terms of a consistency of materials, colors, building elements, building mass, and other constructed elements of the urban environment, such that abrupt or severe differences are avoided.

Assisted Living Facility: Coordinated and centrally managed housing including self-contained units designed to provide a supportive environment and to accommodate a relatively independent lifestyle. Such a development may contain a limited number of supportive services, such as meals, transportation, housekeeping, linen and organized social activities for residents and their invited guests. Such a use shall primarily serve persons 55 and older, persons with physical handicaps and/or the developmentally disabled. Assisted Living Facilities shall be licensed as Personal Care Centers by the Commonwealth of Pennsylvania.

Auction House: A place where objects of art, furniture, and other goods are offered for sale to persons who bid on the object in competition with each other.

Automotive Repair Garage: Any building, land area, or other premises, or portion thereof, used for automobile repair services.

Automobile Repair Services: General repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, including bodywork, welding, and painting service.

Automobile Service Station: Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels; servicing and repair of automobiles; and including as an accessory use the sale and installation of lubricants, tires, batteries, and similar vehicle accessories.

Awning: Defined in Section 903.

Awning Sign: Defined in Section 903.

Basement: A space with less than one-half of its floor-to-ceiling height above the average finished grade of the adjoining ground or with a floor-to-ceiling height of less than six and a half feet.

Bed and Breakfast Inn: An owner-occupied dwelling where overnight accommodations and a morning meal are provided to transients for compensation.

Berm: A mound of earth or the action of pushing earth into a mound.

Billboard: Defined in Section 903.

Board: The Zoning Hearing Board of the Borough of Albion, Erie County, Pennsylvania.

Boarding House (Including "Rooming House"): A residential use in which: (a) room(s) that do not meet the definition of a lawful dwelling unit are rented for habitation, or (b) a dwelling unit includes greater than the permitted maximum number of unrelated persons. A boarding house shall not include a use that meets the definition of a motel, dormitory, life care center, personal care center, bed and breakfast inn, group home or nursing home. A college fraternity or sorority house used as a residence shall be considered a type of boarding house. A boarding house may either involve or not involve the providing of meals to residents, but shall not include a restaurant open to the public unless the use also meets the requirements for a restaurant. A boarding house shall primarily serve persons residing on-site for 5 or more consecutive days.

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Boarding Stable: A structure designed for the feeding, housing, and exercising of horses not owned by the owner of the premises and for which the owner of the premises may receive compensation.

Borough: The Borough of Albion, Erie County, Pennsylvania.

Borough Council: The duly elected governing body of the Borough of Albion, Erie County, Pennsylvania.

Brew Pub: A restaurant that prepares handcrafted natural beer intended for consumption on the premises as an accessory use.

Buffer Area or Buffer Strip: A strip of land consisting of landscaped areas, fences, walls, berms or combination thereof used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other nuisances.

Buffer Yard: See Buffer Area

Building: Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind.

Building, Accessory: See "Accessory Building".

Building, Detached: A building surrounded by open space on the same lot.

Building, Principal: A building in which is conducted the principal use of the lot on which it is located.

Building Coverage: The ratio of the horizontal area measured from the exterior surface of the exterior walls of the ground floor of all principal and accessory buildings on a lot to the total gross lot area.

Building Footprint: The area encompassed by a building's outer wall at ground level.

Building Frontage: Defined in Section 903.

Building Height: The vertical distance from the finished grade to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs.

Building Inspector: An individual designated by the appointing authority to enforce the provisions of the building code. Includes code enforcement officer or Zoning Administrator.

Building Line: A line parallel to the street right-of-way line touching that part of a building closest to the street.

Building, Non-Conforming: See Non-Conforming Structure or Building.

Building Permit: Written permission issued by the proper municipal authority for the construction, repair, alteration or addition to a structure.

Building Setback Line: See Setback Line.

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Building Sign: Defined in Section 903.

Business Services: Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing; building maintenance; employment services; management and consulting services; protective services; equipment rental and leasing; commercial research, development, and testing; photo finishing; and personal supply services.

Camper: Any individual who occupies a campsite or otherwise assumes charge of, or is placed in charge of, a campsite.

Campground: A plot of ground on which two or more campsites are located, established, or maintained for occupancy by camping units as temporary living quarters for recreation, education, or vacation purposes.

Camping Unit: Any tent, trailer, cabin, lean-to, recreational vehicle, or similar structure established or maintained and operated in a campground as temporary living quarters for recreation, education, or vacation purposes.

Campsite: Any plot of ground within a campground intended for exclusive occupancy by a camping unit or units under the control of a camper.

Canopy: Defined in Section 903.

Canopy Sign: Defined in Section 903.

Cartway: The paved area of a street between the curbs, including travel and parking lanes and acceleration and deceleration lanes, but not including shoulders, curbs, sidewalks, or swales.

Car Wash Facility: Any building or premises used for washing motor vehicles.

Cemetery: Property used for the interment of the dead.

Certificate of Occupancy: A certificate issued by a code administrator allowing occupancy of a building or structure under the Uniform Construction Code (UCC).

Changeable Copy Sign: Defined in Section 903.

Change of Use: Any use that substantially differs from the previous use of a building or land.

Child Day Care Center or Home: See "Day Care Services for Children"

Church: See House of Worship.

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Clear-Sight Triangle: An area of unobstructed vision at street intersections defined by the center lines of the streets and by a line of sight between points on their center lines at a given distance from the intersection of the center lines. Within this clear-sight triangle nothing is to be erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

Clinic: An establishment where patients are admitted for examination and treatment on an outpatient basis by one or more physicians, dentists, other medical personnel, psychologists, or social workers and where such examination and treatment generally require a stay of less than 24 hours.

Club: An establishment operated by an organization for social, recreational, educational and/or fraternal purposes, but open only to members and their guests and not the general public.

Collocation (Collocate): The placement or installation of new wireless telecommunications facilities on previously approved and constructed wireless support structures, including self-supporting or guyed monopoles and towers, electrical transmission towers, water towers or any other structure not classified as a wireless support structure that can support the placement or installation of wireless telecommunications facilities if approved by the municipality.

Commercial Use: Activity involving the sale of goods or services carried out for profit.

Commercial Recreation Facility: Includes all indoor and/or outdoor recreation facilities which are operated as a business and where the facility is available to the general public for a user fee or where the facility (facilities) is available on a membership basis.

Commercial Recreation, Indoor – a facility that offers various indoor recreational opportunities for its patrons (paying or non-paying) including ice skating, billiards, bowling, video games, and similar pursuits.

Commercial Recreation, Outdoor – a facility which offers various outdoor or spectator opportunities for its patrons (paying or non-paying) including go-cart raceways, miniature golf, concerts and music parks, and similar pursuits.

Communications Antenna (Antenna): Any device used for the transmission or reception of radio, television, wireless telephone, pager, commercial mobile radio service, or any other wireless communications signals including, without limitation, omni directional or whip antennas and directional or panel antennas, owned or operated by any person or entity licensed by the Federal Communications Commission (FCC) to operate such device. This definition shall not include private residence mounted satellite dishes, television antennas, or amateur radio equipment including, without limitation, ham or citizen band radio antennas.

Communications Tower: A structure, other than a building, such as a monopole, self-supporting, or guyed tower, designed and used to support communications antennas.

Community Center: A facility used for recreational, social, educational, and cultural activities.

Community Garden: Land managed and maintained by a public or nonprofit organization, or a group of individuals, to grow and harvest food crops and/or ornamental plants for use by a group, individuals cultivating the land and their households, or for donation. Community Gardens may be divided into separate plots for cultivation by individuals or used collectively by members of a group. A Community Garden may be a principle or accessory use of a site.

Compatible Land Use: A use of land and/or building(s) that, in terms of development intensity, building coverage, design, bulk and occupancy, traffic generation, parking requirements, access and circulation, site improvements, and public facilities and service demands, is consistent with and similar to neighboring uses and does not adversely affect the quality of life of persons in surrounding or nearby buildings.

Comprehensive Plan: The official public document prepared in accordance with the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.O. 805, No. 247, as amended and reenacted, consisting of maps, charts and textual material, that constitutes decisions about the physical and social development of the Borough of Albion, as amended from time to time.

Concentrated Animal Feeding Operation (CAFO): An animal feeding operation that: (a) confines more than 1,000 animal units (AU); or (b) confines between 301 to 1,000 AU and discharges pollutants into waters of the United States through a man-made ditch, flushing system or similar man-made device, or directly into waters of the United States that originate outside of and pass over, across or through the facility or otherwise come into direct contact with the animals confined in the operation. Animal quantities equivalent to 1,000 AU are 1,000 slaughter and feeder cattle; 700 mature dairy cattle; 2,500 swine each weighing more than 25 kilograms (55 pounds); 30,000 laying hens or broilers (if a facility uses a liquid manure system); and 100,000 laying hens or broilers (if a facility uses continuous overflow watering).

Condominium: A building, or group of buildings, in which dwelling units, offices, or floor area are owned individually and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis.

Construction: The construction, reconstruction, renovation, repair, extension, expansion, alteration or relocation of a building or structure, including the placement of mobile homes.

Contiguous: Next to, abutting, or touching and having a boundary, or portion thereof, that is coterminous. To physically touch or border upon, or to share a common property line, but not overlap.

Contracting Operation: An operation engaged in a trade or activity related to building maintenance and/or construction, such as painting, electrical work, carpentry, plumbing, heating, air-conditioning, roofing, and similar activities.

Convenience Store: A retail establishment with primary emphasis on quick purchases from a limited variety of consumable goods, typically gasoline, snacks, food and related sundries. These are typically located along high traffic roads and have extended business hours, with most products consumed off the premises.

County Planning Commission: The Erie County Planning Commission.

Coverage, Building: The ratio of the horizontal area, measured from the exterior surface of the exterior walls of the ground floor, of all principal and accessory buildings on a lot to the total lot area.

Coverage, Lot: That part of the lot that is covered by impervious surfaces.

Cul-De-Sac: See Street, Cul-De-Sac.

Cultural Facilities: Establishments that document the social and religious structures and intellectual and artistic manifestations that characterize a society and include museums, art galleries, and botanical and zoological gardens of a natural, historic, educational, or cultural interest.

Curb: A stone, concrete, or other improved boundary usually marking the edge of the roadway or paved area.

Curb Cut: The opening along the curb line at which point vehicles may enter or leave the roadway.

Day Care Center, Adult: A use providing supervised care and assistance primarily to persons who are over age 60 and/or intellectually disabled and/or physically handicapped who need such daily assistance because of their limited physical abilities, Alzheimer's disease, mental abilities or intellectual disability. This use shall not include persons who need oversight because of behavior that is criminal or violent. This use may involve occasional overnight stays, but shall not primarily be a residential use. The use shall involve typical stays of less than a total of 60 hours per week per person.

Day Care Services for Children: - provides out-of-home care for part of a 24-hour day to children under sixteen (16) years of age, excluding care provided by relatives and excluding day care furnished in places of worship during religious services. This Ordinance identifies three levels of Day Care Services for Children:

- a. Child Day Care Home (Family): A home other than the child's own home, operated for profit or not-for-profit, in which child day care is provided at any one time to four, five or six children unrelated to the operator. See Title 55, Chapter 3290 of the PA Code.
- b. Child Day Care Home (Group): the premises in which care is provided at one time for more than six (6) but fewer than sixteen (16) older school-age level children, or more than six (6) but fewer than thirteen (13) children of another age level who are unrelated to the operator. The term includes a facility located in a residence or another premises. See Title 55, Chapter 3280 of the PA Code.
- c. Child Day Care Center: A premises in which care is provided at any one time for seven or more children unrelated to the operator. See Title 55, Chapter 3270 of the PA Code.

Childcare for less than four (4) children will not be considered as Day Care Services.

dB(A): the intensity of a sound expressed in decibels read from a calibrated sound level meter utilizing the A-level weighting scale and the fast meter response, as specified in American National Standards Institute standard S 1.4.

dB(C): the intensity of a sound expressed in decibels read from a calibrated sound level meter utilizing the C-level weighting scale and the fast meter response, as specified in American National Standards Institute standard S 1.4.

Density: The number of families, individuals, dwelling units, households, or housing structures per unit of land.

DEP: Pennsylvania Department of Environmental Protection.

Developer: The legal or beneficial owner or owners of a lot or of any land included in a proposed development, including the holder of an option or contract to purchase or other persons having enforceable proprietary interests in such lands.

Development: Any man made change to improved or unimproved real estate, including, but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets and other paving; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

Development Plan: The provisions for a planned development, including a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open-space and public facilities.

Digital Display: Defined in Section 903.

Directional Sign: Defined in Section 903.

Distribution Center: An establishment engaged in the receipt, storage, and distribution of goods, products, cargo, and materials, including transshipment by boat, rail, air, or motor vehicle.

District: A part, zone, or geographic area within the municipality within which certain zoning or development regulations apply.

District, Residential: For purposes of this ordinance, Residential Districts include the following zoning districts: R-1, Residential District; and R-2, Residential District.

District, Non-Residential: For purposes of this ordinance, Non-Residential Districts are all zoning districts that are not Residential Districts.

Dog Kennel – See Kennel.

Dormitory: A building used as group living quarters for a student body or religious order as an accessory use to a college, university, boarding school, convent, monastery, or similar institutional use.

Driveway: A private roadway providing access to a street or highway.

Drive-Through Facility: A facility, accessory to a commercial use including but not limited to financial institutions, restaurants and drug stores that permits customers to receive services or obtain goods while remaining in their motor vehicles.

Dry Cleaning and Laundry Services: A business establishment primarily engaged in laundering, dry cleaning, and pressing apparel and linens of all types. These establishments may also provide clothing repair and alteration services. For purposes of this Ordinance, the term is used to refer to an establishment that renders services primarily to the general public. See also, definition of Laundry and/or Dry Cleaning Establishment (Industrial).

Dump: A land site used primarily for the disposal by dumping, burial, burning, or other means and for whatever purposes of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, and other waste, scrap, or discarded material of any kind.

Dumpster: An exterior waste container designed to be mechanically lifted by and emptied into or carted away by a collection vehicle.

Duplex: A building containing two single-family dwelling units totally separated from each other by an unpierced wall extending from basement to roof. See Dwelling, Two-Family.

Dust-free Surface - a surface of asphalt paving, concrete, brick, cobblestone (or similar pavers), crushed limestone, gravel or similar stone material installed and compacted as needed. Dirt, clay and similar material will not be accepted as a dust-free surface.

Dwelling: A structure or portion thereof that is used exclusively for human habitation.

Dwelling, Attached: A one-family dwelling with ground floor outside access, attached to two or more one-family dwellings by common vertical walls without openings.

Dwelling, Detached: A dwelling that is not attached to any other dwelling by any means.

Dwelling, Multi-Family: A building containing three or more dwelling units, including units that are located one over another.

Dwelling, Two-Family: A building on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

Dwelling, Single-Family: A one-family dwelling.

Dwelling Unit: One or more rooms, designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

Easement: A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

Eave: The projecting lower edges of a roof overhanging the wall of a building.

Emergency Medical Treatment Facility: Any building or group of buildings occupied by medical practitioners and related services for the purpose of providing emergency health service to people on an outpatient basis.

Emergency Services: Emergency services shall include fire departments, police services, ambulance and emergency response services.

Engineer, Municipal: A registered professional engineer in Pennsylvania designated by the municipality to perform the duties of engineer as herein specified.

Enlargement: An increase in the size of an existing structure or use, including the physical size of the property, building, parking, and other improvements.

Equine Animal: An animal of or belonging to the family Equidae, which includes horses, asses and zebras.

Erosion: The detachment and movement of soil or rock fragments or the wearing away of the land surface by water, wind, ice, and gravity.

Essential Service, Class 1: The erection, construction, alteration or maintenance by public utilities or municipal departments, authorities, or commissions of: underground gas, underground or above ground electrical, telephone, cable television transmission or distribution systems; and public water, public sanitary sewer and public storm sewer facilities including wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants and similar equipment and accessories in connection therewith. Essential Services does not include wireless communications facilities and/or antennae.

Essential Service, Class 2: The erection, construction, alternation or maintenance by public utilities or municipal departments, authorities, or commissions of building or structures necessary for the furnishing of adequate services for the public health, safety and general welfare such as water and sewer pump stations, water storage towers, electric substations, natural gas regulator stations, telephone substations or similar type structures, but excluding office buildings, the outside storage of equipment or maintenance depots, wireless communications facilities and/or antennae.

Establishment: An economic unit where business is conducted or services or industrial operations are performed.

Excavation: Any act by which earth, sand, gravel, rock or any other similar materials is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed. It shall include the conditions resulting therefrom.

Existing Use: The use of a lot or structure as of the effective date of this ordinance.

Exterior Wall: Any wall that defines the exterior boundaries of a building or structure.

Façade: The exterior wall of a building exposed to public view or that wall viewed by persons not within the building.

Facility: A place where an activity occurs.

Facility Owner: The entity or entities having an equity interest in the facility, including their respective successors and assigns.

Farm or Farmland: A parcel of land used for agricultural purposes.

Farm Building or Farm Structure: Any building or structure used for agricultural purposes.

Farmer's Market: The seasonal selling or offering for sale at retail of vegetables or produce, flowers, orchard products, and similar non-animal agricultural product, occurring in a predesignated area, where the vendors are individuals who have raised the vegetables or produce or have taken the same on consignment for retail sale.

Family: One or more persons related by blood, marriage, legal guardianship, licensed or court-appointed foster care or legal adoption, including any domestic servants or gratuitous guests thereof, who maintain one common household and reside in one dwelling unit; or no more than six persons who are not related to each other by blood, marriage, legal guardianship, licensed or court-appointed foster care, or legal adoption. A roomer, boarder or lodger is not considered a family member; any number of persons possessing a handicap within the meaning of the Fair Housing Act (42 USC Section 3602(h), or successor legislation) who reside in one dwelling unit and live and cook together as a single housekeeping unit.

Fence: An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

Fill: Sand, gravel, earth, or other materials of any composition whatsoever placed or deposited by humans.

Financial Institution: An establishment primarily involved with monetary, not material, transactions and that has routine interactions with the public.

Finished Grade: See Grade, Finished.

Flea Market: An occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public.

Floor Area, Gross (GFA): The sum of the gross horizontal areas of all enclosed floors of a building, including cellars, basements, mezzanines, penthouses, corridors, and lobbies from the exterior face of exterior walls, or from the centerline of a common wall separating two buildings, but excluding any space with a floor-to-ceiling height of less than 6 feet 6 inches.

Floor Area, Habitable: The gross floor area of a dwelling which is used or designed for living, sleeping, eating or cooking, but not including garages, enclosed porches, and unfinished basements or attics.

Floor Area, Net: The total of all floor areas of a building, excluding stair-wells and elevator shafts, equipment rooms, interior vehicular parking or loading; and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.

Forestry: The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes, which does not involve any land development.

Fraternal Organization: A group of people formally organized for a common interest, usually cultural, religious, or entertainment, with regular meetings, rituals, and formal written membership requirements.

Freestanding Sign: Defined in Section 903.

Front Lot Line: See Lot Line, Front.

Front Yard: See Yard, Front.

Frontage: That side of a lot abutting on a street; the front lot line.

Funeral Home: A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith before burial or cremation.

Garage: A deck, building, or parking structure, or part thereof, used or intended to be used for the parking and storage of vehicles.

Garden Center: A commercial operation offering for retail sale plants, flowers, lawn and garden supplies and other items, and which may include a nursery or greenhouse, and may also include the sale of bulk stone, bark and other materials.

Gas Station / Gasoline Service Station: See "Automobile Service Station".

General Advertising for Hire: Defined in Section 903.

General Public: Any and all individuals in ordinary society.

Glare: The effect produced by light from a luminaire with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

Golf Course: A tract of land laid out for at least nine holes for playing the game of golf that may include a clubhouse, dining and snack bars, pro shop, and practice facilities.

Governing Body: The Borough Council of the Borough of Albion, Erie County, Pennsylvania.

Government/Regulatory Sign: Defined in Section 903.

Grade: (1) The average elevation of the land around a building; (2) the percent of rise or descent of a sloping surface.

Grade, Finished: The elevation of the land surface of a site after completion of all site preparation work.

Greenhouse: A building or structure whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of fragile or out-of-season plants for subsequent sale or for personal enjoyment.

Ground Sign: Defined in Section 903.

Group Quarters: A place where seven (7) or more people live or stay, in a group living arrangement that is owned or managed by an entity or organization providing housing and/or services for the residents. This is not a typical household-type living arrangement. These services may include custodial or medical care as well as other types of assistance, and residency is commonly restricted to those receiving these services. People living in a group quarters are usually not related to each other. Group quarters include such places as boarding houses, college residence halls, fraternity and sorority houses, workers' dormitories, and facilities for people experiencing homelessness. For purposes of this ordinance, group quarters shall exclude hotels, motels, assisted living facilities, nursing homes, prisons or correctional institutions, treatment centers, and pre-release detention facilities.

Half-Way House: A noninstitutionalized living arrangement with treatment and support services for persons with substance abuse problems or for inmates and parolees approaching parole release date or release from a corrections institution. The halfway house (community corrections center) operates under the rules and regulations of the Pennsylvania Department of Health or Department of Corrections or similar authorities. The residents are provided full-time supervision and counseling on employment, vocations, finances and community living.

Hazardous Material: Materials which are classified by the U.S. Environmental Protection Agency or the Pennsylvania Department of Environmental Protection as having the potential to damage health or impair safety. Hazardous materials include but are not limited to inorganic mineral acids or sulfur, fluorine, chlorine, nitrogen, chromium, phosphorous, selenium, arsenic and their common salts, lead, coal tar acids, such as phenols and cresols and their salts, petroleum products, and radioactive material. Also included are floatable materials with the potential to cause physical damage, such as logs, storage tanks and large containers, located in flood prone areas.

Hazardous Waste: Any substance classified by the U.S. Environmental Protection Agency or the Pennsylvania Department of Environmental Protection as having the potential to damage health or impair safety, including garbage, refuse, sludge from an industrial or other wastewater treatment plant, sludge from a water supply treatment plant or air pollution facility, and other discarded material including solid, liquid, semisolid, or contained gaseous material resulting from municipal, commercial, industrial, institutional, mining or agricultural operations, and from community activities, or any combination of the above, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may:

1. Cause or significantly contribute to an increase in mortality or an increase in morbidity in either an individual or the total population; or,
2. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(NOTE: "Hazardous Waste" shall also include any added components from the Solid Waste Management Act of July 7, 1980, P.L. 380, No. 97, as amended).

Height: The vertical distance of a structure measured from the average elevation of the finished grade surrounding the structure to the highest point of the structure.

Heliport: An area, either at ground level or elevated on a structure, licensed by the federal government or an appropriate state agency and approved for the loading, landing, and takeoff of helicopters, and including auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

Helistop: A heliport but without auxiliary facilities such as parking, waiting room, fueling and maintenance equipment.

Home Based Business or Occupation: A business, occupation or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling, but which does not meet all the standards of a no-impact home based business. See Section 1002.22 for criteria.

Home Based Business (No Impact): - A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use. See Section 1002.23 for criteria.

Home Gardening: The non-commercial, cultivation of herbs, fruits, flowers or vegetables on a piece of ground adjoining a residential dwelling. For purposes of this ordinance, home gardening is an accessory use considered to be customary to a residential use.

Hospital: A building or part thereof used for medical, psychiatric, obstetrical, or surgical care on a twenty-four hour basis. The term "hospital" shall include facilities used for medical research and training for health-care professions, general hospitals, mental hospitals, tuberculosis hospitals, children's hospitals, and any such other facilities which provide inpatient care. The term "hospital" shall not include any facility in which is conducted the housing of the criminally insane or provides treatment for persons actively charged with or serving a sentence after being convicted of a felony. A hospital shall be licensed as such by the Commonwealth of Pennsylvania.

Hotel: A facility offering transient lodging accommodations to the general public and which may include additional facilities and services, such as restaurants, meeting rooms, entertainment, personal services, and recreational facilities.

Household: Persons living together in a single dwelling unit, with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit.

House of Worship: (1) A church, synagogue, temple, mosque, or other facility that is used for prayer by persons of similar beliefs; (2) a special-purpose building that is architecturally designed and particularly adapted for the primary use of conducting formal religious services on a regular basis.

Illumination: Defined in Section 903.

Illuminated Sign: Defined in Section 903.

Impervious Surface (Impervious Area): A surface that prevents the infiltration of water into the ground. Impervious surface (or areas) include, but is not limited to: buildings and similar structures, patios, sidewalks, and parking or driveway areas.

Improvements: Those physical additions, installations and changes required to render land suitable for the use intended, including, but not limited to, grading, paving, curbing, streetlights and signs, fire hydrants, water mains, electric service, gas service, sanitary sewers, storm drains, sidewalks, crosswalks, driveways, culverts, and other public utilities and street shade trees, and improvements to existing water courses.

Incidental: Subordinate and minor in significance and bearing a reasonable relationship to the primary use.

Incidental Sign: Defined in Section 903.

Incidental Window Sign: Defined in Section 903.

Industrial Park: A tract of land that is planned, developed, and operated as a coordinated and integrated facility for a number of separate industrial uses, with consideration for circulation, parking, signage, utility needs, aesthetics, and compatibility.

Industry: The manufacturing, compounding, processing, assembly, or treatment of materials, articles, or merchandise.

Industry, Heavy: A use engaged in the basic processing and manufacturing of materials or products predominantly from extracted or raw materials, or a use engaged in the storage of, or manufacturing processes that potentially involve, hazardous or commonly recognized offensive conditions.

Industry, Light: A use engaged in the basic processing and manufacture, predominantly from previously prepared, materials of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but excluding basic industrial processing.

In-Law Apartment: A separate living space within a single-family dwelling unit consisting of separate sleeping, cooking and bathroom facilities and which is to be occupied by an in-law of, in-laws of, or a member of the family unit occupying the main portion of the dwelling.

Inoperable Motor Vehicle: A vehicle intended to be self-propelled that shall not be operable under its own power for any reason, or a vehicle that shall be without a valid current registration plate or valid current certificate of inspection, or any vehicle in a major or severe state of disrepair.

Institutional Use: A nonprofit, religious, or public use, such as a religious building, library, public or private school, hospital, or government-owned or-operated building, structure, or land used for public purpose.

Junk: Any scrap, waste, reclaimable material, or debris, whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed, or other use or disposition.

Junkyard: Any area, lot, land, parcel, building, or structure, or part thereof, used for the storage, collection, processing, purchase, sale, salvage, or disposal of junk

Junk Vehicle: Includes any vehicle or trailer that meets any of the following conditions:

1. Cannot be moved under its own power, in regards to a vehicle designed to move under its own power, other than a vehicle clearly needing only minor repairs,
2. Cannot be towed, in regards to a trailer designed to be towed,
3. Has been separated from its axles, engine, body or chassis, and/or
4. Includes only the axle, engine, body parts and/or chassis, separated from the remainder of the vehicle.

Kennel: An establishment in which dogs or domesticated animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation. For purposes of this Ordinance, a use meeting the definition of "pet grooming establishment" is not intended to be a "kennel".

Kennel Accessory: A use in conjunction with and accessory to the principal use of a veterinary clinic or pet grooming establishment which includes only the interior housing for animals under treatment, and with no outdoor operations or boarding for compensation.

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Laboratory: A building, part of a building, or other place equipped to conduct scientific experiments, tests, investigations, etc., or to manufacture chemicals, medicines, or the like.

Laboratory, Research: An establishment or other facility for carrying on investigation in the natural, physical or social sciences, or engineering and development as an extension of investigation with the objective of creating end products.

Landowner: The legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person having a proprietary interest in land.

Laundromat: An establishment providing washing, drying, or dry-cleaning machines on the premises for rental use to the general public.

Laundry and/or Dry Cleaning Establishment (Industrial): A business establishment equipped with large-scale clothes washing and dry cleaning equipment, and primarily engaged in rendering services to commercial, industrial or institutional establishments rather than the general public.

Lease: A contractual agreement for the use of lands, structures, buildings, or parts thereof for a fixed time and consideration.

Legibility: Defined in Section 903.

Library: A place in which literary, musical, artistic or reference material (such as books, manuscripts, recordings or films) are kept for use but not for sale.

Livestock: Any wild or domestic animal of the bovine, swine or sheep family.

Loading Space: An off-street space or berth used for the loading or unloading of cargo, products, or materials from vehicles.

Lot: A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

Lot Area: The total area within the lot lines of a lot, excluding any street rights-of-way.

Lot, Corner: A lot at the junction of and abutting on two or more intersecting streets or private roads.

Lot, Double Frontage: See Lot, Through

Lot, Flag: A lot which does not meet minimum frontage requirements and where access to the public road is by a narrow private right-of-way or driveway.

Lot, Improved: A lot with buildings or structures.

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

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Lot, Minimum Area: The smallest lot area established by the zoning ordinance on which a use or structure may be located in a particular district.

Lot, Nonconforming: A lot the area or dimension of which was lawful prior to the adoption or amendment of this Zoning Ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

Lot, Reverse Frontage: A through lot with frontage on two parallel streets with vehicular access restricted to only one of the streets.

Lot, Through: A lot that fronts on two parallel streets or that fronts on two streets that do not intersect at the boundaries of the lot.

Lot Depth: The average distance measured from the front lot line to the rear lot line.

Lot Frontage: The length of the front lot line measured at the street right-of-way.

Lot Line: A line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space.

Lot Line, Front: The lot line separating a lot from a street right-of-way.

Lot Line, Rear: The lot line opposite and most distant from the front lot line. In the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

Lot Line, Side: Any lot line other than a front or rear lot line.

Lot of Record: A lot that exists as shown or described on a plat or deed in the records of the Recorder of Deeds of the County of Erie, Commonwealth of Pennsylvania.

Lot Width: The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

Manual Changeable Copy Sign: Defined in Section 903.

Manufacturing: Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as oils, plastics, resins, or liquors.

Manufacturing, Heavy: The assembly, fabrication, production or processing of goods and materials using processes that have the potential to create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, production or processing takes place; or the processing of products primarily from extracted or raw materials, or the bulk storage and handling of such products and materials; or that necessitate the storage of large volumes of highly flammable, toxic matter or explosive materials needed for the manufacturing process. For purposes of this ordinance, heavy manufacturing shall also include those manufacturing processes which do not meet the definition of light manufacturing.

Manufacturing, Light: The assembly, fabrication, production or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, production or processing takes place, where such processes are housed entirely within a building, or where the area occupied by outdoor storage of goods and materials used in the assembly, fabrication, production or processing does not exceed 25 percent of the floor area of all buildings on the lot. This shall not include uses that constitute "heavy" manufacturing", resource extraction, or recycling and salvage operations.

Manufactured Home: Factory-built, single-family structures that meet the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. Sec. 5401).

Marquee: Defined in Section 903.

Marquee Sign: Defined in Section 903.

Massage Therapy: An establishment whose business emphasis is the administration of non-sexually-oriented massage to patrons by employees.

Memorial Sign: Defined in Section 903.

Message Center Sign: Defined in Section 903.

Message Sequencing: Defined in Section 903.

Mineral Extraction: The removal or separation of mineral resources, by any means, from the surface or sub-surface of land or water. Mineral extraction includes, but is not limited to: surface mining for gravel, sand or coal, oil and gas drilling, and the removal of topsoil, clay, shale or peat.

Minerals: any aggregate or mass of mineral matter, whether or not coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat and crude oil and natural gas.

Mini-Storage Warehouses: See Self-Storage Facility

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Mobile Home: A transportable, single-family dwelling intended for permanent occupancy, contained in one (1) or more units designed to be joined into one (1) integral unit capable of again being separated for repeated towing, which arrives at a site, complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

Mobile Home Lot: A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home.

Mobile Home Park: A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes.

Mortuary: A place for the storage of human bodies prior to their burial or cremation.

Motel: A building or group of buildings whether detached or in connected units, used as individual sleeping or dwelling units, designed with separate entrances, and designed for temporary occupancy by primarily transient automobile travelers and providing for accessory off-street parking facilities.

Motor Vehicle: See Vehicle, Motor

Multiple-Family Dwelling - see Dwelling, Multiple-Family.

Municipal Building or Structure: A building or structure owned and operated by the municipality to provide a governmental service to the public.

Municipality: The Borough of Albion, Erie County, Pennsylvania.

Mural: Defined in Section 903.

Natural Gas Compressor Station: A facility designed and constructed to compress natural gas that originates from an oil and gas well or collection of such wells operating as a midstream facility for delivery of oil and gas to a transmission pipeline, distribution pipeline, natural gas processing plant or underground storage field, including one or more natural gas compressors, associated buildings, pipes, valves, tanks and other equipment.

Natural Gas Processing Plant: A facility designed and constructed to remove materials such as ethane, propane, butane, and other constituents or similar substances from natural gas to allow the natural gas to be of such quality as is required or appropriate for transmission or distribution to commercial markets, but not including facilities or equipment that are/is designed and constructed primarily to remove water, water vapor, oil or naturally occurring liquids from natural gas.

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Natural Gas, Oil and Gas Development: Uses that include the process of perforating the earth's surface and rock layers to extract fossil fuels, natural gas or oil, for energy production and all associated equipment, structures and construction at the drilling site including the well pad, access roads, hydraulic fracturing, production, pipelines, tanks, meters, and temporary work crew and supervisor trailers for exploration and production at a single well pad, including multiple wells at a single well pad, and all subsequent site reclamation activities which follow the production phase. The term does not include Natural Gas Compressor Stations or Natural Gas Processing Plants.

New Use: Any new activity or use of land in a lot or parcel that was not occurring as of the effective date of this ordinance.

Nightclub: Any building used for on-site consumption of alcoholic or nonalcoholic beverages and in which music, dancing, or entertainment is conducted. Nightclub includes an "Under 21" club which features entertainment.

Noise: (1) Any undesired audible sound; (2) any sound that annoys or disturbs humans or that causes or tends to cause an adverse psychological or physiological effect on humans.

Non-commercial message: Defined in Section 903.

Nonconforming Sign: Defined in Section 903.

Nonconforming Building: See "Nonconforming Structure".

Nonconforming Lot: See "Lot, Nonconforming"

Nonconforming Sign: Defined in Section 903.

Nonconforming Structure: A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions of this Ordinance or an amendment hereafter enacted, where such structure lawfully existed prior to the enactment of this Ordinance or amendment or prior to the application of this Ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

Nonconforming Use: A use, whether of land or structure, which does not comply with the applicable use provisions of this Ordinance or amendment hereafter enacted, where such use was lawfully in existence prior to the enactment of this Ordinance or amendment, or prior to the application of this Ordinance or amendment to its location by reason of annexation.

Non-Residential District: See District, Non-Residential

Non-Tower Wireless Communications Facilities (Non-Tower WCF): See Wireless Communications Facilities, Non-Tower.

Normal Farming Operations: The customary and generally accepted activities, practices, and procedures that farmers adopt, use, or engage in year after year in the production and preparation for market of crops, livestock, and livestock products and in the production and harvesting of agricultural, agronomic, horticultural, silvicultural, and aquacultural crops and commodities. The term includes the storage and utilization of agricultural and food processing wastes for animals and the disposal of manure, other agricultural waste and food processing waste on land where the materials will improve the condition of the soil or the growth of crops or will aid in the restoration of the land for the same purposes.

Nursery, Plant or Horticulture: Any lot or parcel of land used to cultivate, propagate, grow and/or sell trees, shrubs, vines, and other plants including the buildings, structures, and equipment customarily incidental and accessory to the primary use.

Nursing Home: A facility to give long-term skilled care to geriatric or handicapped patients and licensed as such a facility by the Commonwealth of Pennsylvania.

Occupancy or Occupied: (1) The residing of an individual or individuals overnight in a dwelling unit or the storage or use of equipment, merchandise, or machinery in any public, commercial, or industrial building; (2) holding real property by being in possession.

Office: A room or group of rooms used for conducting the affairs of a business, profession, service, industry, or government and generally furnished with desks, tables, files, and communication equipment.

Official Traffic Sign: Defined in Section 903.

Offsite Commercial Message: Defined in Section 903.

Off-Street Loading: Designated areas located adjacent to buildings where trucks may load and unload cargo, and that is not located on a dedicated street right-of-way.

Off-Street Parking: A temporary storage area (surface or structure) for a motor vehicle that is directly accessible to an access aisle and that is not located on a dedicated street right-of-way, and is located upon the same lot as a principal use or, in the case of joint parking, within close proximity.

On-Premises Sign: Defined in Section 903.

Onsite or on-premises commercial message: Defined in Section 903.

Open Space: Any parcel or area of land or water essentially unimproved and set aside, dedicated, designed, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests.

Operator: (1) The entity responsible for the day-to-day operation and maintenance of a facility or establishment. (2) A person or company that engages in or runs a business or enterprise.

Outdoor Lighting: An illumination source outside any building, including but not limited to an incandescent bulb, mercury, sodium or neon-filled bulb, and the hardware containing the illumination source and supporting it. Lighting fixtures underneath a roof of an open-sided building, including but not limited to storage sheds, canopies and gas station marquees over gas pumps, are deemed to be "outdoor lighting."

Outdoor Storage: The keeping, in an unenclosed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four hours.

Overlay Zone: A zoning district that encompasses one or more underlying zones and that imposes additional requirements above that required by the underlying zone.

Owner: See Landowner.

Parapet: The extension of the main walls of a building above the roof level.

Parcel: A lot, plot or tract of land designated by any legally recorded or approved means as a single unit. The term includes, but is not limited to, tax parcels, lots or deeded areas.

Park: A tract of land, designated and used by the public for active and passive recreation.

Parking Lot: An off-street, ground-level open area that provides temporary storage for motor vehicles.

Parking Space: The space within a building, or on a lot or parking lot, for the parking or storage of one (1) automobile.

Party Wall or Common Wall: A common shared wall between two separate structures, buildings, or dwelling units.

Performance Standards: A set of criteria or limits relating to certain characteristics that a particular use or process may not exceed.

Permanent Sign: Defined in Section 903.

Permit: Written governmental permission issued by an authorized official, empowering the holder thereof to do some act not forbidden by law but not allowed without such authorization.

Permitted Use: Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

Person: A corporation, company, association, society, firm, partnership, or joint stock company, as well as an individual, a state, and all political subdivisions of a state or any agency or instrumentality thereof, or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.

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Personal Services Establishment: An establishment primarily engaged in providing services involving the care of a person or his or her personal goods or apparel. Service activities shall include and be similar to barbershops; beauty salons; health spas; massage therapy; photographic studios; radio and television repair; repair shops for home appliances and tools, bicycles, guns, locks, shoes and watches; tailor and dressmaking shops; and pet grooming with no overnight boarding. Personal service establishments shall not be construed to be adult related uses as defined herein.

Pet: A domestic or tamed animal or bird kept for companionship or pleasure and treated with care and affection.

Pet Grooming Establishment: A business activity that is operated and conducted within an enclosed premises and includes and is limited to the grooming and/or washing of pets and/or domestic animals and which shall not include any training or boarding of animals and/or any outdoor activities.

Planning Code: The Pennsylvania Municipalities Planning Code, Act 247 of 1968, P.L. 805, No. 247, as reenacted and amended.

Planning Commission: The Planning Commission of the Borough of Albion, Erie County, Pennsylvania.

Playground: An active recreational area with a variety of facilities, including equipment for younger children as well as court and field games.

Poultry: Domesticated fowl collectively, especially those valued for their meat and eggs, such as chickens, turkeys, ducks, geese, and guinea fowl.

Premises: A lot, parcel, tract, or plot of land together with the buildings and structures thereon.

Principal Building: See Building, Principal

Principal Use: The primary or predominant use of any lot or parcel of land.

Private: Not publicly owned, operated, or controlled.

Private Drive Sign: Defined in Section 903.

Professional Office: The office of a member of a recognized profession maintained for the conduct of that profession. Professional offices include but are not limited to offices for real estate, stock and bond brokers, accountants, adjusters, appraisers, utility companies, physicians, lawyers, clergymen, teachers, dentists, architects, engineers, insurance agents, opticians, banks, financial institutions, contractors (excluding storage) and similar office-oriented uses.

Projecting Sign: Defined in Section 903.

Property: A lot, parcel, or tract of land together with the building and structures located thereon.

Public hearing: A formal meeting held pursuant to public notice by the governing body or planning agency, intended to inform and obtain public comment, prior to taking action in accordance with the Pennsylvania Municipalities Planning Code.

Public Meeting: A forum held pursuant to notice under 65. C.S. §701 *et seq* (known as “Pennsylvania’s Sunshine Act”).

Public Notice: Notice published once each week for two (2) successive weeks in a newspaper of general circulation in the municipality; or other notice schedule as required by Pennsylvania Law. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. Unless otherwise required by Pennsylvania Law, the first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

Public Parks and Recreation Areas: Locations for leisure-time activities, including but not limited to sports and entertainment that are open to anyone without restriction, except for the rules and standards of conduct and use.

Public Recreation Facility/Public Grounds: Recreation facilities owned and/or operated by an agency of the municipality or other governmental body, including but not limited to parks, swimming pools, golf courses, etc.

Public Sewer and Water System: Any system other than an individual septic tank, tile field, or individual well, that is operated by a municipality, governmental agency, or a public utility for the collection, treatment, and disposal of wastes and the furnishing of potable water.

Public Sign: Defined in Section 903.

Public Street or Public Road: A street ordained or maintained or dedicated and accepted by a Borough, City, Township, County, State or Federal government and open to public use.

Public Utility: A closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety, and welfare.

Public Utility Building or Structure: Any building or structure which belongs to a public utility for uses such as electrical, telephone, gas, water and sewer which are regulated by the PUC or any other governmental agency.

Rear Yard: See Yard, Rear

Recreation, Active: Leisure-time activities, usually of a formal nature and often performed with others, requiring equipment and taking place at prescribed places, sites, or fields.

Recreation, Passive: Activities that involve relatively inactive or less energetic activities, such as walking, sitting, picnicking, board and table games.

Recreation Facility: A place designed and equipped for the conduct of sports and leisure-time activities.

Recreation Facility, Public: A recreation facility open to the general public.

Recreational Equipment: Includes travel trailers, pickup campers or coaches, motorized dwellings, tent trailers, boats and boat trailers, and similar vehicles and equipment; and cases or boxes used for transporting recreational equipment whether occupied by such equipment or not.

Recreational Vehicle: A vehicle-type portable structure without permanent foundation that can be towed, hauled, or driven and is primarily designed as a temporary living accommodation for recreational, camping, and travel use and including, but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes.

Recreational Vehicle Park: Any lot or parcel of land upon which two or more sites are located, established, or maintained for occupancy by recreational vehicles for a fee as temporary living quarters for recreation or vacation purposes.

Recycling Center: A use involving the collection, separation and/or processing of types of waste materials found in the typical household or office for some productive reuse, but which does not involve the actual processing or recycling of hazardous or toxic substances, and which does not primarily involve the processing of non-recycled solid waste, unless the use also meets the applicable requirements for a solid waste processing facility. This definition shall not include a "junkyard."

Residence: A home, abode, or place where an individual is actually living at a specific point in time.

Residential Area: A generic term describing an area that gives the impression that it is predominately a place where people live.

Residential District: See District, Residential

Resort: A facility for transient guests where the primary attractions are recreational features or activities.

Restaurant: An establishment where food and drink are prepared, served, and consumed, mostly within the principal building.

Retail Business: An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

Retail Sales Area: The retail sales area shall be considered to be the total area of the smallest rectangle, or other regular geometric shape which encompasses all display stands, booths, tables or stalls, plus any adjoining aisles and/or walkways from which consumers can inspect items for sale. The retail sales area shall include all indoor and/or outdoor area as listed above.

Riding Academy: An establishment where horses are boarded and cared for and where instruction in riding, jumping, and/or showing is offered and where horses may be hired for riding.

Right-of-Way: A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied or occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer and other similar uses.

Right-of-Way Lines: The lines that form the boundaries of a right-of-way.

Road: See "Street".

Salvage: The utilization of waste materials.

Salvage Yard: A facility or area for storing, selling, dismantling, shredding, compressing, or salvaging scrap, discarded material, or equipment.

Sanitary Landfill: Any facility, fully permitted by the Pennsylvania Department of Environmental Resources, used for the purpose of disposing of solid wastes of an industrial, commercial or domestic nature.

Sawmill: A place or building in which timber is sawed into planks, boards, etc. by machinery.

School: Any building or part thereof that is designed, constructed, or used for education or instruction in any branch of knowledge.

School, Elementary: Any school that is licensed by the state and meets the state requirements for elementary education.

School, Private: Any building or group of buildings, the use of which meets state requirements for elementary, secondary, or higher education and which does not secure the major part of its funding from any governmental agency.

School, Secondary: Any school that is licensed by the state and authorized to award diplomas for secondary education.

Screening: A method of visually shielding or buffering one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

Seasonal Use: A use carried on for only a portion of the year.

Security Sign: Defined in Section 903.

Self-Storage Facility: A building or group of buildings designed and/or used for the purpose of renting or leasing individual storage space to occupants who are to have access to such facility for the purpose of storing and removing personal property. A self-service storage facility is not a public warehouse.

Service Station: See "Automotive Service Station"

Services: Establishments primarily engaged in providing assistance, as opposed to products, to individuals, business, industry, government, and other enterprises.

Setback: The distance between the building or structure and any lot line.

Setback Line: That line that is the required minimum distance from any lot line and that establishes the area within which the principal structure may be erected or placed.

Shielded: Defined in Section 903.

Short-term Rental: Any rental of a dwelling unit, or of a bedroom within a dwelling unit, in exchange for payment, as residential accommodations for a duration of less than thirty (30) consecutive days.

Side Yard: See Yard, Side

Sidewalk: A paved, surfaced, or leveled area, paralleling and usually separated from the street, used as a pedestrian walkway.

Sidewalk Area: That portion of the right-of-way that lies between the right-of-way line and curb line, regardless of whether the sidewalk exists.

Sight Distance: The length of roadway visible to the driver of a passenger vehicle at any given point on the roadway when the view is unobstructed by traffic.

Sign: Defined in Section 903.

Sign Area: Defined in Section 903.

Sign Face: Defined in Section 903.

Sign Height: Defined in Section 903.

Sign Supporting Structure: Defined in Section 903.

Similar Use: A use that has the same characteristics as the specifically cited uses in terms of trip generation and type of traffic, parking and circulation, utility demands, environmental impacts, physical space needs, and market area.

Single Housekeeping Unit – One person or two or more individuals living together sharing household responsibilities and activities, which may include, sharing expenses, chores, eating evening meals together and participating in recreational activities and having close social, economic and psychological commitments to each other.

Site: Any plot or parcel of land or combination of contiguous lots or parcels of land.

Site Plan: An accurately scaled development plan that illustrates the existing conditions on a land parcel as well as depicting details of a proposed development.

Slaughter house: A building or place where animals are butchered for food.

Small Wireless Facility: See Wireless Facility, Small

Solid Waste: Unwanted or discarded material, including waste material with insufficient liquid content to be free flowing.

Solid Waste Disposal: The ultimate disposition of solid waste that cannot be salvaged or recycled.

Solid Waste Transfer Station: A light industrial facility where municipal solid waste is consolidated and transferred to large, long-distance trucks for delivery to disposal facilities. For purposes of this ordinance, facilities serving only as citizen drop-off stations or community convenience centers are not considered waste transfer-stations. Only a facility that receives some portion of its waste directly from collection vehicles, then consolidates and reloads the waste onto larger vehicles for delivery to a final disposal facility, is considered a transfer station. A convenience center, on the other hand, is a designated area where residents manually discard waste and recyclables into dumpsters or collection containers. These containers are periodically removed or emptied, and the waste is transported to the appropriate disposal site (or possibly to a transfer station first).

Special Event of a Temporary Nature: A temporary use of land and/or structures for specially scheduled events of a temporary and short-term nature, including but not limited to fairs, festivals, circuses, concerts and the like, where the actual use, exclusive of one day each for preparation and cleanup, shall not exceed 5 days. The term does not include private events such as business meetings, private parties, weddings, receptions, banquets, fund-raising events, conferences and similar functions.

Special Exception Use: A use permitted in a particular zoning district and approved by the Zoning Hearing Board pursuant to the provisions of this ordinance and Articles VI and IX of the Pennsylvania Municipalities Planning Code. A special exception use must be approved by the Zoning Hearing Board.

Special Occasion Rental Facility: A facility which is available for private rental for occasions such as business meetings, weddings, receptions, banquets, private parties, fund-raising events, conferences and similar functions.

Spot Zoning: Rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding land uses and that does not further the municipality's comprehensive plan.

Stealth Technology: State-of-the-art design techniques used to blend objects into the surrounding environment and to minimize the visual impact as much as possible. These design techniques are applied to wireless communications facilities, antennae and other facilities which render them more visually appealing or blend the proposed facility into the existing structure or visual backdrop in such a manner as to render it minimally visible to the casual observer. Such methods include, but are not limited to, architecturally screened roof mounted antennae, building-mounted antennae painted to match the existing structure and facilities constructed to resemble trees, shrubs, and light poles.

Stockyard: An enclosure with pens, sheds, etc., connected with a slaughterhouse, railroad, market, etc., for the temporary housing of cattle, sheep, swine, or horses.

Stoop: A covered or uncovered area at the front, side or rear door.

Storage Facility: A building or group of buildings containing storage space for lease or rent for varying periods of time. See also, Self-Storage Facility.

Storage Shed: A structure not intended for residential occupancy which is accessory to the principal use of the property as a place to store personal property.

Story: The portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, the space between such floor and the ceiling above it. A basement shall be considered as a story if more than 50% of its clear height is above finished grade, or if it is used for business, or dwelling purposes.

Street: A public or private right-of-way, excluding driveways, intended for use as a means of vehicular and pedestrian circulation, which provides a means of access to abutting property. The word "street" includes thoroughfare, avenue, boulevard, court, drive, expressway, highway, lane, alley and road or similar terms.

Street, Arterial: A high-capacity road or thoroughfare that functions primarily to deliver traffic from collector streets to freeways or expressways, and between urban centers at the highest level of service possible. For purposes of this ordinance, arterials are identified on PennDot's Federal Functional Class map of Erie County.

Street, Collector: A street that collects traffic from local streets and connects with arterials. For purposes of this ordinance, collectors are identified on PennDot's Federal Functional Class map of Erie County.

Street, Cul-De-Sac: A street with a single common ingress and egress and with a turnaround at the end.

Street, Dead-End: A street with a single common ingress and egress.

Street, Local: A street that provides frontage for access to abutting lots and carries slow-speed traffic primarily having a destination or origin on the street itself.

Street, Private: A legally established right-of-way other than a public street not offered for dedication or accepted for municipal ownership and maintenance.

Street Frontage: Defined in Section 903.

Structure: Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

Structure, Accessory: See Accessory Structure.

Structure, Non-Conforming: See Non-Conforming Structure.

Structure, Principal: The main or primary structure on a given lot, tract, or parcel.

Structure, Temporary: A structure without any foundation or footings and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

Studio: A building or portion of a building used as a place of work by an artist, photographer, or artisan, or used for radio or television broadcasting.

Swimming Pool: A water-filled enclosure, permanently constructed or portable, having a depth of more than eighteen inches below the level of the surrounding land, or an above-surface pool, having a depth of more than thirty inches, designed, used and maintained for swimming and bathing. Farm ponds and/or lakes are not included provided that swimming was not the primary purpose for their construction. For purposes of this ordinance, hot tubs having a depth of more than eighteen inches below the level of the surrounding land, or an above-surface depth of more than thirty inches, shall be subject to the same regulations as swimming pools.

Tannery: A place or building where animal skins and hides are tanned.

Target Range or Shooting Range: A specialized facility designed for target practice for archery or firearms.

Tavern: An establishment which serves alcoholic beverages for mostly on-premises consumption and which is licensed by the Pennsylvania Liquor Control Board. Taverns may also serve food.

Temporary Sign: Defined in Section 903.

Temporary Structure: See "Structure, Temporary".

Temporary Use: A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

Transportation Terminal: Land and buildings used as a relay station for the transfer of a load from one vehicle to another or one party to another. A terminal is not used for permanent or long-term accessory storage for principal land uses at other locations. A terminal facility may include storage areas for trucks and buildings or areas for the repair of trucks associated with the terminal. A terminal may also serve as a passenger station that is central to an area and serves as a junction at any point with another line. A bus terminal would be a central point for passengers, and a truck terminal would be a central point for freight.

Treatment Center/Pre-Release Detention Facility:

- A. Treatment Center means a use, other than a prison, providing housing facilities for persons who need specialized housing, treatment, and/or counseling and who need such facilities because of: criminal rehabilitation, such as a criminal halfway house, criminal transitional living facility or a treatment/housing center for persons convicted of driving under the influence of alcohol; chronic abuse of or addiction to alcohol and/or a controlled substance; or a type of mental illness or other behavior that can reasonably be expected to cause a person to be a threat to the physical safety of others.
- B. A Pre-Release Detention Facility is any use (other than a prison or state correctional institute) which involves the placement of persons under the jurisdiction or supervision of the Department of Corrections, the Board of Probation and Parole, or the Board of Pardons and/or any county

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probation department, without regard to any primary or secondary medical/psychological/social treatment purpose.

Tri-Vision Boards: Defined in Section 903.

Truck Terminal: Land and buildings used primarily for the storage and maintenance of trucks and/or trailers that are associated with the terminal. The terminal may also be used for the transfer of freight from one truck and/or trailer to another.

Use: The purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

Use Certificate: A permit issued upon a change in use of a structure or a parcel of land or upon request therefore which certifies that the premises complies with the provisions of this Ordinance and which may be used for the purposes set forth in such permit.

Variance: Permission to depart from the literal requirements of a zoning ordinance.

Vehicle, Motor: A self-propelled device licensed as a motor vehicle and used for transportation of people or goods over roads.

Vehicle Sales, Rental and Service: A facility for the sales, rental, service (including oil and tire changes) and washing of automobiles, trucks, buses, boats and marine equipment, motorcycles, campers, motor homes, recreational vehicles and other vehicles

Vending Machine Sign: Defined in Section 903.

Veterinary Clinic: A facility used for the treatment of domestic animals for pay with health treatment provided by a licensed veterinarian.

Wall Sign: Defined in Section 903.

Warehouse: A building or group of buildings primarily used for the indoor storage, transfer and distribution of products and materials, but not including retail uses or a truck terminal, unless such uses are specifically permitted in that zoning district.

Water Course: A stream, river, brook, creek, or channel or ditch for water, whether natural or manmade.

Water Facility: Any waterworks, water supply works, water distribution system or part thereof, designed, intended or constructed to provide or distribute potable water.

Wetlands: Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Wholesale Facility or Wholesale Trade: An establishment or place of business primarily engaged in selling merchandise to other businesses, including retailers, industrial, commercial, institutional, or professional business users, other wholesalers, or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Wind Energy Conversion System: Any device, such as a wind turbine, which converts wind to a form of usable electric energy.

Wind Turbine: A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and includes the nacelle, rotor, tower, and pad transformer, if any.

Wind Turbine, Small: A wind turbine which is designed and used solely to generate power to serve a principal and/or accessory building located on the lot on which said turbine is situated (without regard to any excess power generated going to a power grid).

Window Sign: Defined in Section 903.

Wireless: Transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, PCS, microwave, satellite, or radio signals.

Wireless Communications Facility (WCF): The set of equipment and network components including antennas, transmitters, receivers, cabling and accessory equipment, used to provide wireless data and telecommunication services. WCF are usually attached to a communication tower or other structure to achieve the necessary elevation.

Wireless Communications Facilities, Non-Tower (Non-Tower WCF): Wireless communications facilities, including but not limited to, antennae and related equipment. Non-tower WCF shall not include support structures for antennae and related equipment.

Wireless Facility, Small: A wireless communications facility that (1) is mounted on a structure 50 feet or less in height including its antenna, or (2) is mounted on a structure no more than 10 percent taller than other adjacent structures, or (3) does not extend an existing structure on which it is located to a height of more than 50 feet or by more than 10 percent, whichever is greater.

Yard: An open space that lies between the principal building or buildings and the nearest lot line.

Yard, Buffer: See Buffer Yard.

Yard, Front: A space extending the full width of the lot between the principal building and the front lot line and measured perpendicular to the building at the closest point to the front lot line.

Yard, Rear: A space extending across the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line.

Yard, Required: The minimum open space between a lot line and the yard line within which no structure is permitted to be located except as provided in the zoning ordinance.

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Yard, Side: A space extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular from the side lot line to the closest point of the principal building.

Yard Depth: The shortest distance between a lot line and a yard line.

Yard Line: A line drawn parallel to a lot line at the distance therefrom equal to the depth of the required yard.

Zone: Same as District.

Zoning: The delineation of districts and the establishment of regulations governing the use, placement, spacing, and size of land and buildings.

Zoning Administrator: The administrative officer designated to administer the zoning ordinance and issue Zoning Permits, or his/her authorized representative.

Zoning District: A specifically delineated area or district in a municipality within which uniform regulations and requirements govern the use, placement, spacing, and size of land and buildings.

Zoning Map: The map or maps that are a part of the zoning ordinance and delineate the boundaries of zoning districts.

Zoning Officer: See Zoning Administrator.

Zoning Permit: A document issued by a Zoning Administrator, as required in the Zoning Ordinance, as a condition precedent to the commencement of a use, or the erection, construction, reconstruction, restoration, alteration, conversion or installation of a structure or building, that acknowledges that such use, structure or building complies with the provisions of the municipal zoning ordinance or authorized variance therefrom.

Article 3 Administration and Enforcement

301 Administration

301.01 Zoning Administrator

The duty and authority of administration and enforcement of the provisions of this Ordinance are hereby conferred upon the Zoning Administrator and his or her subordinates and/or designees, who may not hold an elective office in the municipality. The Zoning Administrator shall be appointed by the Borough Council.

301.02 Powers and Duties of Zoning Administrator

The duties of the Zoning Administrator shall be:

- A. Administer the zoning ordinance in accordance with its literal terms;
- B. To receive, examine and process all applications and permits as provided by the terms of this Ordinance. The Zoning Administrator shall also issue Zoning Permits for special exception uses, or for variances after the same have been approved;
- C. To record and file all applications for Zoning Permits or certificates of use and occupancy, and accompanying plans and documents, and keep them for public record;
- D. To inspect properties to determine compliance with all provisions of this Ordinance as well as conditions attached to the approval of variances, special exceptions, and curative amendments;
- E. Determine the date before which steps for compliance must be commenced and the date before which the steps must be completed. The Zoning Administrator shall determine an appropriate duration of time for compliance of the specified activity, not to exceed 30 days. Extensions up to a total of 90 days from the date of receipt of the enforcement notice may be granted at the discretion of the Zoning Administrator if applied for in writing;
- F. Upon the request of the Borough Council or the Zoning Hearing Board, present to such bodies facts, records, and any similar information on specific requests, to assist such bodies in reaching their decisions;
- G. To be responsible for keeping this Ordinance and the zoning map up to date, including any amendments thereto;
- H. To revoke a permit or approval issued under the provisions of this Ordinance in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based or for any other cause set forth in this Ordinance, or otherwise permitted by law;
- I. To review proposed subdivisions and land developments for compliance with this Ordinance; and
- J. To take enforcement actions as provided by the Pennsylvania Municipalities Planning Code, as amended.
- K. The Zoning Administrator may be authorized by the municipality to institute civil enforcement proceedings as a means of enforcement when acting within his/her scope of employment.

302 Zoning Permits

A Zoning Permit indicates that a zoning application complies with this Ordinance to the best knowledge of the Zoning Administrator or his/her designee. No Zoning Permit or Use Certificate shall be granted by him/her for any purpose except in compliance with the literal provisions of this Ordinance.

302.01 Permit Requirement

A Zoning Permit is required to be issued prior to the start of any of the following activities, unless otherwise exempted under Section 302.02 of this Ordinance:

- A. Erection, construction, placement, or alteration of any building or structure
- B. Construction of an addition to a building or structure, including decks and porches
- C. Demolition or moving of a building or structure
- D. Making or effecting a change of use of vacant land or any building or structure
- E. Making any change or extension to a nonconforming use
- F. Construction or installation of swimming pools, spas or hot tubs with a holding capacity of over thirty-six inches (36") of water in depth.
- G. Construction or alteration of signs except as exempted in this Ordinance (see Article 9, Signs).
- H. Any temporary use and/or structure that requires a Zoning Permit under Section 302.03 of this Ordinance.

302.02 Permit Exemptions

No Zoning Permit shall be required for the following. When a Zoning Permit is not required, certain activities may still require permits under other ordinances, including, but not limited to, Uniform Construction Code permits.

- A. Ordinary repairs and maintenance of buildings or structures which do not structurally change the building or structure
- B. Remodeling or improvement of existing buildings that does not alter the basic structure, create additional lot area coverage or change the use of the parcel or building.
- C. Steps not exceeding 32 square feet.
- D. Stoops not exceeding 32 square feet.
- E. Chimneys not exceeding 32 square feet.
- F. Overhangs, provided they do not extend more than twenty-four (24) inches beyond the outside wall.
- G. Mailboxes.
- H. Fences and walls less than two (2') feet high.
- I. Construction or installation of swimming pools, spas or hot tubs with a holding capacity of less than or equal to thirty-six inches (36") of water in depth.
- J. Temporary structures: those structures, consisting of materials of poles, fabric and vinyl, not exceeding three hundred twenty (320) square feet and that have no foundation or footing and which are removed when the designated time period, activity or use for which it was erected has ceased, but in no event to exceed one hundred eighty (180) calendar days in a calendar year from when first erected. Provided, however, that a temporary structure of any size erected for less

than one (1) calendar week in any calendar year shall not require any Zoning Permit. Examples of temporary structures are carports, picnic shelters and rollout portable awnings. Temporary structures shall still meet the setback requirements of this Ordinance for the district in which the temporary structure is located.

- K. Signs exempted by this Ordinance (see Article 9, Signs).
- L. Roof mounted cupolas, roof mounted wind turbines, roof mounted solar panels and roof mounted antennas.
- M. The following temporary uses do not require a Zoning Permit:
 - 1. Christmas tree sales conducted on properties located within the B-1 Business, B-2 Business, C-B Business, or REC Public Recreation Districts between Thanksgiving Day and December 25th.
 - 2. Mobile amusement and lighting equipment for promotion, advertisement and grand openings on properties located in the B-1 Business, B-2 Business, C-B Business, or REC Public Recreation Districts for events not exceeding five (5) days in duration.
 - 3. Temporary storage and office trailers that are necessary to serve on-site construction, while such construction is actively underway, subject to the requirements of Section 705.01.
 - 4. The temporary occupancy of recreational vehicles or recreational equipment for a period not exceeding 30 consecutive days or 30 days within a calendar year. The use shall comply with all applicable requirements of Section 705.02 (Recreational Vehicles & Recreational Equipment).
 - 5. Within a legally permitted campground or recreational vehicle park, the temporary occupancy of recreational vehicles or recreational equipment for a period not exceeding 9 consecutive months or 9 months within a calendar year.
 - 6. Special Events of a Temporary Nature, as defined in Article 2 of this Ordinance, located within the REC Public Recreation district, and subject to the requirements set forth in Section 1002.41.

302.03 Permits for Temporary Uses and Structures

A Zoning Permit for a temporary use or structure may be issued by the Zoning Administrator in accordance with the following:

- A. A Zoning Permit for a temporary use or structure shall not be issued for any temporary use or structure where said use would violate any of the provisions of this Ordinance.
- B. Unless otherwise specified by this Ordinance, Zoning Permits for a temporary use or structure are limited to a one week period renewable for a maximum of three additional weeks during any one calendar year.

- C. A Zoning Permit is required for any of the following temporary uses or structures:
1. Mobile amusement and lighting equipment for promotion, advertisement and grand openings on properties located in the B-1 Business, B-2 Business, C-B Business, or REC Public Recreation Districts for events exceeding five (5) days.
 2. Temporary storage units, except as exempted in this Ordinance, subject to the requirements of Section 705.01.
 3. Temporary occupancy of recreational vehicles or recreational equipment for a period of time greater than 30 consecutive days or 30 days within a calendar year, but less than 180 consecutive days or 180 days within a calendar year. Unless specifically stated otherwise in this ordinance, the period of occupancy shall not exceed 180 consecutive days or 180 days within a calendar year. The use must comply with all applicable requirements of Section 704.02 (Recreational Vehicles & Recreational Equipment). Such permit shall not be renewable. In accordance with Section 302.02 (M)(4) no permit is required for temporary occupancy of recreational vehicles or recreational equipment for a period not exceeding (1) 30 consecutive days or (2) 30 days within a calendar year.
 4. Temporary stands for the sale of produce and related incidental items. Such stands are subject to the following:
 - a. Such stands shall be permitted only within the B-1 Business, B-2 Business, and C-B Business Districts.
 - b. Such stands shall comply with all applicable requirements of this ordinance.
 - c. Such stands shall be permitted for a period not exceeding 180 days in any one calendar year.
 - d. Such stands shall be removed upon expiration of the Zoning Permit for the temporary use or structure.
 5. Temporary stands for the sale of fireworks and related incidental items. Such stands are subject to the following:
 - a. Such stands shall be permitted only within the B-1 Business, B-2 Business, C-B Business, or REC Public Recreation Districts.
 - b. Such stands shall comply with all applicable requirements of this ordinance.
 - c. Such stands shall be permitted for a period not exceeding 30 days in any one calendar year.
 - d. Such stands shall be removed upon expiration of the Zoning Permit for the temporary use or structure.
 6. Special Events of a Temporary Nature, as defined in Article 2 of this Ordinance, and subject to the requirements set forth in Section 1002.41, unless exempted by Section 302.02 (M, 6).

302.04 Application for Zoning Permits

- A. Submittal: All applications for a Zoning Permit shall be made in writing on a form provided by the municipality, and shall be accompanied by any additional information that the municipality may require for administration of this Ordinance. Such completed application, with required fees, shall be submitted to a designated municipal employee. An application shall be considered to be complete when it is completely filled out by the applicant, all necessary information is submitted, and the appropriate fee(s) is/are paid.
- B. Uniform Construction Code: Where the proposed use is regulated under the Uniform Construction Code, the applicant shall submit an application for a building permit concurrently with the Zoning Permit.
- C. Areas Subject to Flooding: If the proposed development, excavation or construction is located within an area subject to regulation by the Borough of Albion's Floodplain Ordinance (Ordinance No. 02-2014), no Zoning Permit shall be issued until the applicant complies with all applicable requirements of that ordinance. This includes, but is not limited to the submission of all information required by that ordinance (See Section 3.04 of Albion Borough Ordinance No. 02-2014).
- D. The only determination by the Zoning Administrator that shall be official shall be a written determination after the Zoning Administrator receives a duly submitted, written, official application.
- E. In all instances in which the Zoning Administrator expresses a reasonable doubt as to the ability of a proposed use to meet all of the requirements of this Ordinance, it will be incumbent upon the applicant to furnish adequate evidence in support of his/her application. If such evidence is not presented, the Zoning Permit will be denied.
- F. By Whom Application is Made: Application for a Zoning Permit shall be made by the Owner or Lessee of any building or structure, or the agent of either; provided, however, that if the application is made by a person other than the Owner or Lessee, it shall be accompanied by a written authorization of the Owner or the qualified person making the application, that the proposed work is authorized by this Owner. The full names and addresses of the Owner, Lessee, Applicant, and of the responsible officers, if the Owner or Lessee is a corporate body, shall be stated in the application.
- G. The Zoning Administrator may call upon other Borough staff and/or Borough appointed consultants in the review of submitted materials for applications.
- H. Reconsideration of Application: An applicant whose request for a permit has been denied by the Zoning Administrator may make a later application for a permit provided all deficiencies which were the basis for the prior denial of the permit have been eliminated. Additional fees may apply as set by the Borough Council.
- I. Expiration of Zoning Permit: If the action authorized by the permit has not commenced within six (6) months from the date of issuance, the permit shall expire; and/or if the building, structure or alteration, as the case may be, is not completed within one (1) year of the date of issuance, the permit shall expire. However, the Zoning Permit may be extended one time for one (1) additional year, upon written request by the applicant on a form provided by the municipality, and payment of a permit renewal fee.

- J. Inspections: Inspections of the property in question by the Zoning Administrator or other duly appointed official may be required at various intervals during the construction process. By submitting an application for a Zoning Permit, the landowner authorizes the municipality to perform such inspections as required.

302.05 Issuance of Zoning Permits

- A. Issuance of Permits: Upon receiving the application, the Zoning Administrator shall examine the same within a reasonable time after filing. If the application or plans do not conform to the provisions of all pertinent local laws, he/she shall reject such application in writing, stating the reasons therefore. He/she shall inform the applicant of his right to appeal to the Zoning Hearing Board in the event such application is rejected. If satisfied that the proposed work and/or use conforms to the provisions of this Ordinance and all other laws and ordinances applicable thereto, he/she shall issue a permit therefore as soon as practical but not later than ninety (90) days from receipt of the application.
- B. Permitted By Right Uses: The Zoning Administrator shall issue a Zoning Permit under this Ordinance in response to an application for a use that is "permitted by right" if it meets all of the requirements of this Ordinance.
- C. Special Exception Use: A Zoning Permit under this Ordinance for a use requiring a Special Exception Permit shall be issued by the Zoning Administrator only in response to a written approval by the Zoning Hearing Board, following a hearing, and compliance with any conditions by the Zoning Hearing Board and any conditions required by this Ordinance.
- D. Applications Requiring a Variance: A permit under this Ordinance for applications requiring a Variance shall be issued by the Zoning Administrator only in response to a written approval by the Zoning Hearing Board, following a hearing, and compliance with any conditions by the Zoning Hearing Board.
- E. Stormwater Management: No Zoning Permit shall be issued until the applicant complies with all applicable requirements of the Albion Borough Stormwater Management Ordinance (Ordinance No. 01 of 2011). This may include, but is not limited to the following submissions, as applicable: small projects stormwater management application, stormwater management site plan, NPDES permit and/or soil erosion and sedimentation permit.
- F. Highway Occupancy Permit: Where necessary for access onto a State road, no Zoning Permit shall be issued until the applicant is issued a Highway Occupancy Permit from the Pennsylvania Department of Transportation.
- G. Sewage Facilities Approval: Where applicable, no Zoning Permit shall be issued until the applicant submits written confirmation that the Erie County Health Department and/or Pennsylvania Department of Environmental Protection (PADEP) has approved the sewage disposal system which is to serve the use. If the use is to be served by a public sewer system, no Zoning Permit shall be issued until the Borough approves connection to the sewer system.
- H. Water Facilities Approval: Where the use will be served by a public water system, no Zoning Permit shall be issued until the Borough approves connection to the public water system.

- I. Compliance with Subdivision and Land Development Ordinance: If an application under this Ordinance is also regulated by the Albion Borough Subdivision and Land Development Ordinance ("SALDO"), then any permit or approval under this Ordinance shall automatically be conditioned upon compliance with the SALDO. For example, if an applicant applies for a permit for a single-family detached dwelling on a proposed new lot, the permit for such dwelling shall not be valid until after the lot is granted final subdivision and land development approval and the lot is officially recorded by the Erie County Recorder of Deeds.
- J. Service Connections (Demolition): Before a building or structure is demolished or removed, the owner or owner's agent shall notify all utilities having service connections within the structure. A Zoning Permit authorizing the demolition or removal of a building or structure shall require that prior to issuance of a permit, the owner shall submit a certification that all service utilities and adjacent property owners have been notified of the proposed demolition and that service connections have been removed.
- K. A copy of each Zoning Permit application and any other zoning approvals shall be retained in municipal files.
- L. After the permit under this Ordinance has been issued, the applicant may undertake the action specified in the permit, in compliance with this Ordinance and any other applicable ordinances. However, it is recommended that applicants wait 30 days to begin construction if there is a possibility of an appeal by another party to have the permit revoked. Any commencement of construction or a use within this 30 day appeal period shall be at the risk of the applicant.
- M. Compliance with Ordinance: The permit shall be a license to proceed with the work and should not be construed as authority to violate, cancel, or set aside any of the provisions of this Ordinance, except as stipulated by the Zoning Hearing Board.
- N. Compliance with Permit and Plot Plan: All work or uses shall conform to the approved application and plans for which the permit has been issued as well as the approved plot plan, if applicable.
- O. Display of Zoning Permit: All approved Zoning Permits shall be prominently displayed on the subject property during construction, renovation, reconstruction, repair, remodeling or the conduct of other site improvements. Such permit displays shall occur within five (5) days of permit issuance, or prior to the commencement of actual work on the site, whichever occurs first. Such permit display shall be continuous until the site receives its Use Certificate.

302.06 Revocation of Permits & Appeals

- A. Revocation: The Zoning Administrator shall revoke, withhold or suspend a permit or approval issued under the provisions of this Ordinance in the case of one or more of the following:
 - 1. Any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based. The Pennsylvania Criminal Code provides for penalties for providing false information to a municipal employee in the carrying out of his/her duties.
 - 2. Upon violation of any condition lawfully imposed by the Zoning Hearing Board for a Special Exception Use or a Variance.
 - 3. Any work being accomplished or use of land or structures in such a way that does not comply with this Ordinance or an approved site plan or approved permit application.

4. Any other just cause set forth in this Ordinance.
- B. Appeals: A party with legitimate standing, or as otherwise provided by State law, may appeal decisions made under this Ordinance within the provisions of the Pennsylvania Municipalities Planning Code (MPC). Such appeal shall occur within the time period established by the MPC.

302.07 Use Certificate

- A. It shall be unlawful to use and/or occupy any structure, sign, land area or portion thereof for which a Zoning Permit is required until a Use Certificate for such activity has been issued by the Zoning Administrator.
- B. The Zoning Permit shall serve as the application for the Use Certificate.
- C. The Use Certificate shall only be issued by the Zoning Administrator if the Zoning Administrator determines that the activity complies with the provisions of this Ordinance and all other laws and ordinances applicable thereto, to the best knowledge of the Zoning Administrator.
- D. Where the use will be served by a public water system, no Use Certificate shall be issued until the applicant submits a certification from the public water provider that all applicable work, approvals and/or final inspections have been satisfactorily completed.
- E. Where the use will be served by a public sewer system, no Use Certificate shall be issued until the applicant submits a certification from the public sewer provider that all applicable work, approvals and/or final inspections have been satisfactorily completed.
- F. The applicant shall keep a copy of the Use Certificate available for inspection.
- G. The Zoning Administrator shall inspect any structure, building, or sign within ten (10) business days upon notification that the proposed work that was listed under a Zoning Permit has been completed, and if satisfied that the work is in conformity and compliance with the work listed in the issued permit and all other pertinent laws, he/she shall issue a Use Certificate for the intended use listed in the original application. Where a building permit is required under the Uniform Construction Code, a Use Certificate shall not be issued until a final inspection by the Building Code Official is complete, all work is found to be satisfactory, and proof of a satisfactory final inspection by the Building Code Official has been submitted to the Zoning Administrator.

303 Interpretation of Ordinance Text

- A. The Zoning Administrator shall literally apply the wording of this Ordinance and the location of all zoning district boundaries to applications. In any case, the Zoning Administrator may also request an advisory opinion from the municipal solicitor or the Zoning Hearing Board solicitor to aid in the Zoning Administrator's determination.
- B. If an applicant disagrees with the Zoning Administrator's determination and believes that the Ordinance should be interpreted in the applicant's favor, the applicant may appeal to the Zoning Hearing Board.

304 Uses Not Specifically Regulated

If a use clearly is not permitted by right or as a special exception use by this Ordinance within any zoning district, the use is prohibited, except that the Zoning Hearing Board may permit such use as a special exception use if the applicant specifically proves to the clear satisfaction of the Zoning Hearing Board that all of the following conditions will be met:

- A. Proposed use will be equal or less intensive in external impacts and nuisances than uses that are permitted in the zoning district.
- B. Proposed use will be closely similar in impacts and character to uses permitted in that zoning district. (See Section 405 (B))
- C. Use will meet all standards that apply under Section 1001 for a Special Exception use.
- D. Use is not specifically prohibited in that zoning district.

305 Enforcement, Violations and Penalties

All of the enforcement, violations and penalty provisions of the Pennsylvania Municipalities Planning Code, as amended, are hereby incorporated into this Ordinance by reference.

- A. Violations: Any person who shall commit or who shall permit any of the following actions violates this Ordinance:
 1. Failure to secure a Zoning Permit prior to a change in use of land or structure, or the erection, construction or alteration of any structure or portion thereof, or the excavation of land to prepare for the erection, construction or alteration of any structure or portion thereof, or as may otherwise be required by this Ordinance.
 2. Placement of false statements on or omitting relevant information from an application for a Zoning Permit.
 3. Undertaking any action in a manner which does not comply with an approved Zoning Permit.
 4. Violation of any conditions imposed by a decision of the Zoning Hearing Board in granting a variance, special exception or other approval.
- B. Causes of Action; Enforcement; Remedies
 1. Enforcement: If it appears to the Zoning Administrator that a violation of this Ordinance has occurred, the Zoning Administrator shall initiate enforcement proceedings by sending an enforcement notice. Prior to sending an official enforcement notice, the Zoning Administrator may at his/her option informally request compliance.
 2. Enforcement Notice: The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record. An enforcement notice shall state the following, at minimum:
 - a. The name of the owner of record and any other person against whom the municipality intends to take action.
 - b. The location of the property in violation.

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- c. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Ordinance.
 - d. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
 - e. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in this Ordinance.
 - f. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.
3. Evidence & Fees: In any appeal of an enforcement notice to the Zoning Hearing Board, the municipality shall have the responsibility of presenting its evidence first. Any filing fees paid by a party to an appeal to an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the municipality if the Zoning Hearing Board, or any court in a subsequent appeal, rules in the appealing party's favor.
 4. Cause of Action: If the enforcement notice is not complied with, within the specified time period, the Zoning Administrator shall notify the Borough Council. With the consent of the Borough Council, the municipal solicitor or other officer of the municipality may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent in or about such premises, any act, conduct, business or use constituting a violation.
 5. Jurisdiction: District justices shall have initial jurisdiction over proceedings brought under Section 305 (B, 6).
 6. Violations and Penalties. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the municipality, pay a judgment of not more than five hundred dollars (\$500) plus all court costs, including the reasonable attorney's fees incurred by the municipality as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the municipality may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless a District Justice determining that there has been a violation, further determines that there was a good faith basis for the person, partnership or corporation violating this Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination by the District Justice, and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney's fees collected for the violation of this Ordinance shall be paid over to the municipality.

306 Fees

The Borough Council may, by resolution, establish fees for the administration of this Ordinance. All fees shall be determined by a schedule that is made available to the general public. The Borough Council may reevaluate the fees schedule and make necessary alterations to it. Such alterations shall not be considered an amendment to this ordinance, shall be undertaken by Resolution voted upon by the Borough Council, and may be adopted at any public meeting of the Borough Council.

307 Amendments

- A. Power of Amendment: The Borough Council may introduce and/or consider amendments to this Ordinance and to the zoning map as proposed by a member of the Borough Council, the Albion Borough Planning Commission, or by a petition of a person or persons residing or owning property within the Borough.
- B. Petitions: Petitions for amendment shall be filed with the Zoning Administrator or other designated municipal employee, and the petitioner, upon such filing, shall pay an advertising deposit and a filing fee, in accordance with a schedule affixed by resolution by the Borough Council. The Zoning Administrator or other designated municipal employee shall receive the petition on behalf of the Borough Council.
- C. Referral: Any proposed amendment presented to the Borough Council without written findings and recommendations from the Albion Borough Planning Commission and the Erie County Planning Commission shall be referred to these agencies for their review and recommendations prior to the public hearing by the Borough Council. The Borough Council shall not hold a public hearing upon such amendments until required reviews and recommendations are received or the expiration of thirty (30) days from the date that such proposed amendments were submitted to the Albion Borough Planning Commission and the Erie County Planning Commission.
- D. Action:
 1. Before acting upon a proposed amendment, the Borough Council shall, as required by law, hold a public hearing thereon. Public notice of such hearing is required and shall contain a brief summary of the proposed amendment and reference to the place where copies of the same can be examined, and shall be published in accordance with the provisions of the Pennsylvania Municipalities Planning Code. If the proposed amendment involves a change to the zoning map, notice of the public hearing shall be conspicuously posted by the municipality at points deemed sufficient by the municipality along the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one (1) week prior to the date of the hearing.
 2. In addition to the requirement that notice be posted where the proposed amendment involves a zoning map change, notice of the public hearing shall be mailed by the municipality at least thirty (30) days prior to the date of the hearing by first class mail to the addresses to which real estate tax bills are sent for all property located within the area being rezoned, as evidenced by tax records within the possession of the municipality. Notice shall include the location, date and time of the public hearing. A good faith effort and substantial compliance shall satisfy the requirements of this subsection. This clause shall not apply when the rezoning constitutes a comprehensive rezoning.

3. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the Borough Council shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.
- E. Curative Amendments: A landowner who desires to challenge on substantive grounds the validity of a zoning ordinance or map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the Borough Council with a written request that his/her challenge and proposed amendment be heard and decided as provided in the Pennsylvania Municipalities Planning Code.

308 Zoning Hearing Board

308.01 Creation of the Zoning Hearing Board

A Zoning Hearing Board shall be created for the purpose of reviewing applications for variances or exceptions to this Zoning Ordinance and deciding whether there is a legitimate reason for granting relief or exception to a specific provision or provisions of this Ordinance when requested. It shall be created and maintained in accordance with applicable provisions of the Pennsylvania Municipalities Planning Code (Act 247 of 1968) as amended, perform duties, and exercise all powers vested in it by the provisions of said Act. It is the intention of the municipality to retain the current Zoning Hearing Board and the Zoning Hearing Board members shall continue to serve in their capacity for this ordinance with terms of office as set forth under the previous ordinance.

308.02 Expenditures for Services

Within the limits of funds appropriated by the Borough Council, the Zoning Hearing Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services.

308.03 Legal Council

Where legal council is desired, an attorney, other than the municipal solicitor, shall be used.

308.04 Jurisdiction

The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

- A. Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to Sections 609.1 and 916.1(a)(2) of the Pennsylvania Municipalities Planning Code.
- B. Appeals from the determination of the Zoning Administrator, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.
- C. Appeals from a determination by the municipal engineer or the Zoning Administrator with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance.

- D. Applications for variances from the terms of this Ordinance or the flood hazard ordinance or such provisions within a land use ordinance, pursuant to Section 910.2 of the Pennsylvania Municipalities Planning Code and Section 308.06 of this Ordinance.
- E. Applications for special exceptions under this Ordinance or the floodplain ordinance.
- F. Appeals from the Zoning Administrator's determination under Section 916.2 of the Pennsylvania Municipalities Planning Code.
- G. Appeals from the determination of the Zoning Administrator or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving Article V or VII applications of the Pennsylvania Municipalities Planning Code.

308.05 Hearings

The Zoning Hearing Board shall conduct hearings and make decisions in accordance with Article IX of the Pennsylvania Municipalities Planning Code and the following requirements.

- A. Notice of hearings shall be given to the public by public notice as set forth in the Pennsylvania Municipalities Planning Code in a newspaper of general circulation in the County. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. Written notice shall be given to the applicant, the Zoning Administrator, and to any person who has made timely request for the same. Written notices shall be prescribed by rules of the Zoning Hearing Board. In addition to the notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing.
- B. The Borough Council may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board. Fees for said hearings may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural, or other technical consultants or expert witness costs.
- C. The first hearing shall be held within sixty (60) days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing shall be held within forty-five (45) days of the prior hearing unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within one hundred (100) days of the first hearing. Upon the request of the applicant, the Zoning Hearing Board or Hearing Officer shall assure that the applicant receives at least seven (7) hours of hearings within the one hundred (100) days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within one hundred (100) days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and municipality, be granted additional hearings to complete their

- opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.
- D. The hearings shall be conducted by the Zoning Hearing Board or the Zoning Hearing Board may appoint any member or an independent attorney as a Hearing Officer. The decision, or, where no decision is called for, the findings shall be made by the Zoning Hearing Board, but the parties may waive decision or findings by the Zoning Hearing Board and accept the decision or findings of the Hearing Officer as final.
 - E. The parties to the hearing shall be the municipality, any person affected by the application who has made timely appearance of record before the Zoning Hearing Board, and any other person including civic or community organizations permitted to appear by the Zoning Hearing Board. The Zoning Hearing Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Zoning Hearing Board for that purpose.
 - F. The Chairman or Acting Chairman of the Zoning Hearing Board or the Hearing Officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
 - G. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
 - H. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious testimony or evidence may be excluded.
 - I. The Zoning Hearing Board or the Hearing Officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Zoning Hearing Board. The cost of the original transcript shall be paid by the Zoning Hearing Board if the transcript is ordered by the Zoning Hearing Board or Hearing Officer or shall be paid by the person appealing from the decision of the Zoning Hearing Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.
 - J. The Zoning Hearing Board or the Hearing Officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, except that advice from the Zoning Hearing Board's solicitor is exempt from this restriction; shall not take notice of any communication, reports, staff memoranda, or other materials unless the parties are afforded an opportunity to contest the material so noticed; and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
 - K. The Zoning Hearing Board or the Hearing Officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Zoning Hearing Board or Hearing Officer. Where application is contested or denied, each decision shall be accompanied by findings of fact and

conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of this Ordinance or the Pennsylvania Municipalities Planning Code, or any rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a Hearing Officer, and there has been no stipulation that his decision or findings are final, the Zoning Hearing Board shall make his report and recommendations available to the parties within forty-five (45) days, and the parties shall be entitled to make written representations thereon to the Zoning Hearing Board prior to final decision or entry of findings, and the Zoning Hearing Board's decision shall be entered no later than thirty (30) days after the report of the Hearing Officer. Except for challenges filed under 916.1 of the Pennsylvania Municipalities Planning Code, where the Zoning Hearing Board fails to render the decision within the period required by this Ordinance or the Pennsylvania Municipalities Planning Code, or fails to commence, conduct, or complete the required hearing as required by Article IX of the Pennsylvania Municipalities Planning Code, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Zoning Hearing Board to meet or render a decision as herein above provided, the Zoning Hearing Board shall give public notice of said decision within ten (10) days in the same manner as provided in Section 308.05 (A) of this Ordinance. Nothing in this subsection shall prejudice the right of any party to appeal the decision to a court of competent jurisdiction.

- L. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Zoning Hearing Board no later than the last day of the hearing, the Zoning Hearing Board shall provide by mail or otherwise, a brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

308.06 Variances

- A. The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this Zoning Ordinance inflict unnecessary hardship upon the applicant. Subject to the provisions of the Pennsylvania Municipalities Planning Code, the Zoning Hearing Board may by rule prescribe the form of application and may require preliminary application to the Zoning Administrator. The Zoning Hearing Board may grant a variance provided the following findings are made where relevant in a given case.
1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this Zoning Ordinance in the neighborhood or district in which the property is located;
 2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property;
 3. That such unnecessary hardship has not been created by the appellant;
 4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare; and
 5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- B. Conditions: In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code. These conditions shall be enforceable by the Zoning Administrator and failure to comply with such conditions shall constitute a violation of this Ordinance.
- C. Site Plan Approval: Any site plan presented in support of a variance shall become an official part of the record for said variance. Approval of any variance will also bind the use in accordance with the submitted site plan.

308.07 Special Exceptions

- A. The Zoning Hearing Board shall hear and decide requests for special exceptions in accordance with the standards and criteria of this Ordinance. The applicant must demonstrate compliance with all applicable provisions of this Ordinance, including the general requirements and standards listed in Section 1001 and any applicable specific requirements and standards identified in Section 1002 of this Ordinance.

- B. Filing Requirements: In addition to the required Zoning Permit information, each Special Exception application shall include the following:
 - 1. Ground floor plans and elevations of proposed structures;
 - 2. Names and address of adjoining property owners including properties directly across a public right-of-way;
 - 3. A scaled drawing (site plan) of the site with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this Ordinance; and,
 - 4. A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this Ordinance;
- C. Conditions: In granting a special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed in this Ordinance, as it may deem necessary to implement the purposes of the Pennsylvania Municipalities Planning Code and this Ordinance. These conditions shall be enforceable by the Zoning Administrator and failure to comply with such conditions shall constitute a violation of this Ordinance.
- D. Site Plan Approval: Any site plan presented in support of the Special Exception pursuant to Section 308.07 (B)(3) shall become an official part of the record for said Special Exception. Approval of any Special Exception will also bind the use in accordance with the submitted site plan; therefore, should a change in the site plan be required as part of the approval of the use, the applicant shall revise the site plan prior to the issuance of a Zoning Permit. Any subsequent change to the use on the subject property not reflected on the originally approved site plan, shall require the obtainment of another Special Exception Approval.
- E. Conditional Approvals: When this Ordinance requires certificates, licenses, permits or similar documents, and when, in the Zoning Hearing Board's opinion, such documents will be issued in a matter of time, the Zoning Hearing Board may issue a conditional approval based upon the final issuance of such documents.

308.08 Parties Appellant Before Zoning Hearing Board

Appeals under Section 308.04 and proceedings to challenge the Ordinance under Section 308.04 may be filed with the Zoning Hearing Board, in writing, by the landowner affected, any officer or agency of the municipality, or any person aggrieved. Requests for a variance under Section 308.06 and for special exception under Section 308.07 may be filed with the Zoning Hearing Board by any landowner or any tenant with the permission of such landowner.

308.09 Time Limitations for Appeal

- A. No person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after an application for development, preliminary or final, has been approved by an appropriate municipal officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. See also Section 914.1 of the Pennsylvania Municipalities Planning Code.

- B. All appeals from determinations adverse to the landowners shall be filed by the landowner within 30 days after notice of the determination is issued.

308.10 Time Limitations of Zoning Hearing Board's Decision

- A. If the variance or special exception is granted or the issuance of a permit is approved, or other action by the appellant is authorized, the necessary permit shall be secured and the authorized action begun within two (2) years after the date when the variance or special exception is finally granted, or the issuance of a permit is finally approved, or the other action by the appellant is authorized, and the building or alteration, as the case may be, shall be completed within three (3) years of said date. For good cause, the Zoning Hearing Board may at any time, upon application in writing, extend either of these deadlines.
- B. Should the appellant or applicant fail to obtain the necessary permits within said two (2) year period, or having obtained the permit, should he/she fail to commence work thereunder within such two (2) year period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn, or abandoned his appeal or his application, and all provisions, variances and permits granted to him shall be deemed automatically rescinded by the Zoning Hearing Board.
- C. Should the appellant or applicant commence construction or alteration within said two (2) year period, but should he/she fail to complete such construction or alteration within said three (3) year period, the Zoning Hearing Board may, upon ten (10) days' notice in writing, rescind or revoke the granted variance or special exception, or the issuance of the permit, or permits, or the other action authorized to the appellant or applicant, if the Zoning Hearing Board finds that no good cause appears for the failure to complete within such three (3) year period, and if the Zoning Hearing Board further finds that conditions have so altered or changed in the interval since the granting of the variance, permit or action, that revocation or rescission of the action is justified.
- D. As an alternative to the preceding, an applicant can request, as part of the original application before the Zoning Hearing Board, the granting of a timetable associated with the request which would supersede the deadlines imposed in this section. In so doing, the applicant must demonstrate that the times requested are logically related to normal and expected progress of the project. In approving a timetable under this section, the Zoning Hearing Board must establish and bind a definite time frame for (1) issuance of a Zoning Permit, and (2) completion of construction of the project.

308.11 Stay of Proceedings

Upon filing of any proceeding referred to in Section 913.3 of the Pennsylvania Municipalities Planning Code and during its pendency before the Zoning Hearing Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Administrator or of any agency or body, and all official action thereunder shall be stayed unless the Zoning Administrator or any other appropriate agency or body certifies to the Zoning Hearing Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Hearing Board or by the court having jurisdiction of zoning appeals on petition after notice to the Zoning Administrator or other appropriate agency or body. See also Section 915.1 of the Pennsylvania Municipalities Planning Code.

Article 4 Nonconforming Lots, Structures, and Uses

401 Continuation of Nonconforming Uses and Structures

All lawful uses of land, buildings, signs, or other structures existing on the effective date of this ordinance, or amendments that may later be adopted, may be continued, altered, restored, reconstructed, sold, or maintained in accordance with the provisions of this Ordinance. These uses of land, buildings, signs, or other structures shall be considered "nonconforming".

402 Registration

- A. Nonconforming uses and structures may be reported to the Zoning Administrator by the owner, user, lessor, or lessee, and be registered by the Zoning Administrator within one (1) year of the effective date of this Ordinance.
- B. The Zoning Administrator, upon proof of a legal nonconformity, is authorized to register the existence of the nonconforming uses and/or structures.
- C. Should a nonconforming use or structure not be reported or identified within one (1) year, the owner, user, lessor, or lessee of the nonconforming use or structure shall have the burden of establishing that the use or structure was nonconforming upon the effective date of this ordinance. Sufficient proof of the following shall be provided, in a form acceptable to the Zoning Administrator:
 1. The date of construction of the building or structure, and the date the use was established.
 2. The continuous operation of the nonconforming use.
 3. Such other proof as may be deemed necessary by the Zoning Administrator.

403 Existing, Nonconforming Lots of Record

The following requirements shall apply to the development and use of a nonconforming lot:

- A. Any lot of record existing at the effective date of this Ordinance, and held in separate ownership different from the ownership of adjoining lots, may be used for the erection of a structure conforming to the use regulations of the zoning district in which it is located even though its lot area and/or width are less than the minimum required by this Ordinance. However, such lot must comply with the yard, height, and coverage standards of the zoning district wherein it is located.
- B. If two or more lots of record with continuous frontage are held in single ownership and if both, all or any of such lots do not meet the requirements in this Ordinance for lot area and/or width in the zoning district, the lands involved shall be considered to be an undivided parcel for purposes of this Ordinance. The Zoning Administrator, upon receipt of an application for a permit, shall refer the application to the Zoning Hearing Board. The Zoning Hearing Board may require the lots of record to be replotted to create fewer lots, which would comply with the minimum requirements of this Ordinance.

- C. No provision of this Ordinance relating to side and rear yard requirements shall prevent the reasonable use of a lot of record. The Zoning Hearing Board, after providing notice to adjacent property owners and holding a public hearing, may grant a variance for a reduction in the requirement for side yard and rear yards for non-conforming lots of record which lack required lot width.

404 Nonconforming Uses and Structures

A. Alterations and Reconstruction:

1. Repairs and structural alterations not constituting extensions, expansions or enlargements may be made to a nonconforming building or to a building occupied by a nonconforming use.
2. A nonconforming building which is damaged by fire, an explosion, or a natural disaster, etc, may be rebuilt and used for the same purposes, provided that:
 - a. The reconstruction of the building is commenced within 18 months from the date of the destroying of the building and is carried to completion without undue delay, and
 - b. The reconstructed building does not exceed the height, gross floor area, or volume of the building destroyed.

B. Extensions, Expansions, and Enlargements: Nonconforming uses or structures may be allowed to expand, extend or enlarge if a special exception is approved by the Zoning Hearing Board. In addition to any reasonable conditions and safeguards that may be required by the Zoning Hearing Board, the extension, expansion and/or enlargement shall also comply with the following standards:

1. Any extension, expansion or enlargement of a nonconforming building shall not exceed 50% of the total gross floor area of the nonconforming building from the time it became nonconforming.
2. Any extension, expansion or enlargement shall conform to the height, area, yard and coverage regulations of the district in which it is located.
3. Extension along a Nonconforming Setback: If an existing structure has a lawfully nonconforming building setback, additions may occur to increase the height above such setback or to extend other portions of the structure out to the nonconforming side or rear setback line, provided that:
 - a. The structure shall not be extended beyond the existing nonconforming setback line.
 - b. No additional nonconformity shall be created.
 - c. The new nonconforming extension shall not be greater than 25% of the existing gross floor area.
 - d. All other requirements of this Section are met.
 - e. Such addition shall not be permitted for a non-residential building or structure that abuts an existing residential use or residential district.
4. All required loading and/or parking spaces for any expansion or enlargement shall comply with the requirements of this Ordinance.

5. Any extension, expansion or enlargement of a nonconforming structure or use shall not be permitted to extend into vacant parcels of land adjacent to the parcel containing the nonconforming building or use.
6. Expansions, extensions or enlargements of a nonconforming sign shall be prohibited.
7. The intensity of a nonconforming use (resulting nuisances such as air pollution, noise, glare, vibrations, delivery traffic, hazards, etc) shall not be increased.

405 Change of Use

- A. Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.
- B. A nonconforming use may be changed to another nonconforming use only by the granting of a special exception by the Zoning Hearing Board in compliance with this Ordinance. Where a special exception approval is required, the Zoning Hearing Board shall determine whether the applicant has provided sufficient proof to show that the proposed new use will be equal or less objectionable in external effects than the pre-existing nonconforming use with regard to:
 1. Traffic safety and generation (especially truck traffic)
 2. Noise, dust, fumes, vapors, gases, odors, glare, vibration, fire, hazardous substances and explosive hazards
 3. Amount and character of outdoor storage
 4. Late night and early morning hours of operation if the new use would be close to dwellings
 5. Compatibility with the character of surrounding uses.

406 Abandonment and Discontinuance

A nonconforming use shall be presumed abandoned when operations associated with the nonconforming use have ceased by an apparent act or failure to act on the part of the tenant or owner to reinstate such use within one (1) year from the date the activity stopped, and the use is not actively advertised for sale or lease. Such nonconforming use shall not thereafter be reinstated except in conformance with this Ordinance. A nonconforming structure or land, which is actively marketed, but has not been sold or leased, shall not be considered abandoned. The applicant shall be responsible to provide evidence that the nonconformity was not abandoned.

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Article 5 Zoning Districts & Use Table

501 Designation of Districts

For the purpose of this Ordinance, the Borough of Albion is hereby divided into zoning districts which shall be designated as follows:

- R-1 Residential District
- R-2 Residential District
- C-B Central Business District
- B-1 Business District
- B-2 Business District
- REC Public Recreation District
- F-P Floodplain Overlay District

502 Zoning Map

The locations and boundaries of the above districts are shown upon the map attached to and made a part hereof this Ordinance, which shall be designated the Albion Borough Zoning Map". This zoning map and all notations, references and other data shown thereon are hereby incorporated by reference into this Ordinance as if all were fully described herein.

503 Interpretation of Zoning Boundaries

The following rules shall apply in the interpretation of zoning district boundaries as shown on the zoning map:

- A. Where a district boundary approximately follows the center line of a road, alley, or railroad line, the center line of such road, alley or railroad line shall be interpreted to be the zoning district boundary.
- B. Where a district boundary approximately parallels a road right-of-way or alley, the boundary shall be interpreted as being parallel to it and at such distance from it as indicated on the zoning map. If no distance is given, such dimensions shall be determined by the scale of the zoning map.
- C. Where a district boundary approximately follows a lot line, the lot line shall be interpreted to be the zoning district boundary.
- D. Where a district boundary approximately follows a municipal boundary, the municipal boundary shall be interpreted to be the zoning district boundary.
- E. Where a district boundary is shown parallel to or as an extension of a lot line or other identifiable feature, it shall be construed as such.
- F. Where a district boundary is shown as connecting identifiable physical features or points on the map, such as the intersection of lot lines, it shall be construed as such.
- G. Where a stream, creek or other water body is bounded by two or more zoning districts the boundary line of these districts shall be extended to the center of the body of water.
- H. All distances pertaining to the delineation of zoning districts as shown on the zoning map shall be measured from the existing road right-of-way line when such distance is measured from a public road.

- I. Vacation of Public Ways: Whenever any road or alley is vacated, the location of the zoning district or districts adjoining such road or alley shall not be affected.
- J. Where it is not possible or practical for the Zoning Administrator to determine the location of a zoning district boundary line, or if a petitioner contests the Zoning Administrator's determination of the boundary, the Zoning Hearing Board, upon appeal, shall determine and establish the location of said boundary line.

504 District Purposes

504.01 R-1 Residential District

The purpose of the R-1, Residential Zoning District is to accommodate low density, residential growth within the Borough. Those areas designated R-1 Residential are to be used primarily for low density residential, and associated public, institutional and recreational uses.

504.02 R-2 Residential District

The purpose of the R-2, Residential Zoning District is to accommodate all basic forms of housing including single family detached dwellings and housing structures for more than one family. It includes single family attached dwellings (such as duplexes, townhouses, and condominiums), apartment buildings, and similar uses.

504.03 C-B Central Business District

The purpose of the C-B, Central Business District is to encourage the development and expansion of the Borough's central business district in a manner that allows the existing character of development to be preserved to the greatest extent possible. The intent is to allow for sidewalk-fronting buildings and a dense development pattern that allows common walls; and to accommodate parking in a convenient manner that does not interfere with street traffic. The district allows for a wide variety of commercial, service, office, retail, and related uses.

504.04 B-1 Business District

The purpose of the B-1, Business District is to accommodate a mixture of higher density residential uses and compatible, commercial and institutional uses serving the needs of the community. Heavy commercial, industrial and other high impact uses are excluded in order to limit undesirable or incompatible situations and/or conflicts between land uses within this district.

504.05 B-2 Business District

The purpose of the B-2, Business District is to provide land for commercial, institutional, and industrial uses, including heavy commercial, heavy industrial and other high impact uses.

504.06 REC Public Recreation District

The purpose of the REC Public Recreation District is to provide for the continued use of Albion's public park and the Albion Fairgrounds in a manner that is compatible with adjacent land uses and zoning districts. Permitted uses include recreational uses; special events of a temporary nature, such as agricultural fairs and exhibits; circuses; carnivals; festivals; auto, boat and/or recreational vehicle shows; outdoor concerts or shows; and similar events; and other compatible uses which contribute to and/or support the continued use of the park and fairgrounds.

504.07 F-P Floodplain Overlay District

The purpose of the Floodplain Overlay District is to place restrictions upon development in areas where flooding poses a greater than average risk of bringing about damage to property or loss of life.

- A. The Floodplain district is an overlay zone, consisting of all identified floodplain areas. The identified floodplain areas shall be any areas of The Borough of Albion, classified as special flood hazard areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMS) dated February 19, 2014 and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study.
- B. The regulations set forth in the Albion Borough Floodplain Ordinance shall apply to the use and development of all parcels and structures located within the Floodplain Overlay District.
- C. Where this Ordinance and the Albion Borough Floodplain Ordinance both control a particular matter the provisions of the Albion Borough Floodplain Ordinance shall apply.

505 District Use Table

The types of uses permitted for each zoning district are listed in the following table and are considered principal uses unless they are listed in the accessory use section. Uses shall be defined according to the common meaning of the term or according to definitions as set forth in Article 2. Uses that are not listed for a district are not permitted.

Uses permitted within each zoning district are identified as those Permitted by Right (zoning decision by Zoning Administrator) and those permitted by Special Exception (zoning decision by Zoning Hearing Board).

Some of the uses permitted must comply with certain criteria, which are set forth in Article 10, or in other areas of this Ordinance. The District Use Table identifies applicable sections (in parenthesis) that apply to each particular use. Note that these section numbers are provided for reference purposes only, and that all applicable regulations of this Ordinance apply, regardless of whether or not they are specifically referenced in the District Use Table.

P = Permitted Use (approved by Zoning Administrator) SE = Special Exception (approved by Zoning Hearing Board)	R-1	R-2	C-B	B-1	B-2	REC
Residential Uses						
Single-Family Detached Dwellings	P	P				
Single-Family Attached Dwellings	P	P				
Two-Family Dwelling		P				
Multiple-Family Dwelling (3 to 4 units)		P		P		
Multiple-Family Dwelling (5 or more units) (1002.29)		SE		P		
Mixed Use Structures (Residential and Commercial) (1002.27)			P	P		
Mobile Home Parks (1002.28)		SE				
Assisted Living Facility (1002.04)		SE				
Bed and Breakfast Inns (1002.06)		P		P		
Boarding Houses and Group Quarters (1002.07)		SE				
Accessory Uses						
Accessory Structures and Uses Customarily Incidental to Principal Use	P	P	P	P	P	P
Home Based Business or Occupation (1002.22)	SE	P	P	P		
Home-Based Business (No-Impact) (1002.23)	P	P	P	P		
In-Law Apartments (1002.25)	P					
Small Wind Turbines (see definition) (1002.46)					SE	SE
Drive Through Facilities for Commercial Uses (1002.15)			P	P	P	
Kennel Accessory (1002.03)			P	P	P	

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P = Permitted Use (approved by Zoning Administrator) SE = Special Exception (approved by Zoning Hearing Board)	R-1	R-2	C-B	B-1	B-2	REC
Non-Residential Uses						
Agriculture (1002.02)	SE					SE
Adult Related Uses (1002.01)					SE	
Alternative Fuel Production					SE	
Animal Shelter (1002.03)				SE	P	
Assembly or Finishing of Products					P	
Auction House					P	
Automobile/Vehicle Service and Repair Facilities (1002.05)				SE	P	
Banks/Financial Institutions			P	P	P	
Brew Pub			P	P	P	
Business Services			P	P	P	
Campgrounds and Recreational Vehicle Parks (1002.08)						SE
Car Wash Facilities (1002.09)				P	P	
Cemeteries (1002.10)	SE					
Child Day Care Center (1002.14)			P	P		
Child Day Care Home (Family) (1002.14)	P	P		P		
Child Day Care Home (Group) (1002.14)	P	P		P		
Commercial Recreation, Indoor			P	P	P	SE
Commercial Recreation, Outdoor (1002.11)					P	SE
Communications Towers (used to deploy small wireless facilities (see definition) and/or towers not exceeding 50 feet in height)	P	P	P	P	P	P
Communications Towers (greater than 50 feet in height, and not used to deploy small wireless facilities) (1002.12)					SE	SE
Community Garden	SE	SE				P
Contracting Operation					P	
Convenience Store/Automotive Fueling Station (1002.13)				P	P	
Day Care Center for Adults (1002.14)		SE		P		
Distilleries, Breweries					SE	
Distribution Centers					P	
Dry Cleaning, Laundry Services and Laundromats (1002.16)			P	P	P	
Emergency Medical Treatment Facility			P	P		
Emergency Services Stations (1002.17)				P	P	
Essential Services, Class 1	P	P	P	P	P	P
Essential Services, Class 2 (1002.18)	P	P	P	P	P	P
Farmer's Market (1002.19)			P	P	P	P
Flea Market (1002.19)					P	P
Forestry	P	P	P	P	P	P
Funeral Homes, Mortuaries and Crematoriums (1002.20)				P		

Albion Borough Zoning; Adopted August 13, 2019

P = Permitted Use (approved by Zoning Administrator) SE = Special Exception (approved by Zoning Hearing Board)	R-1	R-2	C-B	B-1	B-2	REC
Garden Center				P	P	
Heavy Industry/Manufacturing					SE	
Heliports and Helistops (1002.21)				SE	SE	
Hospitals (1002.36)			SE	SE		
Hotels and Motels				SE		
Houses of Worship (1002.24)		SE	SE	P		
Industrial Parks					SE	
Kennels (1002.03)				SE	P	
Laundry and/or Dry Cleaning Establishment (Industrial)					P	
Libraries, Museums and Art Galleries			P	P		
Light Industry/Manufacturing					P	
Manufactured/Mobile Home Sales Lot					P	
Medical Laboratory and/or Clinic				SE	P	
Mineral Extraction, Sand and Gravel Pits (1002.26)					SE	
Municipal Buildings and Structures			P	P	P	P
Natural Gas Compressor Station					SE	
Natural Gas Processing Plant					SE	
Natural Gas, Oil and Gas Development					SE	SE
Nursing Homes (1002.36)				SE		
Offices (Medical, Dental, Business and Professional)			P	P	P	
Paintball Facilities, Indoor (1002.42)				SE	P	
Paintball Facilities, Outdoor (1002.42)					SE	
Parks and Playgrounds	P	P	P	P	P	P
Personal Services Establishments			P	P	P	
Pet Grooming Establishment (1002.03)			P	P	P	
Plant Nurseries and Greenhouses					P	
Public Utility Buildings (1002.30; 106 C)	SE	SE	SE	P	P	
Recycling Centers (1002.31)					P	
Rental Services			SE	SE	P	
Research Laboratory					P	
Restaurants (1002.32)		SE	P	P	P	
Retail Business (10,000 square feet or greater) (1002.33)				SE	SE	
Retail Business (less than 10,000 square feet)			P	P	P	
Riding Academy or Boarding Stable (1002.34)						SE
Sanitary Landfills					SE	
Sawmills (1002.35)					SE	
Schools (public or private; elementary or secondary) (1002.36)	SE	SE		SE		

Albion Borough Zoning; Adopted August 13, 2019

P = Permitted Use (approved by Zoning Administrator) SE = Special Exception (approved by Zoning Hearing Board)	R-1	R-2	C-B	B-1	B-2	REC
Scrap (Junk or Salvage) Yard (1002.37)					SE	
Self-Storage Facilities (1002.38)					P	
Slaughter House, Stockyard or Tannery					SE	
Social Clubs and Fraternal Organizations (1002.39)			P	P	P	
Solid Waste Processing, Transfer Stations and/or Disposal Facilities (1002.40)					SE	
Special Events of a Temporary Nature (1002.41)						P
Special Occasion Rental Facility			P	P	P	P
Target Range, Indoor (1002.42)				SE	P	
Target Range, Outdoor Archery (1002.42)					SE	
Taverns and Nightclubs (1002.43)			SE	SE	SE	
Transportation Terminal					P	
Treatment Center/Pre-Release Detention Facility (1002.44)					SE	
Truck and Heavy Equipment Sales, Service and Repair Services					P	
Vehicle Sales, Rentals and Service (1002.45)				SE	P	
Veterinary Clinics (1002.03)			P	P	P	
Wholesale, Warehouse and Storage Facilities (1002.47)					P	SE
Wireless Communications Facilities, Non-Tower	P	P	P	P	P	P

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Article 6 Lot Area, Yard and Height Regulations

601 General Requirements

- A. No yard or lot existing upon adoption of this Ordinance shall be reduced in size or area below the minimum requirements of the zoning district within which it is located. Yards or lots created after the effective date of this Ordinance shall meet the minimum requirements established by this Ordinance.
- B. Yards shall be provided in accordance with the provisions of this Ordinance and shall be planted with grass, seed, sod, ground cover, mulch or other pervious decorative or vegetative cover excepting in cases where walks, access drives, off-street parking lots, patios and other types of surfaces are permitted by this Ordinance.
- C. The preservation of existing vegetation and natural wooded areas is permitted within the required yard areas.

602 Emergency Access

All principal buildings shall have adequate provisions for access by emergency vehicles and fire ladders in order to reach all sides of a building.

603 Frontage onto Public Right-of-Way

Frontage required onto public right-of-way shall comply with the following:

- A. Each proposed new lot shall directly abut one of the following: a) a public street, not including an "alley," b) a street proposed to be dedicated to the municipality by the subdivision plan which created such lot, or (c) an existing (at date of adoption of this Ordinance) private street which meets all of the requirements of a public street.
- B. Access to lots containing single-family dwellings and access to lots containing multiple family developments of 4 or less units shall be via driveways and access to lots containing other uses shall be via access drives.
- C. The erection of a principal building on any lot which existed at the time of the enactment of this Ordinance and does not have frontage on a public right-of-way shall be permitted if the applicant provides proof of access to the property in the form of a legal document recorded at the Erie County Recorder of Deeds. If the existing document does not address access rights and maintenance responsibilities between the landowner and effected parties, or if no such document exists, a new document shall be recorded that does address these issues. In addition, the landowner shall enter into a binding legal agreement with the municipality prepared by the municipality's solicitor outlining the responsibility of each party as it pertains to the private right-of-way.

604 Clear Sight Triangle

- A. In a clear sight triangle no walk, fence, sign or other structure shall be erected or altered, and no hedge, tree, shrub or other growth shall be maintained or permitted between 3' and 8' above the street grade which may cause danger to traffic on a street or public road by obscuring the view.
- B. The clear sight triangle shall be a triangular area of unobstructed vision on corner lots formed by a sight line of one hundred fifty (150) feet along the centerline of an arterial street, one hundred twenty (120) feet along the centerline of a collector street and eighty (80) feet along the centerline of a local street from the centerline intersections. When an arterial or collector and a local street intersect, each shall retain its respective footage requirements along the centerline to form the sight triangle.

605 Lot Area, Frontage and Building Coverage Regulations

The Lot Area, Frontage and Building Coverage Regulations for each zoning district shall be as follows, unless specifically stated otherwise in this Ordinance.

Zoning District	Minimum Lot Area (square feet) (1) (2)	Minimum Lot Frontage (3) (4)	Maximum Building Coverage (5) (6)
R-1, Residential	10,000	60 feet	30%
R-2, Residential	7,500	50 feet	50%
C-B, Central Business	2,000	30 feet	60%
B-1, Business	5,000	40 feet	50%
B-2, Business	20,000	100 feet	70%
REC, Public Recreation	10,000	60 feet	30%

Notes:

(1) The minimum lot area shall be calculated exclusive of the public right-of-way.

(2) Within the R-2 Residential, and B-1 Business districts, Multiple Family Dwellings shall have a minimum lot area of 2,500 sq. ft. per dwelling unit. Within the C-B Central Business District, Multiple Family Dwellings shall have a minimum lot area of 2,420 sq. ft. per dwelling unit.

(3) Frontage distance along a public right-of-way.

(4) The minimum frontage requirement for a lot fronting on a cul-de-sac shall be 30 feet, measured at the right-of-way line.

(5) The maximum building coverage shall include the total of all structures, both principal and accessory.

(6) Within the B-1 Business and B-2 Business districts, the maximum permitted lot coverage by an impervious surface(s) shall be eighty percent (80%).