

ARTICLE VI. ADMINISTRATION AND ENFORCEMENT

Section 6100 Administration.

The administration of this ordinance shall be vested in the following offices:

- A. City Plan Commission
- B. Board of Zoning Appeals
- C. Zoning Administrator
- D. Building Commissioner
- E. City Council
- F. Historic Preservation Commission

Section 6110 City Plan Commission.

- A. **Creation of Plan Commission.** The Plan Commission referred to in this ordinance is the City of Goshen Plan Commission as duly created by the Mayor and City Council.
- B. **Jurisdiction and Authority of Plan Commission.** The Plan Commission is hereby invested with the following jurisdiction and authority:
 - 1. Initiate proposals to amend, supplement, change or repeal this ordinance. This shall include, but not be limited to, changes in the zoning classification of land and changes to the regulations set forth in this ordinance.
 - 2. Review a proposed ordinance for amendment, supplement, change, or repeal of this ordinance initiated by persons other than the Plan Commission. This review shall include any site plans, applications, or documentation submitted to the Council as part of the proposed amendment, supplement, change or repeal.
 - 3. Recommend to the City Council a zoning plan for any area annexed by the Council.
 - 4. Review and approve, modify, or deny approval of final site plan required as part of a rezoning petition. Said review, approval, modification or denial shall be done in conformance with the requirements set forth in this ordinance.
 - 5. Initiate, direct and review, from time to time, studies of the provisions of this ordinance and make reports of its recommendations to the City Council. Said recommendations shall be made at least once each year.

Section 6120 **Board of Zoning Appeals.**

- A. **Creation of the Board of Zoning Appeals.** The Board of Zoning Appeals referred to in this ordinance is the City of Goshen Board of Zoning Appeals as created in accordance with the statutes of the State of Indiana.
- B. **Jurisdiction and Authority.**
1. Hear and decide appeals from any order, requirement, decision or determination made by the Zoning Administrator.
 2. Hear and pass on applications for variances from the terms provided in this ordinance, considering the recommendations of the Zoning Administrator and based on findings compiled from evidence presented to the Board in each specific case.
 3. Provide interpretations of district boundaries shown on the Official Zoning Map where uncertainties arise which are not covered by the provisions of this ordinance.
 4. Provide interpretations relative to the definition of permitted uses and conditional uses in the zoning districts, subject to the following:
 - a. Such questions shall be in the form of an appeal from a decision of the Zoning Administrator.
 - b. The interpretation shall be in keeping with the intent and purpose of the district in which the proposed use is to be located and the Zoning Ordinance.
 - c. Uses permitted by such interpretation shall be comparable to the uses already permitted in the district.
 - d. The applicant shall show proof that such use shall not be detrimental to existing properties in the vicinity of proposed use on record at the time of the interpretation of the Board of Zoning Appeals.
 - e. The use shall be subject to the regulations established for the district in which the use shall be permitted and to any other conditions which the Board of Zoning Appeals may impose.
 5. Permit the temporary location of a mobile home on premises other than a permanent mobile home sales establishment or in a mobile home development in accordance with the following:
 - a. Such permission shall be granted upon appeal on a temporary basis only and for a specified period of time.
 - b. The applicant shall show cause as to why such permission should be granted, as by way of illustration but not limitation, during the construction or reconstruction of the applicant's home following damage or destruction by flood or fire.

6. Grant extensions of time, not to exceed six months and the expiration date, for improvement location permits and variances, where the applicant can show due cause why such extension should be granted. Only one such extension shall be granted, after which time the applicant shall have to reapply for the improvement location permit or variance.
7. To hear and report upon all matters which it is required to consider under this ordinance.
8. Hear and decide upon special use applications that are permitted within this ordinance, subject to the following:
 - a. The Board, after public hearing, must determine that the proposed special use is consistent with the spirit, purpose and intent of this ordinance, will not substantially and permanently injure the appropriate use of neighboring property, and will substantially serve the public convenience and welfare. The Board may impose conditions to the special use.

C. Decisions.

1. All final decisions arrived at by the Board shall require a majority vote of all its members.
2. All final decisions on appeals and variances, which the Board has the power to decide under this ordinance, shall be subject to judicial review in accordance with applicable statutes of the State of Indiana.
3. All decisions of the Board on appeals from decisions of the Zoning Administrator shall, in all instances, be final administrative determinations subject to judicial review in accordance with applicable statutes of the State of Indiana.

Section 6130 Zoning Administrator.

The Zoning Administrator of the City of Goshen, and such deputies or assistants that have been, or shall be duly designated by the Mayor, shall enforce the Zoning Ordinance, and in addition thereto, and in furtherance of said authority shall:

- A. Issue an improvement location permit prior to the erection, alteration or use of a building or structure or the use of land. The permit shall state that the proposed building, structure and/or use complies with all applicable provisions of the Zoning Ordinance and authorizing the Building Commissioner to issue a building permit; or deny the improvement location permit, stating in writing the reason(s) for such denial.
- B. Maintain current and permanent records of the Zoning Ordinance, including maps, improvement location permits, certificates of occupancy, variances, amendments, appeals, and non-conforming lots of record, structures, and uses. Serve as technical advisor to the Plan Commission and the Board of Zoning Appeals.
- C. Conduct inspections of buildings, structures and uses of land to determine compliance with the terms of this ordinance.

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- D. Receive and transmit to the Plan Commission and the Board of Zoning Appeals copies of applications for appeals, variations and other matters on which the Board of Zoning Appeals is authorized to decide under this ordinance.
- E. Provide such clerical and technical assistance as may be required by the Plan Commission and the Board of Zoning Appeals in the exercise of its duties.
- F. Ensure that all development activities within the SFHAs of the jurisdiction of the City/Town meet the requirements of this ordinance.
- G. Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques.
- H. Ensure that construction authorization has been granted by the Indiana Natural Resources Commission for all development projects subject to Section 4270.7 of this ordinance, and maintain a record of such authorization (either copy of actual permit, letter of recommendation, or floodplain analysis and regulatory assessment).
- I. Maintain a record of the "as-built" elevation of the top of the lowest floor (including basement) of new and/or substantially improved buildings constructed in the SFHA. Inspect before, during and after construction.
- J. Maintain a record of the engineer's certificate and the "as-built" floodproofed elevation of all buildings subject to Section 4270.8 of this ordinance.
- K. Cooperate with state and federal floodplain management agencies to improve base flood and floodway data and to improve the administration of this ordinance. Submit reports as required for the National Flood Insurance Program.
- L. Maintain for public inspection and furnish upon request regulatory flood data, SFHA maps, Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), copies of DNR permits and floodplain analysis and regulatory assessment, federal permit documents, and "as-built" elevation and floodproofing data for all building constructed subject to this ordinance.
- M. Notify adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.

Section 6140 Building Commissioner.

The Building Commissioner shall have the following jurisdiction and authority in matters related to zoning:

- A. Issue building permits upon the authorization of the Zoning Administrator to do so.

Section 6150 **City Council.**

The City Council shall have jurisdiction and authority in matters related to zoning in accordance with applicable statutes of the State of Indiana, and shall include, but not be limited to, adoption, amendment, supplement, change or repeal portions of this ordinance.

Section 6160 **Reserved.**

Section 6170 **Enforcement.**

The enforcement of this ordinance shall be accomplished by using the following items and procedures:

- A. Improvement Location Permit
- B. Certificate of Occupancy
- C. Certificate of Appropriateness
- D. Sign Permit
- E. Conditional Use
- F. Appeal
- G. Variance
- H. Amendment
- I. Non-conforming Lots of Record, Structures and Uses

Section 6180 **Improvement Location Permit.**

After the effective date of this ordinance, no permit shall be issued by any office, department or employee of the City of Goshen for the erection or alteration and use of or improvements to land unless an improvement location permit shall have been issued by the Zoning Administrator.

- A. An application for an improvement location permit shall be accompanied with a Sketch Plan, preferably drawn to scale, that provides sufficient data for the Zoning Administrator to be assured that the provisions of this ordinance are being complied with. Said provisions may include:
 - 1. A sketch plan showing existing property lines and dimensions, all existing buildings or structures, with their size and location on the lot, if any exist.
 - 2. Location and size of proposed uses, including height and bulk of buildings and structures, open space, screening and landscaping, outdoor lighting, and signs where required.

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3. The location, dimensions, and character of construction of proposed streets, alleys, driveways, curb cuts, entrances, and exits, loading areas, and parking areas, including numbers of parking and loading spaces except in the R-1, R-2, and R-3 Districts.
4. A letter from the City Engineer, when necessary, indicating that city sewer and water are available and that storm water drainage plan has been accepted.

B. **Procedure for Lapse of Permit.** An improvement location permit shall become null and void unless a building permit shall have been issued and work thereon is substantially under way within six months of the issuance of said improvement location permit, or within the period of time beyond six months that may be granted by the Board of Zoning Appeals in accordance with the provisions of this ordinance.

Section 6190 **Reserved**

Section 6200 **Reserved.**

Section 6210 **Sign Permit.**

After the effective date of this ordinance, no sign, permanent or temporary, shall be erected or altered except in accordance with the provisions of this ordinance.

Section 6210.1 **Permit Exceptions.**

The following signs and alterations to signs shall not require a sign permit:

- A. Ordinary maintenance and repair to existing signs, provided that such work does not affect the structure to a degree greater than 25 percent of the current replacement cost, exclusive of the structural support of the sign.
- B. Change of copy on signs listing current or future programs and events taking place on the premises.
- C. Seasonal decorations and displays, provided they conform to the provisions of this ordinance.
- D. Real estate signs, provided they conform to the provisions of this ordinance.
- E. Street signs erected by a subdivider or by the municipality for the purpose of street identification.
- F. Any signs erected by the city or state governments shall be exempt from these requirements.
- G. Political campaign signs and posters, other than those placed on outdoor advertising structures, which shall be governed in their size, location, permit requirements, etc. in accordance with the provisions of this ordinance relating to outdoor advertising signs.

Section 6210.2 Application.

Application for Sign Permit shall be made through the Building Commissioner and shall include the following information:

- A. Location of the building, structure, or land to or on which the sign is to be erected.
- B. The dimensions of the sign and, where applicable, the dimensions of the wall surface of the building to which it is to be attached.
- C. The dimensions of the sign's structural members.
- D. The proposed location of the sign in relation to the face of the building or to the lot lines of the property on which it is to be located, whichever is applicable.
- E. Statements by the owner, in written form, that:

The City of Goshen shall be held harmless from any claims, damages, liabilities, losses, actions suits, or judgments which may be brought, presented, sustained, or obtained against the City of Goshen or its officials because of the negligence of the sign hanger, contractor, or his agents, or by reason of defects in the construction, or damages resulting from the collapse or failure of a sign. The owner will guarantee removal of the sign when the use which it identifies is terminated at that particular location. The owner shall maintain the sign by repairing peeled surfaces and replacing inoperative components. Should the owner fail to maintain the sign as outlined herein within a reasonable time, the City of Goshen shall remove the sign after first giving the owner of the sign 30 days written notice of its intent to do so.

Section 6210.3 Procedure for Approval or Denial of Sign Permit.

- A. The Zoning Administrator shall review an application for a Sign Permit and issue such permit in accordance with the provisions of this ordinance or deny the application within ten working days of its receipt.
- B. Where required under the provisions of this ordinance, the application shall also be reviewed by the Historic Preservation Commission in which case, the Zoning Administrator shall be required to issue the permit or deny the application within ten days of receipt of the recommendation of the Historic Preservation Commission.
- C. If the Zoning Administrator does not take such action within the specified period of time, the Sign Permit shall be granted upon demand by the applicant.

Section 6210.4 **General Provisions.**

- A. A Sign Permit shall become null and void unless work thereon is substantially under way within four months of the issuance of said permit, provided however, that when a Sign Permit is issued in connection with a building permit for the site on which the sign is to be located, the Sign Permit shall run concurrent with the building permit. The holder of a Sign Permit may apply through the Zoning Administrator for a three month extension on the permit within ten working days of the expiration date. A Sign Permit shall be renewed only once, after which time the permit shall be null and void.

- B. Temporary signs shall be issued with a Temporary Sign Permit for a period not to exceed 30 days. The holder of a Temporary Sign Permit may apply through the Zoning Administrator for a 30 day extension on the permit within ten working days of the expiration date. A Temporary Sign Permit shall be renewed only once, after which time the permit shall be null and void.

Section 6220 **Appeals.**

- A. An appeal from a decision of the Building Commissioner or the Zoning Administrator in all zoning matters may be taken to the Board of Zoning Appeals. The appeals procedure shall be carried out in accordance with the applicable statutes of the State of Indiana, and shall be as follows:
 - 1. The appeal shall specify the grounds thereof and shall be filed within such time and in such form as prescribed by the Board.
 - 2. Upon request by the Board of Zoning Appeals, the Zoning Administrator shall transmit all documents, plans, and papers constituting the record of the matter to the Board.

- B. An appeal shall stay all proceedings, operation, and work on the premises concerned, unless the Zoning Administrator shall certify to the Board that a stay would cause eminent peril to life or property, in which case, work shall not be stayed except by a restraining order granted by a circuit or superior court of the county.

- C. The Board of Zoning Appeals shall fix a reasonable time and give due notice for the hearing of the appeal.

- D. Every decision of the Board of Zoning Appeals shall be subject to review by certiorari, within statutory time limits.

Section 6230 **Variance.**

The Board of Zoning Appeals may decide variations of the provisions of this ordinance in harmony with its general purpose and intent, and may vary them only in specific instances hereinafter set forth. The Board of Zoning Appeals, based on standards hereinafter prescribed and after hearing, may decide, by a majority vote of all members of the Board of Zoning Appeals, that there are practical difficulties or particular hardship in the way of carrying our the strict letter of the regulations of this ordinance.

Section 6230.1 Application.

The application for a variance shall be on the form prescribed by the Board of Zoning Appeals and shall be accompanied by a sketch plan showing the following:

- A. The boundaries of the subject property, all existing easements, and property lines, existing streets, buildings, ditches, lakes, and other physical features in or adjoining the property.
- B. Location and dimensions of proposed uses, including height and bulk of buildings, and structures, open spaces, screening, and landscaping, outdoor lighting, and signs.
- C. The location, dimensions, and character of construction of proposed streets, alleys, driveways, curb cuts, entrances and exits, loading areas, and parking areas, including the number of parking and loading spaces.

Section 6230.2 Procedure.

The Board of Zoning Appeals shall, after a public hearing, act on all applications for variations from the terms of this ordinance, considering the recommendations of the Zoning Administrator and Plan Commission staff, based on findings compiled from evidence presented to the Board in each specific case.

- A. The Board of Zoning Appeals shall hear, approve, or deny variances of use from the terms of the Zoning Ordinance. A use variance may be approved under this section only upon a determination in writing that:
 - 1. The approval will not be injurious to the public health, safety, morals, or general welfare of the community.
 - 2. The use and value of the surrounding neighborhood will not be affected in a substantial adverse manner.
 - 3. The need for the variance arises from particular physical features, shape, or topographical conditions which are unique to the specific property, and are not applicable to other properties in the same district or surrounding neighborhood.
 - 4. Strict application of the terms of the Zoning Ordinance will constitute an unusual and unnecessary hardship as distinguished from a mere inconvenience, or economic hardship, if applied to the subject property for which the variance is sought.
 - 5. Any difficulties or hardship is caused by the Zoning Ordinance, and has not been created by any persons having an interest in the property.
 - 6. The approval shall not interfere substantially with the Comprehensive Plan.
 - 7. The Board may impose reasonable conditions as part of its approval.

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- B. The Board of Zoning Appeals shall hear, approve, or deny variances from the developmental standards of the Zoning Ordinance. A developmental variance may be approved under this section only upon a determination in writing that:
1. The approval will not be injurious to the public health, safety, morals, or general welfare of the community.
 2. The use and value of the surrounding neighborhood will not be affected in a substantially adverse manner.
 3. Strict application of the terms of the Zoning Ordinance will result in a practical difficulty in the use of the subject property because of particular difficulty in the use of the subject property because of particular physical features, shape, topography, or characteristics. Said characteristics are unique to the subject property and not applicable to other properties in the same district or surrounding neighborhood.
 4. Any difficulty or hardship is caused by the Zoning Ordinance and has not been caused by any persons having an interest in the property.
 5. The Board may impose reasonable conditions as part of its approval.

Section 6230.3 General Requirements.

- A. The Board of Zoning Appeals may further impose such conditions and restrictions on the use benefited by a variance as are necessary to meet the standards established in this section and the intent of this ordinance.
- B. A variance granted by the Board of Zoning Appeals shall become null and void unless a building permit shall have been issued and work thereon is substantially under way within six months of the granting of said variance, or within the period of time beyond six months that may be granted by the Board of Zoning Appeals in accordance with the provisions of this ordinance.

Section 6230.4 Provisions for Flood Central Districts.

In addition to the provisions set forth above, the following provisions shall also be applicable to the issuance of variances within the FP - Flood Plain, FW - Floodway, and FWF - Floodway Fringe Districts:

- A. The Board of Zoning Appeals may grant variances to the provisions of the FW Floodway District and the FWF Floodway Fringe District only upon the written approval of the Natural Resources Commission.
- B. Where it appears that the proposed development in the FP Flood Plain District will adversely effect or will be adversely affected by flood hazards, the Board of Zoning Appeals may grant a variance only upon the written approval of the Natural Resources Commission.

- C. The granting of the variances shall be generally limited to cases where the following conditions are met:
 - 1. If a new structure is to be erected on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the flood protection grade; or
 - 2. If a building or structure listed on the National Register of Historic Places or a State Inventory of Historic Places or a building or structure designated by the City Council as being a historic landmark is being restored or reconstructed.
- D. In all instances, variances may be granted only upon a determination that the issuance of a variance will not result in increased floor heights, additional threats to public safety, or extraordinary public expense.
- E. In cases where a variance is granted, a notice shall be placed on the deed to the property stating that the proposed construction will be located in a flood-prone area. Said notice must contain a statement of the number of feet that the lowest non-flood proofed floor of the proposed structure will be below the level of the 100 year flood and that actuarial flood insurance rates increase as the first floor elevation decreases.

Section 6240 Amendment to Zoning Ordinance.

- A. Amendment to the Text. An amendment to the text of the Zoning Ordinance may be proposed by the City Plan Commission or a member of the City Common Council. The procedure to amend the text shall be in accordance with the requirements of Indiana Code § 36-7-4-600 et seq., as applicable.
- B. Amendment to the Zoning Maps. An amendment to the zoning maps which are incorporated by reference in the Zoning Ordinance may be proposed by the City Plan Commission, a member of the City Common Council, or by a petition of the Owner or Owners of fifty (50) percent or more of the area involved in the petition. The procedure to amend the zoning maps shall be in accordance with the requirements of Indiana Code § 36-7-4-600 et seq. and sections 6240.1 through 6240.5 of this Article, as applicable.

Section 6240.1 Filing of Petition to Amend Zoning Maps.

A petition to amend the zoning maps may be filed by the Property Owners who own at least fifty (50) percent of the area involved in the Plan Commission office on forms provided. The fee as prescribed in Appendix B of this ordinance shall accompany the filing of the petition.

Section 6240.2 Procedure to Amend Zoning Maps.

- A. If the zoning map amendment originates with the City Common Council, then the City Common Council shall introduce the amendment and then forward it to the Plan Commission for a recommendation without voting on the amendment.

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- B. A notice of a public hearing shall be advertised in a newspaper of general circulation and provided to interested parties by the staff of the Plan Commission at least ten (10) days prior to the public hearing before the Plan Commission. Additionally, public notice of the proposed zoning map amendment shall be posted in a conspicuous place on the property for which the zoning map amendment is sought at least ten (10) days prior to the public hearing. Such notice shall be on placards available in the Plan Commission office and shall include the existing zoning district and the proposed zoning district of the area involved, and the date of the public hearing before the Plan Commission.
- C. Following notice and public hearing before the Plan Commission, the Plan Commission shall take one (1) of the following actions on the zoning map amendment:
1. Certify to the City Common Council with a favorable recommendation.
 2. Modify the amendment and certify as modified to the City Common Council with a favorable recommendation. Any such modification must be made with the agreement of the petitioner.
 3. Certify to the City Common Council with an unfavorable recommendation.
 4. Certify to the City Common Council with no recommendation.
 5. Table or continue consideration of the amendment in accordance with Plan Commission rules and procedures.
- D. If the Plan Commission recommendation includes a requirement for a modification, the modification must be made prior to the amendment being sent or returned to the City Common Council.
- E. Within ninety (90) days after the Plan Commission certifies the amendment to the City Common Council, the City Common Council shall include notice of the proposed zoning map amendment on the Common Council agenda, afford the public the opportunity to comment on the amendment at the meeting, and shall take one (1) of the following actions on the amendment:
1. Approve the amendment.
 2. Modify and approve the amendment. Any such modification must be made with the agreement of the petitioner.
 3. Deny the amendment.
 4. Table or continue consideration of the amendment in accordance with the City Common Council rules and procedures.
 5. In the event that the City Common Council fails to either approve or deny the amendment within ninety (90) days after the Plan Commission's certification, then:
 - a. The zoning map amendment takes effect as if it had been adopted as certified if the Plan Commission certified the amendment with a favorable recommendation; or
 - b. The zoning map amendment is defeated if the Plan Commission certified the amendment with an unfavorable recommendation or no recommendation.

Section 6240.3 Site Plan Requirements.

In addition to other requirements set forth in this ordinance, some petitions for rezoning amendments shall be required to have site plans prepared and submitted as part of the petition. Those districts requiring a site plan are noted in the individual sections of this ordinance.

The petitioner shall have an option in submitting said site plan in that it may be a preliminary or final plan. Requirements for said site plans shall be as follows:

- A. **Preliminary Site Plan.** A preliminary site plan either shall be drawn to scale or have dimensions sufficient to determine the location and size of buildings, structures, parking spaces, and other details, which shall include but shall not be limited to the following:
 - 1. Proposed land uses.
 - 2. Number, type, height, and location of buildings and structures, including signs.
 - 3. Open space allocations, buffer strips, screening, a landscape plan as required by Section 5000.10 of this ordinance, etc.
 - 4. On-site parking and loading provisions and parking and loading ratios.
 - 5. Streets and setbacks.
 - 6. Tabulated data giving the number and type of units, gross acreage, proposed land coverage, and land areas by use.

- B. **Final Site Plans.** A final site plan shall be drawn to scale and shall include, but not be limited to, the following:
 - 1. The exact location, size and other pertinent data of all land uses on the site, including types, location, and height of buildings and structures, parking, open areas and landscaping, and signs.
 - 2. Dimensioned setback lines from property lines and street right-of-way lines.
 - 3. Adjacent thoroughfares and all curb cuts within 500 feet, where the proposed development is located on an arterial or collector, including:
 - a. Proposed new cut(s) onto public rights-of-way with turning radii width, material use, and slope.
 - b. Dimensions of all rights-of-way.
 - c. Drainage plan to conform with the latest standards adopted by the Board of Works.
 - d. Landscape plan as required by Section 5000.10 of this ordinance.
 - 4. A note showing where nearest connections of city sewer and water are located.

5. Tabulated data including as a minimum:
 - a. Gross net density of dwelling units.
 - b. Parking ratio by either per dwelling unit, per employee, or per square foot of floor area.
 - c. Percent and amount of land coverage by use.
 - d. Percent and amount of floor area by use and by type.
 - e. Estimated number of population (for residential developments).
6. If the proposed development is more than one acre in area, a topographical map showing existing and proposed contours and all natural features.

Section 6240.4 Approval of Site Plan.

- A. If a petition to rezone receives a favorable recommendation by the Plan Commission, the final site plan shall be certified by the Plan Commission.
- B. If a petition to rezone is approved by the City Council, subject to the final site plan as tendered, a certified copy thereof shall be distributed by the Plan Commission to each of the following to ensure compliance therewith:
 1. Area Plan Commission;
 2. Zoning Administrator;
 3. The Petitioner; and
 4. The City Council.
- C. The Zoning Administrator is thereafter authorized to issue an improvement location permit in accordance with the approved site plan.
- D. If a petition to rezone is approved by the City Council subject to submission of a final site plan, a certified copy of such action shall be provided to the Plan Commission for subsequent final site plan approval. A copy of such certification shall also be provided to the petitioner.
- E. The petitioner, or his successor in title, shall submit a final site plan to the Plan Commission within 12 months of the date of certification of the rezoning subject to final site plan approval.
- F. The petitioner, or his successor in title, may, however, petition the Plan Commission for an extension of time, not to exceed 12 months from the expiration date of the approval of the subject amendment provided that such petition shall be submitted prior to the date the rezoning would lapse, as defined in this paragraph.
 1. If the Plan Commission determines that the final site plan does not conform substantially to or is not consistent with the site plan submitted with the final petition, as certified by the City Council, the Plan Commission shall inform the City Council and the petitioner of the disapproval of the final site

plan. The petitioner may, within 20 days, initiate an appeal in writing to the City Council. If the petitioner does not appeal the Plan Commission's disapproval, then the petitioner may file one additional final site plan with the City Council, making such corrective revisions as may be required. The Plan Commission shall have 60 days within which to review and take final action on the second final site plan. If the second final site plan is also disapproved, the petitioner, in order to pursue the proposed rezoning, shall be required to initiate a new petition pursuant to the procedural requirements set forth in this ordinance.

2. If the Plan Commission does not act on a final site plan and notify the petitioner of its action within 60 days after the final site plan is submitted to the Plan Commission, such final site plan shall be deemed approved by the Plan Commission, unless the petitioner requests in writing to the City Council and the Plan Commission additional time.
3. If the final site plan is approved by the Plan Commission, by the City Council, or if the final site plan becomes effective because of inaction by the Plan Commission within the specified time, notice of such action accompanied by a final site plan bearing the approval of the Plan Commission shall be filed with the following to ensure compliance therewith:
 - a. City Council;
 - b. Zoning Administrator;
 - c. Plan Commission; and
 - d. Petitioner.

G. The Zoning Administrator is thereafter authorized to issue an improvement location permit in accordance with the approved site plan.

H. If a petition to rezone is approved by the City Council over an unfavorable recommendation by the Plan Commission, such action by the Council shall be subject to submission and approval of a final site plan as provided for in this ordinance.

Section 6240.5 Changes to the Approved Final Site Plan.

For any change, modification, or amendment to the approved final site plan, the petitioner or his successor in title, shall submit such request in writing to the Plan Commission. The Plan Commission shall determine whether the proposed change, modification, or amendment is a Major Change or a Minor Change. For purposes of this ordinance, a Minor Change may include an enlargement or relocation of a building or structure. A Major Change shall constitute a change in use, a relocation of a street, and/or right-of-way.

- A. If the proposed change, modification, or amendment is determined by the Plan Commission to be a Minor Change, the Plan Commission shall make a final determination to approve or deny the request without public notice or hearing. If the Plan Commission approves the petitioner's request, the final site plan shall be certified by the Plan Commission and copies distributed, and permits issued in accordance with section 6240.4 of this article.
- B. If the proposed change, modification, or amendment is determined by the Plan Commission to be a Major Change, the request shall proceed in accordance with section 6240.2 of this ordinance.
- C. If the Plan Commission denies the petitioner's request for a Minor Change, the petitioner, in order to pursue the proposed change, modification, or amendment, shall be required to initiate a new petition in accordance with section 6240.2 of this ordinance.

Section 6250 **Non-Conforming Lots of Record, Structures and Uses.**

Any legal building, legal structure, or any legal use of a building, structure, or land, existing on the effective date of this ordinance, and which does not conform to the regulations of the district in which it is located, shall be considered and referred to as a legal non-conforming building, structure or use, and may be continued.

Section 6250.1 **Non-conforming Lots of Record.**

- A. In the R-1, R-1S, R-2 and R-3 Residential Districts a single family dwelling unit and accessory building may be erected on any full lot of record at the effective date of this ordinance provided such lot is not less than 3,500 square feet in area and 35 feet in width at the established building line and is served by both city sewer and water. Further, provided there is compliance with all other regulations contained in this ordinance as to yard requirements and other applicable ordinances, regulations and codes of the City of Goshen.
- B. In the B-1 Commercial Districts, primary and accessory buildings may be erected on any single lot of record at the effective date of this ordinance provided such lot is no less than 3,500 square feet in area and 35 feet in width at the established building line and is served by both city water and sewer. Further, provided there is compliance with all other regulations contained in this ordinance as to yard requirements and other applicable ordinances, regulations and codes of the City of Goshen.

Section 6250.2 **Non-Conforming Uses of Land.**

Where, at the time of passage of this ordinance, legal use of land exists which would not be permitted by the regulations imposed by this ordinance, the use may be continued so long as it remains otherwise legal, and conforms to the following:

- A. No such non-conforming use shall be enlarged or increase, or extended to occupy a greater area of land than was occupied at the effective date of this ordinance.
- B. No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of this ordinance.
- C. If any such non-conforming use of land ceases for any reason for a continuous period of six months, any subsequent use of land shall conform to the regulations specified by this ordinance for the district in which such land is located.

Section 6250.3 **Non-Conforming Uses of Buildings, Structures, and Land.**

If a legal use of a building or structure and land exists at the effective date of this ordinance that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise legal and conforms to the following:

- A. A non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of the effective date of this ordinance. No such use shall be extended to occupy any land outside such building.

- B. No such non-conforming building or structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
- C. When a non-conforming use is replaced by a permitted use, it shall thereafter conform to the regulations for the district, and a non-conforming use may not thereafter be resumed.
- D. When a non-conforming use of a building or structure and land is discontinued or abandoned for 18 consecutive months, the structure and premises shall not thereafter be used except in conformity with the regulations of the district in which it is located.
- E. Should such non-conforming building or structure be involuntarily damaged or destroyed by fire, explosion, windstorm or other similar cause to an extent of 75 percent or more, of the replacement cost at the time of destruction, the destruction of the structure shall eliminate the non-conforming status of both the building or structure and the land on which it is located.

Section 6250.4 Repair and Maintenance.

On any building or structure devoted in whole or in part to any non-conforming use, normal day-to-day maintenance, including repair or replacement of non-bearing walls, necessary wiring, plumbing, roofing, or the strengthening or restoring to a safe condition, any part of the building or structure shall be permitted.

Section 6250.5 Change of Tenancy or Ownership.

There may be a change of tenancy, ownership, or management of any existing non-conforming use of land, building, or structure, provided there is no change in the nature or character of such non-conforming use except as provided within this chapter.

Section 6250.6 Non-conforming Buildings or Structures Located in Flood Plain, Floodway or Floodway Fringe District.

All buildings or structures existing in Flood Plain, Floodway, or Floodway Fringe areas, as identified by the Federal Insurance Administration in connection with the National Flood Insurance Program, which are not in full compliance with the provisions of this ordinance relative to flood plain management shall be considered to be non-conforming. In addition to the provisions set forth above, the following provisions shall also be applicable to non-conforming structures located in the FW - Floodway District and the FWF - Floodway Fringe District:

- A. In a Floodway District, no non-conforming use may be expanded or enlarged nor can a building undergo substantial improvements without a permit for construction in a floodway from IDNR.
- B. In a Floodway Fringe District, a building which constitutes a non-conforming use may undergo substantial improvements provided such improvements do not increase the value of the building by more than 50 percent of its pre-improvement market value, (excluding the value of the land) unless such building is permanently changed to a conforming use.
- C. A non-conforming use in a Floodplain District where the limits of the Floodway and Floodway Fringe have not yet been determined, may be altered, enlarged or extended on a one-time only basis, provided the procedures set forth in this ordinance, with respect to new construction in a Floodplain District, are

followed and further, provided such alterations, enlargements or extensions do not increase the value of the building, structure, or use (excluding the value of the land) by more than 50 percent of its pre-improvement market value, unless such building, structure or use is permanently changed to a conforming use.

- D. Any non-conforming use in the Floodplain, Floodway, and Floodway Fringe District which is damaged by flood, fire, explosion, Act of God, or the public enemy may be restored to its original dimensions and conditions, provided the restoration does not increase the value of the buildings, (excluding the value of the land) by more than 50 percent of its predamaged value.

Section 6260 Violation and Penalty.

Failure to comply with any of the provisions of this ordinance shall constitute a violation.

- A. Where a violation occurs, or is alleged to have occurred, any person, firm, or corporation may file a written complaint stating fully the causes and basis thereof with the Zoning Administrator, who shall record the complaint, investigate, and take action as prescribed in this section.
- B. Any person found in violation of this ordinance shall, upon conviction thereof, be fined not more than Two Thousand Five Hundred Dollars (\$2,500) for each offense. Each day the violation continues shall constitute a separate offense.
- C. The owner or tenant of any lot, structure, or use, or part thereof, and any architect, builder, contractor, agent, or other person who commits, assists in, participates in, or maintains such violations may each be found guilty of a separate offense and suffer the penalties as provided therein.
- D. The Board of Zoning Appeals or the Plan Commission may institute a suit for injunction in the Circuit Court to restrain any person from violating this ordinance. A suit for mandatory injunction may be instituted in the Circuit Court directing a person to remove a structure erected in violation of this ordinance.