

ARTICLE IV. ESTABLISHMENT OF ZONING DISTRICTS

Section 4100 Districts.

For the purposes of this Zoning Ordinance, the City of Goshen, Indiana is hereby divided into zoning districts. The following districts are therefore established:

A-1	Agricultural District
R-1	Residential District (Single Family)
R-1S	Special Residential District
R-2	Residential District (Two Family)
R-3	Residential District (Multi-Family)
R-4	Residential District (Mobile Home Park and Mobile Home Subdivision)
B-1	Commercial District (Neighborhood Commercial)
B-2	Commercial District (Central Business District - CBD)
DD	Downtown District (Overlay District)
B-3	Commercial District (General Commercial)
B-4	Commercial District (Planned Shopping Center)
M-1	Industrial District (Light Industrial)
M-2	Industrial District (Heavy Industrial)
PUD	Planned Unit Development District (Overlay District)
HPD	Historic Preservation District (Overlay District)
WCSL	Wireless Communications Service Location (Overlay District)
FCD	Flood Control District (Overlay District)
HD	Historic Commercial District (Overlay District)

Section 4110 Description of Districts.

- A. **A-1: Agricultural District.** The intent of this district is to permit the full range of general agricultural uses and activities subject to the conditions of this ordinance. Residential uses will only be permitted when necessary to the operation of the agricultural use as set forth in this ordinance.

- B. **R-1: Residential District (Single Family).** The intent of this district is to permit single family detached dwelling units and the necessary accessory uses commonly found in a single family residential neighborhood. Certain other uses shall be permitted in this district as set forth in this ordinance.

- C. **R-1S: Special Residential District.** The intent of this district is to permit single family detached dwelling units and the necessary accessory uses commonly found in a single family residential neighborhood set in a medium density living environment. Multiple family residential uses allowed would be those which would serve and enhance Goshen College and the immediate surrounding area. Certain other uses shall be permitted in this district as set forth in this ordinance.

- D. **R-2: Residential District (Two Family).** The intent of this district is to allow a mix of single family and two family dwelling units located primarily in the existing residential areas of the city. Necessary accessory uses commonly found in this type of residential neighborhood will be permitted, as well as certain other uses as permitted by this ordinance. New developments that will contain a mix of single family and two family dwelling units will be allowed in this district.

- E. **R-3: Residential District (Multi-Family)**. The intent of this district is to permit multi-family dwelling units or a mix of single family, two-family, and multi-family dwelling units and the necessary accessory uses commonly found in similar types of residential developments. Certain other uses shall also be permitted in this district as set forth in this ordinance. However, no office or commercial uses will be permitted in this district.
- F. **R-4: Residential District (Mobile Home Park and Mobile Home Park Subdivisions)**. The intent of this district is to permit single family mobile home units in either a park (where lots are rented or in a mobile home subdivision (where the lots are sold). Any necessary accessory uses commonly found in this type of residential neighborhood, as well as certain other uses, shall also be permitted in this district as set forth in this ordinance.
- G. **B-1: Commercial District (Neighborhood Shopping)**. The intent of this district is to permit convenience businesses to locate in residential neighborhoods. These businesses would only provide for the daily needs of the surrounding residents and would include convenience shopping, cleaner pickup, beauty and barber shops, real estate offices, professional services and certain other uses, permitted as set forth in this ordinance. The size of these uses and location will be strictly controlled to keep them from destroying the surrounding residential uses.
- H. **B-2: Commercial District (Central Business District - CBD)**. The intent of this district is to permit the existing uses in the Central Business District to remain intact without adding new requirements to the ones in existence on the date this ordinance was adopted. New uses developed after the date of this ordinance must conform to the requirements set out under the B-2 Commercial District regulations.
- The B-2 Commercial District is designed for the City Center, which is usually comprised of retail, service, cultural, residential and government uses. The City Center is the focal point of the community and comprises a relatively small, geographically-centered, and wholly contiguous core area. Typically, the City Center services the entire community by providing a diversity of complementary and compatible land uses.
- I. **DD: Downtown District (Overlay District)**. The intent of the Downtown District is to enhance and maintain the traditional main street corridor by preserving the integrity of existing development, promoting compatible development, preserving and promoting higher density land use, maintaining the architectural style of the area, promoting retail development, and developing a pedestrian friendly environment, so that the Downtown District is an attractive and desirable place to live, work and do business.
- J. **B-3: Commercial District (General Commercial)**. The intent of this district is to permit a full range of commercial uses, including retail uses, drive-in uses, business services, hotels, motels, automobiles and other vehicle sales and services, and certain other uses as set forth in this ordinance.
- K. **B-4: Commercial District (Planned Shopping Center)**. The intent of this district is to permit planned shopping center developments. These centers must be designed so that the uses are grouped in a manner that will allow for safe and easy vehicle access and safe pedestrian movement. Uses in this district will be limited to normal retail activities and certain other uses as set forth in this ordinance.
- L. **M-1: Industrial District (Light Industrial)**. The intent of this district is to permit wholesale activities, heavy commercial uses, warehousing, light manufacturing, and certain other uses as set forth in this ordinance. This district will not permit uses that generate undue noise, heavy traffic, or have extensive outside storage facilities. Outside storage in this district will not be permitted when it is adjacent to residential uses and/or residential zoning district.

- M. **M-2: Industrial District (Heavy Industrial).** The intent of this district is to permit a full range of industrial and manufacturing uses, including those permitted in the M-1 Industrial District. The exception to these uses will be those of a hazardous or questionable nature which must meet the conditional use requirements as set forth in this ordinance.
- N. **PUD: Planned Unit Development District (Overlay District).** The intent of this district is to permit an alternative district for the unique and rational uses of land. This zoning district would allow for the mixing of the full range of uses and activities subject to the conditions of this ordinance. This district shall require submittal of a site plan showing location of uses, density of uses, parking, etc. Detailed requirements will be set forth in this ordinance.
- O. **HPD: Historic Preservation District (Overlay District).** The intent of this district is to permit the preservation of designated historic landmarks within the City of Goshen for future generations. These landmarks could include residential, commercial and industrial buildings, as well as historic sites in the city. As an overlay district the HP designation means that the land will retain the normal requirements of the current zoning and the overlay will simply impose additional requirements. These requirements will be as set forth in this ordinance.
- P. **WCSL: Wireless Communications Service Location (Overlay District).** The intent of this overlay district is to provide specific areas for the installation and construction of wireless facilities with wireless support structures for the provision of wireless communications service.
- Q. **FCD: Flood Control District (Overlay District).** The general intent of the Flood Control District (Overlay) is to guide development in areas where potential for damage from floodwater exists, in order to reduce the potential for loss of life and property, to reduce the potential for health and safety hazards, to reduce the potential for extraordinary public expenditures for flood protection and relief, to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas.
- R. **HD: Historic Commercial District (Overlay District).** The intent of this district is to regulate the sign type, height, area, and location of all signs within the Historic District of the City of Goshen. This section shall govern and manage the erection, alteration, relocation, maintenance, illumination, and removal of signs within the Historic District unless otherwise exempted by other sections of the Zoning Ordinance.

Section 4120 **Table of Permitted Uses.**

No building or land shall be used, or building erected, reconstructed or structurally altered, which is arranged, intended or designed to be used for any purpose other than a use which is permitted and specified in a district in which that building or land is located.

A table of permitted uses is included in Appendix E showing the use, the district or districts it will be permitted in and whether or not it is classified as a conditional use. Permitted uses are designated with a “P” and conditional uses with a “C.”

Section 4130 **A-1: Agricultural District Regulations.**

The intent of the A-1 Agricultural District is to provide areas where a full range of agricultural uses and activities may take place.

Accessory uses commonly found in this type of agricultural setting and certain other uses shall be permitted as shown in this ordinance.

It is further the intent of this district to prevent scattered residential development in areas that are clearly agricultural in nature and do not lend themselves to residential development because of a lack of city facilities, such as sewer and water, or because of poor soil conditions.

Section 4130.1 **Use Regulations.**

A. **Permitted Uses.** No existing building or land shall be used and no buildings shall be erected, reconstructed, or structurally altered for use by any person or persons except for permitted uses as shown in article IV, section 4120, Table of Permitted Uses, in this ordinance.

Agricultural uses shall be permitted as set forth in this ordinance except that uses not classified as conditional uses, located within 300 feet of a residential or retail business structure that generate unreasonable and continuous odor will not be permitted as a new use after the date of the adoption of this ordinance. Existing agricultural uses will be allowed to continue and new residential development or retail businesses will not be allowed to challenge the existing agricultural use. However, if an agricultural use is located within 300 feet of a residential use or retail use and is discontinued or changes, it cannot be restarted.

B. **Conditional Uses.** Conditional uses will be permitted by the Zoning Administrator as shown in article IV, section 4120, Table of Permitted Uses, if the use meets the requirement of article V, section 5200, Conditional Uses, of this ordinance.

C. **Accessory Uses.** Accessory uses and/or buildings shall be permitted as provided in article V, section 5150, Accessory Uses, in this ordinance.

Section 4130.2 **Height Regulations.**

No building shall hereafter be erected, reconstructed, or structurally altered to exceed in height the limits established and specified as follows:

A. The maximum height permitted for a residential dwelling shall not exceed two and one-half stories.

B. The height of an accessory building to the residential use shall not exceed the height of the residential dwelling on site.

C. For any agricultural building or structures, the maximum height shall be 40 feet.

Section 4130.3 **Area, Width and Yard Regulations.**

No building shall hereafter be erected, reconstructed, or structurally altered in any manner which will encroach upon, or reduce the regulations of this ordinance.

A. Minimum Lot Area and Width.

1. Every single family detached dwelling hereafter constructed shall be on a lot having a minimum width at the front lot line of 100 feet and a minimum of 20,000 square feet. Said lot shall, to the extent possible, conform to a 2:1 ratio of depth to width.
2. All lots in this district that will be used for agricultural purposes shall be a minimum of five acres and, to the extent possible, conform to the 2:1 ratio of depth to width.
3. In addition to the above requirements, conditional uses must conform to the requirements of article V, section 5200, Conditional Uses, of this ordinance.

B. Front Yard. Front yards for residential and agricultural uses shall be measured from the front property line to the building line and shall be as follows:

1. On residential or cul-de-sac streets, the front yard shall be a minimum distance of 25 feet.
2. On collector streets, the front yard shall be a minimum distance of 30 feet
3. On arterial streets, the front yard shall be a minimum distance of 35 feet.

C. Side Yard. Each lot used for residential or agricultural uses shall have two side yards measured from the building to the lot line and shall be as follows:

1. On a corner lot, there shall be two side yards: the side yard abutting the street shall be as shown under front yards above. The interior side yard shall have a width of not less than ten feet.
2. Interior yards shall have two side yards, each side yard shall have a width of not less than ten feet.
3. Accessory buildings to residential uses on a lot abutting a street shall have side yards as listed in 1 and 2 above.
4. Agricultural buildings shall have a minimum side yard of 20 feet for each interior side.

D. Rear Yard. There shall be a rear yard on each lot, the depth of which shall be not less than 25 feet. An accessory building to a residential use may be erected within the rear quarter of the lot, observing the above side yard requirements and located no closer than five feet from the rear lot line. Agricultural buildings will require the 25 foot rear yard setback.

Section 4130.4 Building Coverage.

No building shall hereafter be erected, reconstructed, or altered so that more than 20 percent of the area of the lot is covered by buildings or structures. This shall include, as part of the 20 percent coverage, primary and accessory uses and agricultural buildings.

Section 4130.5 Building Size.

No building shall be erected for residential purposes with less than 950 square feet of occupied space on one floor or 800 square feet on the ground floor for a two story building.

Section 4130.6 Fence Regulations.

Fences shall be in accordance with article V, section 5130 of this ordinance.

Section 4130.7 Visibility Requirements.

Vision requirements shall be in accordance with article V, section 5180 of this ordinance.

Section 4130.8 Off-Street Parking Regulations.

Off-street parking shall be in accordance with article V, section 5110, of this ordinance.

Section 4130.9 Sign Regulations.

Signs shall be allowed only in accordance with article V, section 5100, of this ordinance.

Section 4130.10 Miscellaneous Regulations.

All lots and uses in this district must be served by city sewer and water. Sewer and water main extensions shall be built to city specifications and shall be the responsibility of the developer and not the city.

Section 4140 **R-1: Residential (Single Family) District Regulations.**

The intent of the R-1 Residential District is to provide areas where single family detached dwelling units located on individual lots may be located.

Accessory uses commonly found in a single family residential area will also be permitted, along with certain other uses as shown in this ordinance.

Section 4140.1 **Use Regulations.**

- A. **Permitted Uses.** No existing building or land shall be used and no buildings shall be erected, reconstructed or structurally altered for use by any person or persons except for permitted uses as shown in article IV, section 4120, Table of Permitted Uses, in this ordinance.
- B. **Conditional Uses.** Conditional uses will be permitted by the Zoning Administrator in article IV, section 4120, Table of Permitted Uses, if the use meets the requirements of article V, section 5200, Conditional Uses, of this ordinance.
- C. **Accessory Uses.** Accessory uses and/or buildings shall be permitted as provided in article V, section 5150, Accessory Uses, in this ordinance.

Section 4140.2 **Height Regulations.**

No building shall hereafter be erected, reconstructed or structurally altered to exceed in height the limits established and specified as follows:

- A. The maximum height permitted for a residential dwelling shall not exceed two and one-half stories.
- B. The maximum height permitted for an accessory building shall not exceed the height of the residential dwelling on site.
- C. For any nonresidential building or structure permitted as a conditional use, 25 feet; such height may be increased to a maximum of 30 feet provided that for every foot of height in excess of 25 feet, there shall be added to all yard requirements, one corresponding foot of width and depth.

Section 4140.3 **Area, Width and Yard Regulations.**

No building shall hereafter be erected, reconstructed or structurally altered in any manner which will encroach upon, or reduce the regulations of this ordinance.

- A. **Minimum Lot Area and Width.**
 - 1. Every single family detached dwelling hereafter constructed shall be on a lot having an area of not less than 8,000 square feet, and a width at the established front lot line of not less than 66 feet.
 - 2. A lot of record, of not less than 5,000 square feet, and 50 feet in width at the established front lot line, may be developed for single family residential use in accordance with the provisions in article

VI, section 6250, provided the owner does not own and cannot reasonable acquire sufficient land to enable him to conform to area and width requirements.

3. Any building or structure other than a single family detached dwelling and accessory building shall conform to article V, section 5200, Conditional Uses, of this ordinance.

B. **Front Yard.** Front yards shall be measured from the front property line and the building line and shall be as follows:

1. On residential or cul-de-sac streets, the front yard shall be a minimum distance of 25 feet.
2. On collector streets, the front yard shall be a minimum distance of 30 feet.
3. On arterial streets, the front yard shall be a minimum distance of 35 feet.

C. **Side Yard.** Each lot shall have two side yards measured from the building to the lot line and shall be as follows:

1. On a corner lot, there shall be two side yards; the side yard abutting the street shall be as shown under front yards above. The interior side yard shall have a width of not less than eight feet.
2. Interior yards shall have two side yards; each side yard shall have a width of not less than eight feet.
3. Accessory buildings on an interior lot shall not be located closer than five feet from the lot line. Setbacks from streets shall be as shown under front yards.

D. **Rear Yard.** There shall be a rear yard on each lot, the depth of which shall be not less than 25 feet. An accessory building may be erected within the rear quarter of the lot, observing the above side yard requirements and located no closer than five feet from the rear lot line.

Section 4140.4 Building Coverage.

No building shall hereafter be erected, reconstructed or altered so that more than 35 percent of the area of the lot is covered. This shall include a primary residential use and/or accessory buildings or structures, combined.

Section 4140.5 Building Size.

No building shall be erected for residential purposes with less than 950 square feet of occupied space on one floor or 650 square feet on the ground floor for a two-story building.

Section 4140.6 Fence Regulations.

Fences shall be in accordance with article V, section 5130, of this ordinance.

Section 4140.7 Visibility Requirements.

Vision requirements shall be in accordance with article V, section 5180, of this ordinance.

Section 4140.8 Off-Street Parking Regulations.

Off-street parking shall be in accordance with article V, section 5110, of this ordinance.

Section 4140.9 Sign Regulations.

Signs shall be allowed only in accordance with article V, section 5100, of this ordinance.

Section 4140.10 Miscellaneous Regulations.

- A. All lots and uses in this district must be served by city sewer and water. Sewer and water main extensions shall be built to city specifications and shall be the responsibility of the developer and not the city.

- B. Where 50 percent or more of the existing principal buildings on one side of a street within their respective block have an average front or side yard setback less than what is required in this section, the setback requirements for new principal buildings or additions to existing principal buildings on the same side of the street in that block shall be allowed to be reduced in conformity to the average setback of the existing principal buildings on that side of the street in that block. For purposes of determining the average setback, only those principal buildings at or with less than the required setback on that side of the street in the block will be included in the calculation.

Section 4140.11 Landscape Regulations.

All lots in this district shall meet the requirements of Article V, 5000 Landscape Regulations.

Section 4150 **R-1S: Special Residential District Regulations.**

The intent of the R-1S Special Residential District is to provide areas where single family detached dwelling units located on individual lots may be located in a medium density living environments. Multiple family residential uses allowed would be those which would serve and enhance Goshen College and the immediate surrounding area.

Accessory uses commonly found in a single family residential area will also be permitted, along with certain other uses as shown in this ordinance.

Section 4150.1 **Use Regulations.**

- A. **Permitted Uses.** No existing building or land shall be used and no buildings shall be erected, reconstructed or structurally altered for use by any person or persons except for permitted uses as shown in article IV, section 4120, Table of Permitted Uses, in this ordinance.
- B. **Conditional Uses.** Conditional uses will be permitted by the Zoning Administrator in article IV, section 4120, Table of Permitted Uses, if the use meets the requirements of article V, section 5200, Conditional Uses, of this ordinance.
- C. **Accessory Uses.** Accessory uses and/or buildings shall be permitted as provided in article V, section 5150, Accessory Uses, in this ordinance.
- D. **Special Uses.** Any use allowed in the R-2 and R-3 Residential Districts.

Section 4150.2 **Height Regulations.**

No building shall hereafter be erected, reconstructed or structurally altered to exceed in height the limits established and specified as follows:

- A. The maximum height permitted for a residential dwelling shall not exceed two and one-half stories.
- B. The maximum height permitted for an accessory building shall not exceed the height of the residential dwelling on site.
- C. For any nonresidential building or structure permitted as a conditional use, 25 feet; such height may be increased to a maximum of 30 feet provided that for every foot of height in excess of 25 feet, there shall be added to all yard requirements, one corresponding foot of width and depth.

Section 4150.3 **Area, Width, and Yard Regulations.**

No building shall hereafter be erected, reconstructed or structurally altered in any manner which will encroach upon, or reduce the regulations of this ordinance.

- A. **Minimum Lot Area and Width.**
 - 1. Every single family detached dwelling hereafter constructed shall be on a lot having an area of not less than 8,000 square feet, and a width at the established front lot line of not less than 66 feet.

2. A lot of record, of not less than 5,000 square feet, and 50 feet in width at the established front lot line, may be developed for single family residential use in accordance with the provisions in article VI, section 6250, provided the owner does not own and cannot reasonably acquire sufficient land to enable him to conform to area and width requirements.
3. Any building or structure other than a single family detached dwelling and accessory building shall conform to article V, section 5200, Conditional Uses, of this ordinance.

B. Front Yard. Front yards shall be measured from the front property line and the building line and shall be as follows:

1. On residential or cul-de-sac streets, the front yard shall be a minimum distance of 25 feet.
2. On collector streets, the front yard shall be a minimum distance of 30 feet.
3. On arterial streets, the front yard shall be a minimum distance of 35 feet.

C. Side Yard. Each lot shall have two side yards measured from the building to the lot line and shall be as follows:

1. On a corner lot, there shall be two side yards; the side yard abutting the street shall be as shown under front yards above. The interior side yard shall have a width of not less than eight feet.
2. Interior yards shall have two side yards; each side yard shall have a width of not less than eight feet.
3. Accessory buildings on an interior lot shall not be located closer than five feet from the lot line. Setbacks from streets shall be as shown under front yards.

D. Rear Yard. There shall be a rear yard on each lot, the depth of which shall be not less than 25 feet. An accessory building may be erected within the rear quarter of the lot, observing the above side yard requirements and located no closer than five feet from the rear lot line.

Section 4150.4 Building Coverage.

No building shall hereafter be erected, reconstructed or altered so that more than 35 percent of the area of the lot is covered. This shall include a primary residential use and/or accessory buildings or structures, combined.

Section 4150.5 Building Size.

No building shall be erected for residential purposes with less than 950 square feet of occupied space on one floor or 650 square feet on the ground floor for a two story building.

Section 4150.6 Fence Regulations.

Fences shall be in accordance with article V, section 5130, of this ordinance.

Section 4150.7 Visibility Requirements.

Vision requirements shall be in accordance with article V, section 5180, of this ordinance.

Section 4150.8 Off-Street Parking Regulations.

Off-street parking shall be in accordance with article V, section 5110, of this ordinance.

Section 4150.9 Sign Regulations.

Signs shall be allowed only in accordance with article V, section 5100, of this ordinance.

Section 4150.10 Miscellaneous Regulations.

- A. All lots and uses in this district must be served by city sewer and water. Sewer and water main extensions shall be built to city specifications and shall be the responsibility of the developer and not the city.
- B. Where 50 percent or more of the existing principal buildings on one side of a street within their respective block have an average front or side yard setback less than what is required in this section, the setback requirements for new principal buildings or additions to existing principal buildings on the same side of the street in that block shall be allowed to be reduced in conformity to the average setback of the existing principal buildings on that side of the street in that block. For purposes of determining the average setback, only those principal buildings at or with less than the required setback on that side of the street in the block will be included in the calculation.

Section 4150.11 Landscape Regulations.

All lots in this district shall meet the requirements of Article V, 5000 Landscape Regulations.

Section 4160 **R-2: Residential (Two Family) District Regulations.**

The intent of the R-2 Residential District is to provide areas where single family detached dwellings and two-family dwellings located on individual lots may be located. These two uses may be “mixed” in a development or two-family units only constructed on individual lots.

Accessory uses commonly found in single family and two-family residential areas will also be permitted, along with certain other uses as shown in this ordinance.

Section 4160.1 **Use Regulations.**

- A. **Permitted Uses.** No existing building or land shall be used and no buildings shall be erected, reconstructed or structurally altered for use by any person or persons except for permitted uses as shown in article IV, section 4120, Table of Permitted Uses, in this ordinance.
- B. **Conditional Uses.** Conditional uses will be permitted by the Zoning Administrator as shown in article IV, section 4120, Table of Permitted Uses, if the use meets the requirements of article V, section 5200, Conditional Uses, of this ordinance.
- C. **Accessory Uses.** Accessory uses and/or buildings shall be permitted as provided in article V, section 5150, Accessory Uses in this ordinance.

Section 4160.2 **Height Regulations.**

No building shall hereafter be erected, reconstructed or structurally altered to exceed in height the limits established and specified as follows:

- A. The maximum height permitted for a residential dwelling shall not exceed two and one-half stories.
- B. The maximum height permitted for an accessory building shall not exceed the height of the residential dwelling on site.
- C. For any nonresidential building or structure permitted as a conditional use, 30 feet; such height may be increased to a maximum of 40 feet provided that for every foot of height in excess of 30 feet, there shall be added to all yard requirements, one corresponding foot of width and depth.

Section 4160.3 **Area, Width and Yard Regulations.**

No building shall hereafter be erected, reconstructed or structurally altered in any manner which will encroach upon, or reduce the regulations of this ordinance.

- A. **Minimum Lot Area and Width.**
 - 1. Every single family detached dwelling hereafter constructed shall have a lot having an area of not less than 7,500 square feet, and a width at the established front lot line of not less than 60 feet.
 - 2. A lot of record, of not less than 5,000 square feet, and 50 feet in width at the established front lot line, may be developed for single family residential use in accordance with the provisions of article

VI, section 6250, Non-Conforming Lots of Record, Structures and Uses, provided the owner does not own and cannot reasonably acquire sufficient land to enable him to conform to area and width requirements.

3. All two-family dwelling units hereafter constructed shall be on a lot having an area of not less than 10,000 square feet and a width at the established front lot line of not less than 60 feet.
4. Any building or structure other than a single family detached dwelling and accessory building shall conform to article V, section 5200, Conditional Uses, of this ordinance.
5. Every single family attached dwelling hereafter constructed shall be on a lot having an area of not less than 3,500 square feet and a width at the established front lot line of not less than 30'.

B. **Front Yard.** Front Yards shall be measured from the front property line and the building line and shall be as follows:

1. On residential or cul-de-sac streets, the front yard shall be a minimum distance of 25 feet.
2. On collector streets, the front yard shall be a minimum distance of 30 feet.
3. On arterial streets, the front yard shall be a minimum distance of 35 feet.

C. **Side Yard.** Each lot shall have two side yards measured from the building to the lot line and shall be as follows:

1. On a corner lot, there shall be two side yards; the side yard abutting the street shall be as shown under front yards above. The interior side yard shall have a width of not less than six feet.
2. Interior yards shall have two side yards; each side yard shall have a width of not less than six feet.
3. Accessory buildings on an interior lot shall not be located closer than five feet from the lot line. Setbacks from streets shall be as shown under front yards.

D. **Rear Yard.** There shall be a rear yard on each lot, the depth of which shall be not less than 25 feet. An accessory building may be erected within the rear quarter of the lot, observing the above side yard requirements and located no closer than five feet from the rear lot line.

Section 4160.4 Building Coverage.

No building shall hereafter be erected, reconstructed or altered so that more than 35 percent of the area of the lot is covered by a primary residential use or accessory buildings or structures.

Section 4160.5 Building Size.

- A. No building shall be erected for single family residential purposes with less than 720 square feet of occupied space on one floor or 620 square feet on the ground floor for a two-story building.
- B. No building shall be erected for two-family residential purposes with less than a total of 1,240 square feet of occupied space for the two units.

Section 4160.6 Fence Regulations.

Fences shall be in accordance with article V, section 5130, of this ordinance.

Section 4160.7 Visibility Requirements.

Vision requirements shall be in accordance with article V, section 5180, of this ordinance.

Section 4160.8 Off-Street Parking Regulations.

Off-street parking shall be in accordance with article V, section 5110, of this ordinance.

Section 4160.9 Sign Regulations.

Signs shall be allowed only in accordance with article V, section 5100, of this ordinance.

Section 4160.10 Miscellaneous Requirements.

- A. All lots and uses in this district must be served by city sewer and water. Sewer and water main extensions shall be built to city specifications and shall be the responsibility of the developer and not the city.
- B. Where 50 percent or more of the existing principal buildings on one side of a street within their respective block have an average front or side yard setback less than what is required in this section, the setback requirements for new principal buildings or additions to existing principal buildings on the same side of the street in that block shall be allowed to be reduced in conformity to the average setback of the existing principal buildings on that side of the street in that block. For purposes of determining the average setback, only those principal buildings at or with less than the required setback on that side of the street in the block will be included in the calculation.

Section 4160.11 Landscape Regulations.

All lots in this district shall meet the requirements of Article V, 5000 Landscape Regulations.

Section 4170 **R-3: Residential (Multi-Family) District Regulations.**

The intent of the R-3 Residential District is to provide areas where single, two, and multi-family dwelling units may be located. These three types of residential uses may be “mixed” in a development or the development may contain only the multi-family uses.

Accessory uses commonly found in similar types of residential developments will also be permitted, along with certain other uses as shown in this ordinance. However, in no case will office or commercial uses be permitted in this district.

Section 4170.1 **Use Regulations.**

- A. **Permitted Uses.** No existing building or land shall be used and no buildings shall be erected, reconstructed or structurally altered for use by any person or persons except for permitted uses, as shown in article IV, section 4120, Table of Permitted Uses, in this ordinance.
- B. **Conditional Uses.** Conditional uses will be permitted by the Zoning Administrator as shown in article IV, section 4120, Table of Permitted Uses, if the use meets the requirements of article V, section 5200, Conditional Uses, of this ordinance.
- C. **Accessory Uses.** Accessory uses and/or buildings shall be permitted as provided in article V, section 5150, Accessory Uses, in this ordinance.

Section 4170.2 **Height Regulations.**

No building shall hereafter be erected, reconstructed or structurally altered to exceed in height the limits established and specified as follows:

- A. The maximum height permitted for residential dwellings shall not exceed three stories.
- B. The maximum height permitted for an accessory building shall not exceed the height of the residential dwelling on site.
- C. For any nonresidential building or structure permitted as a conditional use, 30 feet; such height may be increased to a maximum of 40 feet provided that for every foot of height in excess of 30 feet, there shall be added to all yard requirements, one corresponding foot of width and depth.

Section 4170.3 **Area, Width and Yard Regulations.**

No building shall hereafter be erected, reconstructed or structurally altered in any manner which will encroach upon, or reduce the regulations of this ordinance.

- A. **Minimum Lot Area and Width.**
 - 1. Every single family detached dwelling hereafter constructed shall be on a lot having an area of not less than 6,000 square feet, and a width at the established front lot line of not less than 50 feet.

2. A lot of record, of not less than 5,000 square feet, and 50 feet in width at the established front lot line, may be developed for single family residential use in accordance with the provisions of article VI, section 6250, Non-Conforming Lots of Record, Structures and Uses, provided the owner does not own and cannot reasonably acquire sufficient land to enable him to conform to area and width requirements.
3. Every single family attached dwelling hereafter constructed shall be on a lot having an area of not less than 2,000 square feet, and a width at the established front lot line of not less than 20 feet.
4. All two-family dwelling units hereafter constructed shall be on a lot having an area of not less than 5,000 square feet and a width at the established front lot line of not less than 50 feet.
5. All multi-family dwelling units hereafter constructed shall have a lot area of not less than 2,000 square feet per each dwelling unit. But in no case will a multi-family development constructed under this section have a gross density of more than 20 units per acre.
6. Any building or structure other than a residential dwelling or accessory building shall conform to article V, section 5200, Conditional Uses, of this ordinance.

B. **Front Yard.** Front yards shall be measured from the front property line and the building line and shall be as follows:

1. On residential or cul-de-sac streets, the front yard shall be a minimum distance of 25 feet.
2. On collector streets, the front yard shall be a minimum distance of 30 feet.
3. On arterial streets, the front yard shall be a minimum distance of 35 feet.

C. **Side Yard.** Each lot shall have two side yards measured from the building to the lot line and shall be as follows:

1. On a corner lot, there shall be two side yards; the side yard abutting the street shall be as shown under front yards above. The interior side yard shall have a width of not less than six feet.
2. Interior yards shall have two side yards; each side yard shall have a width of not less than six feet.
3. Accessory buildings on an interior lot shall not be located closer than five feet from the lot line. Setbacks from streets shall be as shown under front yards.

D. **Rear Yard.** There shall be a rear yard on each lot, the depth of which shall be not less than 25 feet. An accessory building may be erected within the rear quarter of the lot, observing the above side yard requirements and located no closer than five feet from the rear lot line.

Section 4170.4 Building Coverage.

No building or structure shall hereafter be erected, reconstructed or altered so that more than 35 percent of the area of the lot is covered by a primary residential use and/or accessory building or structure, combined.

Section 4170.5 Building Size.

No building shall be erected for residential purposes having a ground floor area less than 720 square feet for a single family dwelling plus an additional floor area of 360 feet per additional dwelling units, exclusive of porches, terraces, and garages.

Section 4170.6 Fence Regulations.

Fences shall be in accordance with article V, section 5130, of this ordinance.

Section 4170.7 Visibility Requirements.

Vision requirements shall be in accordance with article V, section 5180, of this ordinance.

Section 4170.8 Off-Street Parking Regulations.

Off-street parking shall be in accordance with article V, section 5110.

Section 4170.9 Sign Regulations.

Signs shall be allowed only in accordance with article V, section 5100, of this ordinance.

Section 4170.10 Screening.

Yards shall be screened in accordance with article V, section 5190, of this ordinance.

Section 4170.11 Miscellaneous Regulations.

- A. All lots and uses in this district must be served by city sewer and water. Sewer and water main extensions shall be built to city specifications and shall be the responsibility of the developer and not the city.
- B. No building in this district shall be more than 200 feet long.
- C. Where 50 percent or more of the existing principal buildings on one side of a street within their respective block have an average front or side yard setback less than what is required in this section, the setback requirements for new principal buildings or additions to existing principal buildings on the same side of the street in that block shall be allowed to be reduced in conformity to the average setback of the existing principal buildings on that side of the street in that block. For purposes of determining the average setback, only those principal buildings at or with less than the required setback on that side of the street in the block will be included in the calculation.

Section 4170.12 Landscape Regulations.

All lots in this district shall meet the requirements of Article V, 5000 Landscape Regulations.

Section 4180 **R-4: Residential (Mobile Home Subdivisions and Mobile Home Parks) District Regulations.**

The intent of the R-4 Residential District is to provide areas where mobile home subdivisions and mobile home parks may be located.

Accessory uses commonly found in this type of development will also be permitted, along with certain other uses as shown in this ordinance.

Petitions to rezone land to the R-4 Residential District shall be accompanied by a sketch development plan. Said plan will conform to regulations set forth in this article, section 4180.14.

Section 4180.1 **Use Regulations.**

- A. **Permitted Uses.** No existing building or land shall be used and no buildings shall be erected, reconstructed or structurally altered for use by any person or persons except for permitted uses, as shown in article IV, section 4120, Table of Permitted Uses, in this ordinance.
- B. **Conditional Uses.** Conditional uses will be permitted by the Zoning Administrator as shown in article IV, section 4120, Table of Permitted Uses, if the use meets the requirements of article V, section 5200, Conditional Uses, of this ordinance.
- C. **Accessory Uses.** Accessory uses and/or buildings shall be permitted as provided in article V, section 5150, Accessory Uses, in this ordinance.

Section 4180.2 **Height Regulations.**

No building shall hereafter be erected, reconstructed, or structurally altered to exceed in height the limits established and specified as follows:

- A. The maximum height permitted for a residential dwelling shall not exceed two and one-half stories.
- B. The maximum height permitted for an accessory building shall not exceed the height of the residential dwelling on site.
- C. For any nonresidential building or structure permitted as a conditional use, 25 feet; such height may be increased to a maximum of 30 feet provided that for every foot of height in excess of 25 feet, there shall be added to all yard requirements, one corresponding foot of width and depth.

Section 4180.3 **Area, Width and Yard Regulations.**

No building shall hereafter be erected, reconstructed or structurally altered in any manner which will encroach upon, or reduce the regulations of this ordinance.

- A. **Minimum Lot Area and Width.**
 - 1. Mobile home subdivisions shall have a minimum lot area and width in accordance with the requirements of article IV, section 4140.3, subsection A, 1 in this ordinance. Mobile home parks shall have a minimum of five acres. Said area shall be at a 2:1 ratio of depth to width.

2. Sites in mobile home parks shall have a minimum of 4,000 square feet, a minimum width of 40 feet and a minimum depth of 100 feet.

B. Front Yard. Front yards shall be measured from the front property line to the hitch end of a mobile home and shall be as follows:

1. Mobile home subdivisions shall have front yard requirements in accordance with article IV, section 4140.3, subsection B.
2. Mobile home parks shall have front yards as follows:
 - a. No mobile homes shall be located closer than 50 feet from any public right-of-way.
 - b. Mobile homes inside a mobile home park shall have a front yard of 15 feet.
 - c. Accessory building on mobile homes sites shall have the same front yard requirements as the mobile homes.

C. Side Yard. Side yards shall be measured from the side lot line to the building and shall be as follows:

1. Mobile home subdivisions shall have side yard requirements in accordance with article IV, section 4140.3, subsection C.
2. Mobile home parks shall have side yards as follows:
 - a. No mobile homes shall be located closer than 20 feet from a side boundary line.
 - b. Mobile homes inside a mobile home park shall have a side yard of ten feet measured from the site line to the mobile home. In no case will the minimum distance between mobile homes be less than 20 feet.
 - c. Accessory buildings on a mobile home site shall not be located closer than five feet from the side site line.

D. Rear Yard. Rear yards shall be measured from the rear property line to the end opposite the hitch end of the mobile home and shall be as follows:

1. Mobile home subdivisions shall have rear yard requirements in accordance with article IV, section 4140.3, subsection D.
2. Mobile home parks shall have rear yards as follows:
 - a. No mobile home shall be located closer than 20 feet from a rear property line.
 - b. Mobile homes inside a mobile home park shall have a rear yard of 15 feet.
 - c. Accessory buildings on a mobile home site shall not be located closer than ten feet from the rear site line.

Section 4180.4 Building Size.

No mobile home shall be placed in a mobile home subdivision or a mobile home park that has less than 320 square feet of occupied space.

Section 4180.5 Fence Regulations.

Fences shall be in accordance with article V, section 5130, of this ordinance.

Section 4180.6 Visibility Requirements.

Vision requirements shall be in accordance with article V, section 5180, of this ordinance.

Section 4180.7 Off-Street Parking Regulations.

Off-street parking shall be in accordance with article V, section 5110, of this ordinance.

Section 4180.8 Sign Regulations.

Sign regulations shall be in accordance with article V, section 5100, of this ordinance.

Section 4180.9 Screening.

A dense green belt of evergreen trees and/or shrubs, not less than four feet high and which at maturity are not less than eight feet high shall be located and effectively maintained at all times along all park or subdivision boundaries, except at established entrances and exits serving the park or subdivision. In lieu of the green belt screening, a solid screen fence of not less than six feet in height may be provided along all park boundary lines, if approved by the Plan Commission. However, all green belt screening and/or fence screens shall comply with visibility requirements under article V, section 5180, and screening requirements under article V, section 5190, of this ordinance.

In mobile home subdivisions, a screening easement must be included as required by the current Goshen Subdivision Ordinance.

Section 4180.10 Recreational Areas.

Each mobile home park shall provide a recreational area or areas equal in size to at least five percent of the area of the park. Streets, parking areas, and park service facilities shall not be included as part of the recreational area.

Section 4180.11 Mobile Home Stands.

Each mobile home site shall be provided with a stand as established by state regulations. An anchor system shall be provided in connection with the placement of each mobile home.

Section 4180.12 Mobile Home Skirting.

Uniform skirting of each mobile home base shall be required within 90 days after initial placement. Such skirting shall be of 26 gauge solid sheet metal, aluminum or other non-corrosive metal or material of equal strength.

Section 4180.13 Miscellaneous Requirements.

- A. **Lighting.** All exterior park lights shall be so located and shielded as to prevent direct illumination of any areas outside the park.
- B. **Storage.** Prohibit outside storage of goods and the usual effects of persons occupying the park.
- C. **Trash.** The removal of trash shall take place not less than once a week. Individual incinerators shall be prohibited.
- D. **Storm Drainage.** Only the same amount of storm water may run off the site after development has taken place as ran off the site before it was developed. The run off calculations will be provided by the developer to the City Engineer. All drainage plans must be approved by the City Engineer before a building permit may be issued.
- E. **Water and Sewer.** All lots and uses in this district must be served by city sewer and water. Sewer and water main extensions shall be built to city specifications and shall be the responsibility of the developer and not of the city.

Section 4180.14 Site Plan Requirements.

The required sketch site plan submitted with a petition to rezone shall show, in addition to the items listed above, the following:

- A. In mobile home parks, all mobile home sites and interior road pattern. For mobile home subdivisions, a copy of the proposed subdivision layout may be substituted for a site plan.
- B. Name of proposed mobile home park or subdivision, name, address and telephone number of the developer.
- C. Topographical contours of the site at five foot intervals. USGS topographical maps may be used for base data.
- D. The site plan shall be to scale and show typical lot sizes, roadway widths, recreational area sizes, setbacks lines, access and exit points, and typical site layout including pad location and storage building location if provided.
- E. All other permanent buildings to be located on site such as the office, laundry facilities, if provided, etc., shall also be shown.
- F. Any other facilities the Plan Commission may deem necessary to the development.

Section 4190 **B-1: Commercial (Neighborhood) District Regulations.**

The intent of the B-1 Commercial District is to allow business uses within residential neighborhoods where the everyday shopping needs of residents can be provided for. These convenience businesses would serve a neighborhood encompassing an area of approximately one-quarter mile in radius and would not be those uses that would attract customers from outside the neighborhood. The size and location of these businesses will be strictly controlled to protect the residential uses surrounding the business use. Residential uses will be permitted in the same building with the commercial use as shown in this section.

Section 4190.1 **Use Regulations.**

- A. **Permitted Uses.** No existing building or land shall be used and no buildings shall be erected, reconstructed or structurally altered for use by any person or persons except for permitted uses as shown in article IV, section 4120, Table of Permitted Uses, in this ordinance.
- B. **Conditional Uses.** Conditional uses will be permitted by the Zoning Administrator as shown in article IV, section 4120, Table of Permitted Uses, if the use meets the requirements of article V, section 5200, Conditional Uses, of this ordinance.
- C. **Accessory Uses.** Accessory uses and/or buildings shall be permitted as provided in article V, section 5150, Accessory Uses, in this ordinance.

Section 4190.2 **Height Regulations.**

No building shall hereafter be erected, reconstructed or structurally altered to exceed in height the limits established and specified as follows:

- A. The maximum height for a primary use shall be two and one-half stories.
- B. The maximum height for an accessory building shall not exceed the height of the primary building on site.
- C. The maximum height for a building permitted as a conditional use shall be two and one-half stories.

Section 4190.3 **Area, Width, and Yard Regulations.**

No building shall hereafter be erected, reconstructed or structurally altered in any manner which will encroach upon, or reduce the regulations of this ordinance.

- A. **Minimum Lot Area and Width.**
 - 1. All new uses developed in this district shall be on a lot having an area of not less than 8,000 square feet, and a width at the established front lot line of not less than 66 feet.
 - 2. A lot of record, of not less than 5,000 square feet, and 50 feet in width at the front lot line, may be developed in this district in accordance with the provisions of article VI, section 6250, provided the owner does not own and cannot reasonably acquire sufficient land to enable him to conform to the area and width requirements.

- B. **Front Yard.** Front yards shall be measured from the front property line and the building line and shall be as follows:
1. On residential streets, the front yard shall be a minimum distance of 25 feet.
 2. On collector streets, the front yard shall be a minimum distance of 30 feet.
 3. On arterial streets, the front yard shall be a minimum distance of 35 feet.
- C. **Side Yard.** Each lot shall have two side yards measured from the building to the lot line and shall be as follows:
1. On a corner lot, there shall be two side yards; the side yard abutting the street shall be as shown under front yards above. The interior side yard shall have a width of not less than ten feet.
 2. Interior yards shall have two side yards; each side yard shall have a width of not less than ten feet.
 3. Accessory buildings in a yard not abutting a street shall not be built closer than five feet from the lot line. Setbacks from streets shall be as shown under front yards.
 4. Side yards abutting any residential zoning district shall have a 20 foot side yard.
- D. **Rear Yard.** There shall be a rear yard on each lot, the depth of which shall be not less than 25 feet. An accessory building may be erected within the rear quarter of the lot, observing the above side yard requirements and located no closer than ten feet from the rear lot line.

Section 4190.4 Building Coverage.

No building shall hereafter be erected, reconstructed or altered so that more than 50 percent of the area of the lot is covered. This shall include a primary commercial use and/or accessory buildings or structures, combined.

Section 4190.5 Building Size.

No building or structure shall hereafter be erected, reconstructed or structurally altered, in any manner, so that the ground floor area of a primary use in this district will be larger than 2,000 square feet. No building shall have more than 4,000 square feet of total floor area including a second story used for commercial and/or residential purposes.

Section 4190.6 Fence Regulations.

Fences shall be in accordance with article V, section 5130, of this ordinance.

Section 4190.7 Visibility Requirements.

Vision requirements shall be in accordance with article V, section 5180, of this ordinance.

Section 4190.8 Off-Street Parking Regulations.

Off-street parking shall be in accordance with article V, section 5110, of this ordinance.

Section 4190.9 Loading Requirements.

Off-street loading spaces shall be in accordance with article V, section 5120, of this ordinance.

Section 4190.10 Sign Regulations.

Signs shall be allowed only in accordance with article V, section 5100, of this ordinance.

Section 4190.11 Screening.

Yards shall be screened in accordance with article V, section 5190, of this ordinance.

Section 4190.12 Landscape Regulations.

All lots in this district shall meet the requirements of Article V, 5000 Landscape Regulations.

Section 4190.13 Miscellaneous Regulations.

- A. All business shall be conducted in a completely enclosed building. No merchandise may be displayed outside and no storage will be permitted outside.
- B. No multiple commercial uses will be permitted in this district, in a single structure or building.
- C. All lots and uses in this district must be served by city sewer and water. Sewer and water main extensions shall be built to city specifications and shall be the responsibility of the developer and not the city.
- D. Residential uses in this district shall be limited to one dwelling unit located in the commercial building and will clearly be an accessory use to the commercial or primary use. Residential uses will not be permitted in a separate building on the same lot with the commercial use.

Section 4200 **B-2: Commercial (Central Business District - CBD) District Regulations.**

The intent of the B-2 Commercial District is to permit the existing uses in the Central Business District to remain intact without adding new requirements to the ones in existence on the date this ordinance was adopted. New uses developed after the date of this ordinance must conform to the requirements set out under B-2 Commercial District regulations.

The B-2 Commercial District is designed for the City Center which is usually comprised of retail, service, cultural, residential and government uses. The City Center is the focal point of the community and comprises a relatively small, geographically-centered, and wholly contiguous core area. Typically, the City Center services the entire community by providing a diversity of complementary and compatible land uses.

Section 4200.1 **Use Regulations.**

- A. **Permitted Uses.** No existing building or land shall be used and no buildings shall be erected, reconstructed or structurally altered for use by any person or persons except for permitted uses as shown in article IV, section 4120, Table of Permitted Uses, in this ordinance.
- B. **Conditional Uses.** Conditional uses will be permitted by the Zoning Administrator as shown in article IV, section 4120, Table of Permitted Uses, if the use meets the requirements of article V, section 5200, Conditional Uses, of this ordinance.
- C. **Accessory Uses.** Accessory uses and/or buildings shall be permitted as provided in article V, section 5150, Accessory Uses, in this ordinance.

Section 4200.2 **Height Regulations.**

No building shall hereafter be erected or reconstructed to exceed in height the limits established and specified as follows:

- A. The maximum height for a primary use shall be 45 feet or four stories; however, any building may attain a maximum height of 65 feet or six stories provided that for every foot in excess of 45 feet in height, one foot of additional setback be provided in either side or rear yard setback.
- B. The maximum height for an accessory use shall be 14 feet high.
- C. The maximum height for a building permitted as a conditional use shall be as in subsection A above.

Section 4200.3 **Area, Width and Yard Regulations.**

No building shall hereafter be erected or reconstructed in any manner which will encroach upon, or reduce the regulations of this ordinance.

- A. **Minimum Lot Area and Width.**
 - 1. All new uses developed in this district shall have the lot size dictated by the size of building, setback requirements, parking requirements, and other regulations of this section.
 - 2. Minimum width of lots in this district shall be 25 feet.

- B. **Front Yard.** No front yard setback will be required in this district except when additional right of way shall be required by the Board of Works for street improvements. However, in no case will a setback of more than ten feet be required.
- C. **Side Yard.**
 - 1. On each corner lot there shall be a side yard abutting the street as provided in subsection B above. The interior side yard shall be five feet unless the new building has a common party wall with the adjacent building, and in that case no side yard need be provided.
 - 2. All interior side yards shall be five feet unless the new building has a common party wall with the adjacent buildings, and in that case no side yards need by provided.
 - 3. Accessory buildings shall have the same setback requirements as in subsections 1 and 2 above.
- D. **Rear Yard.** Rear yards abutting a street shall be the same as subsection B above. All other lots will have no rear yard setback requirements.

Section 4200.4 Building Coverage.

No building shall hereafter be erected or reconstructed so that more than 90 percent of the area of the lot is covered. This shall include a primary commercial use and/or accessory building or structures, combined.

Section 4200.5 Fence Regulations.

Fences shall be in accordance with article V, section 5130, of this ordinance.

Section 4200.6 Visibility Requirements.

Vision requirements shall be in accordance with article V, section 5180, of this ordinance.

Section 4200.7 Off-Street Parking Regulations.

Off-street parking shall be in accordance with Article V, Section 5110, of the Goshen Zoning Ordinance, with the following exceptions:

- A. Any building or the part of any building used for commercial (non-residential) purposes shall be exempt from the off-street parking requirement.
- B. Any building or part of any building used for residential purposes shall be exempt from the off-street parking regulations if all of the following requirements are met:
 - 1. The residential use is limited to the second story or above and the first floor contains a commercial use.
 - 2. The residential unit must contain at least seven hundred twenty (720) square feet and have an additional four hundred (400) square feet for each occupant in excess of three (3).

Section 4200.8 Loading Requirements.

Off-street loading spaces shall be in accordance with article V, section 5120, of this ordinance.

Section 4200.9 Sign Regulations.

Signs shall be allowed only in accordance with article V, section 5100, of this ordinance.

Section 4200.10 Screening.

Screening need not be provided in this district.

Section 4200.11 Landscape Regulations

All lots in this district shall meet the requirements of Article V Section 5000 Landscape Regulations

Section 4200.12 Miscellaneous Requirements.

- A. All lots and uses in this district must be served by city sewer and water. Sewer and water main extensions shall be built to city specifications and shall be the responsibility of the developer and not the city.
- B. Residential uses in conjunction with commercial uses shall be limited to areas above the first floor, have separate entrances from the commercial uses, and clearly be an accessory use to the primary use. Residential uses will not be permitted in a separate building on the same lot with the commercial use.
- C. All business shall be conducted in a completely enclosed building. No outside storage will be permitted; however, outside display of merchandise for sale on site will be permitted when part of and related to an active principal use. Outside display shall maintain the same setbacks as required for primary structures. All sidewalk display and sales of merchandise shall be permitted only with approval of the Goshen Board of Public Works and Safety.
- D. Business existing on the date this ordinance was approved may expand, one time, by 40 percent of the existing floor area, without having to comply with the provisions of this section. However, any second time expansion or expansion beyond the 40 percent will require the business to comply with the provisions of this section. Simple remodeling of the existing building without expanding the floor area will not count as an expansion.
- E. New businesses moving into an existing building in this district, without expanding the size of the existing building, will be treated as an existing use.

Section 4205 Downtown District Regulations (Overlay District)

The intent of the Downtown District is to enhance and maintain the traditional main street corridor by preserving the integrity of existing development, promoting compatible development, preserving and promoting higher density land use, maintaining the architectural style of the area, promoting retail development, and developing a pedestrian friendly environment, so that the Downtown District is an attractive and desirable place to live, work and do business.

The Downtown District (Overlay District) is delineated and depicted in Appendix K of this Ordinance.

In addition to the requirements of the Sections 4200, any new building or any existing building that is rebuilt or structurally altered and is located in the Downtown Overlay District shall comply with requirements set forth in Sections 4205.

In interpreting and applying the provisions of Section 4205 of the Zoning Ordinance, it shall take precedence and be controlling when there is a conflict between its provisions and those of other sections of the Zoning Ordinance. Specific provisions of the underlying zoning district shall be followed when they are not in conflict with the provisions of Section 4205.

Section 4205.1 Use Regulations

- A. Except as provided in subsection B immediately below, use regulations shall follow the regulations of the underlying zoning district.
- B. Two family, single family attached, and single family detached residential dwelling units are prohibited in the Downtown District. Multi family residential dwelling units shall comply with the provisions of Section 4205 of this Ordinance.

Section 4205.2 Height Regulations

All buildings shall hereafter be erected, rebuilt or altered according to the following height restrictions:

- A. The maximum height for a primary use shall be 45 feet or four stories.
- B. The maximum height for an accessory use shall be 14 feet high.
- C. The minimum height for a primary use shall be two stories.
- D. Existing one-story buildings, when altered or rebuilt, shall at a minimum extend the height of the façade to 18 feet.

Section 4205.3 Building Placement

- A. Primary structures shall be built with a zero lot line setback at the front and side property lines, or on a line that extends or connects the lines of the facades of other primary structures on the block, and shall share a common side wall (party wall or abutting wall) with adjacent structures. The setback at zero lot line shall be measured from the façade, exclusive of cornices, awnings, and signs.

Section 4205.4 **Building Coverage**

- A. For a new building, up to 90 percent of the lot area may be covered. This includes a primary commercial use and accessory building or structures, combined.
- B. When rebuilding on an existing foundation, up to 100 percent of the lot area may be covered.

Section 4205.5 **Streetscape Requirements**

- A. Sidewalks are required from the front setback line to the curb line, built to City specifications.
- B. All new buildings shall have at least one public entrance facing the street, and for retail uses an additional public entrance at the rear of the building, or, for a building on a corner, on the side of the building.

Section 4205.6 **Architectural Requirements**

- A. All visible exterior walls of new, rebuilt or altered buildings shall be visually compatible to the historical and architectural style, general design, arrangement, size, texture and materials of the existing pre-1910 buildings on Main Street between Clinton Street and Jefferson Street. A list of said buildings is incorporated herein and set forth in Appendix L of this Ordinance.
- B. For any new, rebuilt or altered primary street façade a minimum of 75% of the area between two (2) and ten (10) feet above grade shall contain clear, display windows.
- C. New, rebuilt or altered buildings shall have a symmetrically shaped parapet extending above the roof line. No part of the roof shall project visibly above the parapet.
- D. New, rebuilt or altered buildings shall have windows in stories above the first floor visually compatible to the style, design, and size of windows in existing pre-1910 buildings on Main Street between Clinton Street and Jefferson Street. A list of said buildings is incorporated herein and set forth in Appendix L of this Ordinance.

Section 4205.7 **Parking Regulations**

- A. Parking regulations shall follow the requirements of the underlying zoning district, except as specified in this section.
- B. Parking lots and parking facilities shall be prohibited on lots with frontage on Main Street, except as an accessory use on the rear half of a lot which contains a primary building on the front half of the lot.

Section 4205.8 **Site Plan Review**

- A. A site plan demonstrating compliance with the Downtown District requirements of this Ordinance must be approved by the Planning Office before a permit is issued for any of the following, except as necessary to accommodate an urgent health and safety issue: demolition (including partial demolition), moving, construction, rebuilding, renovation, alteration of or the addition to any building or structure. Interior reconstruction, renovation or alteration shall not require site plan approval.

- B. The developer shall file a design proposal, elevation drawings and a site plan for all proposed new construction, rebuilding or alteration, including any exterior building change, demonstrating compliance with the Downtown District requirements of this Ordinance.
- C. The Goshen City Plan Commission shall determine final site plan approval if the developer and planning staff do not agree. The final site plan shall demonstrate compliance with the Downtown District requirements of this Ordinance and with the requirements of the underlying zoning district.

Section 4205.9 **Miscellaneous Requirements**

- A. All uses in this district must be served by city sewer and water. Sewer and water main extensions shall be the responsibility of the developer and not the city.
- B. Residential uses are prohibited on the first floor in the Downtown District.
- C. Residential uses in conjunction with commercial uses shall be limited to areas above the first floor, have separate entrances from the commercial uses, and clearly be an accessory use to the primary use. Residential uses will not be permitted in a separate building on the same lot with a commercial use.
- D. All sidewalk display and sales of merchandise shall be permitted only with approval of the Goshen Board of Public Works and Safety. All other outside storage shall be prohibited.

Section 4210 **B-3: Commercial (General) District Regulations.**

The intent of the B-3 Commercial District is to permit a full range of commercial and retail business, auto-related business, and certain other uses as set forth in this ordinance.

Industrial uses will not be permitted in this district.

Section 4210.1 **Use Regulations.**

- A. **Permitted Uses.** No existing building or land shall be used and no buildings shall be erected, reconstructed or structurally altered for use by any person or persons except for permitted uses, as shown in article IV, section 4120, Table of Permitted Uses, in this ordinance.
- B. **Conditional Uses.** Conditional uses will be permitted by the Zoning Administrator as shown in article IV, section 4120, Table of Permitted Uses, if the use meets the requirements of article V, section 5200, Conditional Uses, of this ordinance.
- C. **Accessory Uses.** Accessory uses and/or buildings shall be permitted as provided in article V, section 5150, Accessory Uses, in this ordinance.

Section 4210.2 **Height Regulations.**

No building shall hereafter be erected, reconstructed or structurally altered to exceed in height the limits established and specified as follows:

- A. The maximum height for a primary use shall be four stories.
- B. The maximum height for an accessory building shall not exceed the height of the primary building on site.
- C. The maximum height for a building permitted as a conditional use shall be four stories.

Section 4210.3 **Area, Width and Yard Regulations.**

No building shall hereafter be erected, reconstructed, or structurally altered in any manner which will encroach upon, or reduce the regulations of this ordinance.

- A. **Minimum Lot Area and Width.** All new uses developed in this district shall be on a lot having an area of not less than 8,000 square feet and a width at the established front lot line of not less than 80 feet.
- B. **Front Yard.** Front yards shall be measured from the front property line and the front lot line and shall be as follows:
 - 1. On collector streets, the front yard shall be a minimum distance of 30 feet.
 - 2. On arterial streets, the front yard shall be a minimum distance of 35 feet.

C. **Side Yard.** Each lot shall have two side yards measured from the building to the lot line and shall be as follows:

1. On a corner lot, there shall be two side yards; the side yard abutting the street shall be as shown under front yards above. The interior side yard shall have a width of not less than ten feet, except where party walls are used.
2. Interior yards shall have two side yards; each side yard shall have a width of not less than ten feet, except where party walls are used.
3. Accessory buildings in a yard not abutting a street shall not be built closer than five feet from the lot line. Setbacks from streets shall be as shown under front yards.
4. Side yards abutting a residential zoning district shall have a 20 foot side yard.

D. **Rear Yard.** There shall be a rear yard on each lot, the depth of which shall be not less than 25 feet. An accessory building may be erected within the rear quarter of the lot, observing the above side yard requirements and located no closer than ten feet from the rear lot line.

Section 4210.4 Building Coverage.

No building shall hereafter be erected, reconstructed or altered so that more than 50 percent of the area of the lot is covered. This shall include a primary commercial use and/or accessory building or structures, combined.

Section 4210.5 Fence Regulations.

Fences shall be in accordance with article V, section 5130, of this ordinance.

Section 4210.6 Visibility Requirements.

Vision requirements shall be in accordance with article V, section 5180, of this ordinance.

Section 4210.7 Off-Street Parking Regulations.

Off-street parking shall be in accordance with article V, section 5110, of this ordinance.

Section 4210.8 Loading Requirement.

Off-street loading spaces shall be in accordance with article V, section 5120, of this ordinance.

Section 4210.9 Sign Regulations.

Signs shall be allowed only in accordance with article V, section 5100, of this ordinance.

Section 4210.10 Screening.

Yards shall be screened in accordance with article V, section 5190, of this ordinance.

Section 4210.11 Landscape Regulations.

All lots in this district shall meet the requirements of Article V, Section 5000 Landscape Regulations.

Section 4210.12 Miscellaneous Regulations.

- A. All uses in this district must have all vehicle access points on a collector or arterial street. No access points will be allowed on a residential street.
- B. Uses in this district shall not have access through any residentially-zoned area.
- C. All lots and uses in this district must be served by city sewer and water. Sewer and water main extensions shall be built to city specifications and shall be the responsibility of the developer and not the city.
- D. All business activity shall be conducted in a completely enclosed building. No outside storage will be permitted; however, outside display of merchandise for sale on site will be permitted when part of and related to an active principal use. Outside display shall maintain the same setbacks as primary structures.

Section 4220 B-4: Commercial (Planned Shopping Center) District Regulations.

The intent of the B-4 Commercial District is to encourage a planned approach to shopping center development. This approach should include grouping buildings, safe and easy ingress and egress for vehicles, and must allow safe pedestrian movement. These centers will include a variety of retail and service uses designed to service a large area of population.

Residential, wholesale, and industrial uses will not be permitted in this district.

Section 4220.1 Use Regulations.

- A. **Permitted Uses.** No existing building or land shall be used and no buildings shall be erected, reconstructed or structurally altered for use by any person or persons except for permitted uses, as shown in article IV, section 4120, in this ordinance.
- B. **Conditional Uses.** Conditional uses will be permitted by the Zoning Administrator as shown in article IV, section 4120, Table of Permitted Uses, if the use meets the requirements of article V, section 5200, Conditional Uses, of this ordinance.
- C. **Accessory Uses.** Accessory uses and/or buildings shall be permitted as provided in article V, section 5150, Accessory Uses, in this ordinance.

Section 4220.2 Height Regulations.

No building shall hereafter be erected, reconstructed or structurally altered to exceed in height the limits established and specified as follows:

- A. The maximum height for a primary use shall be two and one-half stories.
- B. The maximum height for an accessory building shall not exceed the height of the primary building on site.
- C. The maximum height for a building permitted as a conditional use shall be two and one-half stories.

Section 4220.3 Area, Width and Yard Regulations.

No building shall hereafter be erected, reconstructed, or structurally altered in any manner which will encroach upon, or reduce the regulations of this ordinance.

- A. **Minimum Lot Area and Width.**
 - 1. No lot in this district shall contain less than three acres.
 - 2. No lot in this district shall have less than 100 feet of frontage on a dedicated public right-of-way.
- B. **Front Yard.** Front yards shall be measured from the front property line and the building line or parking line and shall be as follows:

1. A front yard abutting a street right-of-way line shall have a building setback of 50 feet.
2. A front yard abutting a street right-of-way line shall have a parking setback of 20 feet.
3. Accessory buildings shall have the same front yard setbacks as primary uses.

C. **Side Yard.** Each lot shall have two side yards measured from the building line or parking line to the lot line and shall be as follows:

1. A side yard abutting a street right-of-way shall have a building setback of 50 feet.
2. A side yard abutting a street right-of-way shall have a parking setback of 20 feet.
3. Side yards abutting any residential zoning shall have a building and parking setback of 25 feet.
4. Side yards abutting any other type of zoning district shall have a building setback of 20 feet.
5. Side yards abutting any other type of zoning district shall have a parking setback of ten feet.
6. Accessory buildings shall have the same side yard setbacks as the primary uses.

D. **Rear Yard.** There shall be a rear yard on each lot in this district and they shall be measured from the rear lot line to the building line or parking line and shall be as follows:

1. A rear yard abutting a street right-of-way shall be the same setbacks as required in subsection B, Front Yards, above.
2. A rear yard abutting any residential zoning district shall have a building and parking setback of 25 feet.
3. A rear yard abutting any other type of zoning district shall have a building setback of 20 feet.
4. A rear yard abutting any other type of zoning district shall have a parking setback of ten feet.

Section 4220.4 Building Coverage.

No building shall hereafter be erected, reconstructed, or altered so that more than 40 percent of the area of the lot is covered. This shall include a primary commercial use and/or accessory building or structure, combined.

Section 4220.5 Fence Regulations.

Fences shall be in accordance with article V, section 5130, of this ordinance.

Section 4220.6 Visibility Requirements.

Vision requirements shall be in accordance with article V, section 5180, of this ordinance.

Section 4220.7 Off-Street Parking Regulations.

Off-street parking space requirements for a Planned Shopping Center shall be calculated at five spaces per 1,000 square feet of gross floor area. For the purposes of this section, the gross floor area shall include, but not be limited to, the wall, floor area of store, storage areas, hallways, restroom facilities, offices and all public or semi-public meeting rooms.

All other requirements such as size of parking stalls, handicapped parking requirements, etc., shall be in accordance with article V, section 5110, of this ordinance.

Section 4220.8 Loading Requirements.

Off-street loading spaces shall be in accordance with article V, section 5120, of this ordinance.

Section 4220.9 Sign Regulations.

Signs shall be allowed only in accordance with article V, section 5100, of this ordinance.

Section 4220.10 Screening.

Yards shall be screened in accordance with article V, section 5190, of this ordinance. However, the Plan Commission may require screening along any other zoning district line.

Section 4220.11 Miscellaneous Requirements.

- A. All developments, lots and uses in this district must be served by city sewer and water. Sewer and water main extensions shall be built to city specifications and shall be the responsibility of the developer and not the city.
- B. Off-street parking facilities shall be graded so as to prevent drainage onto abutting property and/or into the public streets and alleys. Dry wells of a construction capacity and design approved by the City Engineer shall be installed to collect all run-off water unless adequate storm sewers or drainage ditches are available. Dry wells shall be cleaned periodically so that they will collect the design capacity of run-off water. These drainage provisions shall not apply where a different method of disposing of said run-off water is ordered by the Plan Commission and/or the City Engineer.
- C. All developments in this district shall be located on arterial or collector streets.
- D. No access to a B-4 Commercial District shall go through any residential zoning district.
- E. No B-4 Commercial District can lie on two sides of a public street or alley. Any area zoned B-4 and lying on both sides of a street or alley shall be considered as two separate districts and both must meet the requirements of this section.
- F. No area shall be zoned B-4 Commercial if it has an existing use that would be non-conforming under this section.

- G. All business shall be conducted in a completely enclosed building. No storage will be permitted outside and no merchandise will be displayed outside except by permission of the BZA. This permission will only be granted for a limited time and shall be in conjunction with displays done with other businesses.
- H. All open space areas, including parking and access areas where structures are not proposed, shall be landscaped and maintained.

Section 4220.12 Site Plan.

A site plan must be submitted along with the rezoning petition for this district. Requirements for the site plan will be found under article VI, section 6240.3, of this ordinance.

Section 4220.13 Development Schedule and Staging.

The shopping center shall be designed as a unified project, but may be built in stages in accordance with a schedule approved by the Plan Commission. If there is not substantial compliance with the approved schedule, the City Council may, after expiration of a period of two years from the date of approval of the final development plan, study conditions and changes of condition in the area and, after report from the Plan Commission, the City Council may, by ordinance, reduce or eliminate the district through normal rezoning procedures.

Section 4220.14 Additional Requirements by Plan Commission.

Before recommending approval of a B-4 Commercial District to the City Council, the Plan Commission may make reasonable additional requirements as to landscaping and maintenance thereof, lighting, signs, and advertising devices, screening, access ways, curb cuts, traffic control, height of buildings, and setback of buildings to protect adjoining residentially zoned lots for residential uses.

Section 4220.15 Landscape Regulations.

All lots in this district shall meet the requirements of Article V, Section 5000 Landscape Regulations.

Section 4230 **M-1: Industrial (Light Industrial) District Regulations.**

The intent of the M-1 Industrial District is to provide areas where wholesale activities, heavy commercial uses, and light manufacturing uses may be located. This district is not intended to be used by industries that generate high noise levels, heavy truck traffic, or that have large outside storage facilities.

Section 4230.1 **Use Regulations.**

- A. **Permitted Uses.** No existing building or land shall be used and no buildings shall be erected, reconstructed or structurally altered for use by any person or persons except for permitted uses, as shown in article IV, section 4120, Table of Permitted Uses, in this ordinance.
- B. **Conditional Uses.** Conditional uses will be permitted by the Zoning Administrator as shown in article IV. section 4120, Table of Permitted Uses, if the use meets the requirements of article V, section 5200, Conditional Uses, of this ordinance.
- C. **Accessory Uses.** Accessory uses and/or buildings shall be permitted as provided in article V, section 5150, Accessory Uses, in this ordinance.

Section 4230.2 **Height Regulations.**

No building shall hereafter be erected, reconstructed or structurally altered to exceed in height the limits established and specified as follows:

- A. The maximum height of a primary use shall be 35 feet or three and one-half stories, except that the height may be increased to a maximum of 65 feet or six and one-half stories if, for every foot of height in excess of 35 feet, there shall be added to each yard requirement one foot of width and depth.
- B. The maximum height for an accessory building shall be 25 feet.
- C. The maximum height for a conditional use shall be the same as subsection A, above.

Section 4230.3 **Area, Width and Yard Regulations.**

No building shall hereafter be erected, reconstructed or structurally altered in any manner which will encroach upon, or reduce the regulations of this ordinance.

- A. **Minimum Lot Area and Width.** All uses developed in this district shall be on a lot having an area of not less than 8,000 square feet and a width at the established front lot line of not less than 70 feet.
- B. **Front Yard.** Front yards shall be measured from the front property line and the building line and shall be as follows:
 - 1. On collector streets, the front yard shall be a minimum distance of 30 feet.
 - 2. On arterial streets, the front yard shall be a minimum distance of 35 feet.

- C. **Side Yard.** Each lot shall have two side yards measured from the building to the lot line and shall be as follows:
1. On a corner lot, there shall be two side yards; the side yard abutting the street shall be as shown under subsection B, Front Yards, above. The interior side yard shall have a width of not less than ten feet.
 2. Interior yards shall have two side yards; each side yard shall have a width of not less than ten feet.
 3. Accessory buildings in a yard not abutting a street shall not be built closer than five feet from the lot line. Setbacks from streets shall be as shown under subsection B, Front Yards.
- D. **Rear Yard.** There shall be a rear yard on each lot, the depth of which shall be not less than 20 feet. An accessory building may be erected within the rear quarter of the lot, observing the above side yard requirements and located no closer than ten feet from the rear lot line, except when abutting a residential zoning district, and then the accessory building must remain 20 feet from the rear lot line.
- E. **Yards Abutting Residential Uses or Residential Zoning Districts.** Building setbacks for side and/or rear yards abutting any residential use or residential zoning district boundary line shall be 100 feet. Outside storage shall have the same setback as a building. Parking setback shall be 60 feet.

Section 4230.4 Building Coverage.

No building shall hereafter be erected, reconstructed, or altered so that more than 50 percent of the area of the lot is covered. This shall include a primary commercial use and/or accessory building or structures, combined.

Section 4230.5 Fence Regulations.

Fences shall be in accordance with article V, section 5130, of this ordinance.

Section 4230.6 Visibility Requirements.

Vision requirements shall be in accordance with article V, section 5180, of this ordinance.

Section 4230.7 Off-Street Parking Regulations.

Off-street parking shall be in accordance with article V, section 5110, of this ordinance.

Section 4230.8 Loading Requirements.

Off-street loading spaces shall be in accordance with article V, section 5120, of this ordinance.

Section 4230.9 Sign Regulations.

Signs shall be allowed only in accordance with article V, section 5100, of this ordinance.

Section 4230.10 Screening.

Yards shall be screened in accordance with article V, section 5190, of this ordinance.

Section 4230.11 Landscape Requirements.

All lots in this district shall meet the requirements of Article V, Section 5000 Landscape Requirements.

Section 4230.12 Miscellaneous Requirements.

- A. All uses in this district must have all vehicle access points on a collector or arterial street. No access points will be allowed on a residential street.
- B. Uses in this district shall not have access through any residentially zoned area.
- C. Lot coverage, including building coverage and storage areas, shall not exceed 75 percent of the gross site area.
- D. Materials stored outside shall not be visible above the required screening.
- E. For permitted retail uses, outside display of merchandise for sale on site will be permitted when part of and related to an active principal use. Outside display shall maintain the same setbacks as primary structures.
- F. All lots and uses in this district must be served by city sewer and water. Sewer and water main extensions shall be built to city specifications and shall be the responsibility of the developer and not the city.

Section 4240 **M-2: Industrial (Heavy Industrial) District Regulations.**

The intent of the M-2 Industrial District is to provide areas where a full range of industrial and manufacturing uses may be located, as well as uses requiring large outside storage areas. Uses involving danger from fire, explosion, presenting other danger or hazard to health or property must meet the conditional use requirements set forth in this ordinance.

Section 4240.1 **Use Regulations.**

- A. **Permitted Uses.** No existing building or land shall be used and no buildings shall be erected, reconstructed or structurally altered for use by any person or persons except for permitted uses, as shown in article IV, section 4120, Table of Permitted Uses, in this ordinance.
- B. **Conditional Uses.** Conditional uses will be permitted by the Zoning Administrator as shown in article IV, section 4120, Table of Permitted Uses, if the use meets the requirements of article V, section 5200, Conditional Uses, of this ordinance.
- C. **Accessory Uses.** Accessory uses and/or buildings shall be permitted as provided in article V, section 5150, Accessory Uses, in this ordinance.

Section 4240.2 **Height Regulations.**

No building shall hereafter be erected, reconstructed, or structurally altered to exceed in height the limits established and specified as follows:

- A. The maximum height of a primary use shall be 35 feet or three and one-half stories, except that the height may be increased to a maximum of 65 feet or six and one-half stories if, for every foot of height in excess of 35 feet, there shall be added to each yard requirement one foot of width and depth.
- B. The maximum height for an accessory building shall be 25 feet.
- C. The maximum height for a conditional use shall be the same as subsection A, above.

Section 4240.3 **Area, Width and Yard Regulations.**

No building shall hereafter be erected, reconstructed, or structurally altered in any manner which will encroach upon, or reduce the regulations of this ordinance.

- A. **Minimum Lot Area and Width.** All uses developed in this district shall be on a lot having an area of not less than 8,000 square feet and a width at the established front lot line of not less than 70 feet.
- B. **Front Yard.** Front yards shall be measured from the front property line and the building line and shall be as follows:
 - 1. On collector streets, the front yard shall be a minimum distance of 30 feet.
 - 2. On arterial streets, the front yard shall be a minimum distance of 35 feet.

- C. **Side Yard.** Each lot shall have two side yards measured from the building to the lot line and shall be as follows:
1. On a corner lot, there shall be two side yards; the side yard abutting the street shall be as shown under subsection B, Front Yards, above. The interior side yard shall have a width of not less than ten feet.
 2. Interior yards shall have two side yards; each side yard shall have a width of not less than ten feet.
 3. Accessory buildings in a yard not abutting a street shall not be built closer than five feet from the lot line. Setbacks from streets shall be as shown under subsection B, Front Yards.
- D. **Rear Yard.** There shall be a rear yard on each lot, the depth of which shall be not less than 20 feet. An accessory building may be erected within the rear quarter of the lot, observing the above side yard requirements and located no closer than ten feet from the rear lot line, except when abutting a residential zoning district, and then the accessory building must remain 20 feet from the rear lot line.
- E. **Yards Abutting Residential Uses or Residential Zoning Districts.** Building setbacks for side and/or rear yards abutting any residential zoning district boundary line or residential use shall be 200 feet. Outside storage will have the same setback requirements as a building. Parking setbacks shall be 60 feet.

Section 4240.4 Building Coverage.

No building shall hereafter be erected, reconstructed, or altered so that more than 50 percent of the area of the lot is covered. This shall include a primary commercial use and/or accessory building or structures, combined.

Section 4240.5 Fence Regulations.

Fences shall be in accordance with article V, section 5130, of this ordinance.

Section 4240.6 Visibility Requirements.

Vision requirements shall be in accordance with article V, section 5180, of this ordinance.

Section 4240.7 Off-Street Parking Regulations.

Off-street parking shall be in accordance with article V, section 5110, of this ordinance.

Section 4240.8 Loading Requirements.

Off-street loading spaces shall be in accordance with article V, section 5120, of this ordinance.

Section 4240.9 Sign Regulations.

Signs shall be allowed only in accordance with article V, section 5100, of this ordinance.

Section 4240.10 Screening.

Yards shall be screened in accordance with article V, section 5190, of this ordinance.

Section 4240.11 Landscape Requirements.

All lots in this district must meet the requirements of Article V, Section 5000 Landscape Requirements.

Section 4240.12 Miscellaneous Requirements.

- A. All uses in this district must have all vehicle access points on a collector or arterial street. No access points will be allowed on a residential street.
- B. Uses in this district shall not have access through any residentially-zoned area.
- C. Lot coverage, including building coverage and storage areas shall not exceed 75 percent of the gross site area.
- D. Materials stored outside shall not be visible above the required screening.
- E. All lots and uses in this district shall be served by city sewer and water. Sewer and water main extensions shall be built to city specifications and shall be the responsibility of the developer and not the city.

Section 4250 **Planned Unit Development District Regulations.**

It shall be the intent of this district to be an overlay district and may be established in addition to the underlying use district. The permitted use and development regulations may be modified either to be more or less restrictive than those otherwise applicable in the underlying use district. This district may be cited as the “PUD” Ordinance of the City of Goshen.

Section 4250.1 **Purpose.**

In addition to those purposes set forth in section 1110, Purpose, of this ordinance , Planned Unit Development Districts are established herein for, among others, the following purposes and objectives:

- A. To encourage developers to use a more creative and imaginative approach in land and building site planning;
- B. To encourage more usable and suitably located open space, recreation facilities and common facilities than would otherwise be provided under conventional development procedures;
- C. To encourage variety in physical development patterns in terms of uses, architectural style, building form and building relationships;
- D. To allow special consideration of property with unique features, including but not limited to historical significance, unusual topography, size, shape and landscape amenities;
- E. To promote an efficient use of land through a more economic arrangement of buildings, circulation systems, utilities and land uses;
- F. To achieve flexibility and incentives for development which will produce a wider range of choice; and
- G. To simplify the processing of development proposals for developers and the Plan Commission by providing concurrent review of land use, public improvements and site considerations.

Section 4250.2 **General Requirements.**

- A. **Ownership.** The tract of land for a project may be owned, leased, or controlled either by a single person, corporation or by a group of individuals or corporation. An application must be filed by the owner or by the authorized agent of all property included in a project. In the case of multiple ownership, the Approved Plan shall be binding on all owners.
- B. **Interpretation.** Development shall be planned, reviewed and carried out in conformation with all municipal, state and other laws and regulations. However, in interpreting and applying the provisions of this section, it shall take precedence and be controlling when there is conflict between its provisions and those of other sections of the Zoning or Subdivision Ordinance.
- C. **Preapplication Consultation.** The preapplication consultation is not required, however, it is strongly recommended that the developer (applicant) and the city meet before the application process has begun. Statements made at the consultation are not legally binding. The meeting is intended to insure that the developer is aware of the community's standards and posture on Planned Unit Development Districts. Such consultation should occur prior to any extensive outlay of funds on the part of the developer, since

the consultation is intended as a device to encourage cooperation between the developer and the city. To obtain information, each applicant shall confer with the planning staff and other appropriate department heads in connection with the preparation of the PUD application. Of primary importance are policy issues such as density, external and internal land uses, open space quantity and maintenance, ownership information and general spatial characteristics such as setback, lot sizes, and parcel size. The planning staff will offer advice to the applicant regarding his proposal and aid in understanding the PUD District.

Section 4250.3 Application Procedures for PUD (Overlay) District.

- A. An application for approval of a PUD shall be filed as a petition for amendment to the Zoning Ordinance and shall be in accordance with article VI, section 6240, 6240.1 and 6240.2 of the Zoning Ordinance.
- B. The Plan Commission shall hold a public hearing on the preliminary PUD, and within 40 days refer the preliminary PUD to the City Council with a recommendation.
- C. The City Council shall hold a public meeting in order to approve, approve with modifications or deny the preliminary PUD, and refer the approved preliminary PUD to the Zoning Administrator for final PUD approval; if the developer and Zoning Administrator do not agree, or if the developer requests, the City Plan Commission shall determine final PUD plan approval.
- D. If the final PUD meets the provisions of the approved preliminary PUD, the Zoning Administrator or the City Plan Commission, as appropriate, shall approve the final PUD without holding a public hearing.
- E. The approved final PUD shall then be recorded at the County Recorder's Office by the staff of the Plan Commission within ten days after final approval, and all recording fees shall be paid by the developer.

Section 4250.4 Establishment Procedure.

- A. **PUD District.** Any landowner may request the establishment of a Planned Unit Development District (Overlay) on his land subject to all requirements indicated herein. Such a district may be established by the city in accordance with the procedures outlined in this ordinance.
- B. **Permitted Uses.** Those uses permitted in underlying zone. Commercial and institutional uses may be included in residential districts to serve the residents of the PUD provided such uses can be supported by the residents.
- C. **Schools, Parks and Recreation Facilities.** The developer in the design of the PUD shall give consideration to the reservation of suitable sites of adequate area for future schools, parks, playgrounds, drainage ways and other public uses, if so designated on the Comprehensive Plan, Official Zoning Map, Park and Recreation Comprehensive Plan, or other developmental plans of the city.
- D. **Design Standards.**
 - 1. **Adequacy of Design.** Design standards and requirements outlined in this section will be utilized by the Plan Commission in determining the adequacy of all plans for proposed planned unit developments.

2. **Consideration of Comprehensive Plan.** Consideration shall be given to applicable provisions of the city's Comprehensive Plan as it pertains to water supply and sewage treatment systems, highway and street alignments, environmental integrity and other public facilities where appropriate.
 3. **Consideration of Existing Adjacent Development.** The development of the proposed PUD shall take into consideration relevant features of adjacent existing development.
 4. **Unsafe or Hazardous Conditions.** Land with unsafe or hazardous conditions such as open quarries, unconsolidated fill, flood plains, wetlands, or steep slopes shall not be developed unless the PUD provides for adequate safeguards which are approved by the Plan Commission, Board of Zoning Appeals, or applicable governmental agency.
- E. **Natural Features.** Physical layout and form of all streets shall be designed with regard to the topography and natural features of the site.
- F. **Visual Aspects.** In addition to the primary concerns specified in D-1 and D-2 above, consideration should be given to the visual aspects of the development.
1. The overall design should provide for the appearance of external unity, throughout the development.
 2. Housing and other facilities near the periphery of the Planned Unit Development shall be designed as to be harmonious with the neighboring areas.
- G. **Lot Size, Lot Width, Building Height, Floor Area Ratio and Yard Requirements.** No specific standards for these items shall be imposed; however, development plans must insure adequate air, light and privacy for all residents.
- H. **Project Size.** No minimum project size shall be imposed. There is, however, a direct and obvious relationship between project size and economic feasibility.
- I. **Design Standards.** All improvements within the PUD such as streets, water, surface water drainage and sewer layouts shall be dedicated to the public unless otherwise approved by the city Board of Public Works and Safety.
1. Standards of design and construction for roadways within a Planned Unit Development may be modified as is deemed appropriate by the city's Board of Public Works and Safety. Right-of-way widths may be reduced as deemed appropriate by the Plan Commission, especially where it is found that the plan for the Planned Unit Development provides for the separation of motorized traffic and pedestrian and bicycle circulation patterns.
 2. Any deviation from city design standards of sewer, water and street improvements shall be reviewed and approved by the Board of Public Works and Safety prior to the Plan Commission's approval of the Planned Unit Development.
- J. **Accommodation of Pedestrian Traffic.** Sidewalks and other walkways and bicycle paths shall be provided where necessary for the safety and convenience of pedestrian and cyclist traffic within project boundaries. Special attention shall be given to connections accommodating pedestrian movement between the dwelling units, common open space, recreation facilities, commercial establishment and parking facilities or areas.

1. Walkway widths and surface treatment of all walkways shall be designed with regard to their function and the anticipated manner of usage. The natural features of the area traversed by the walkway system in scale with the project shall also be considered.
2. Utilization of pedestrian ramps shall be encouraged where necessary to either resolve conflicts with vehicular traffic or facilitate the movement of elderly and children.

K. **Parking Requirements.** Off-street parking facilities shall maintain the required developmental regulations of the zoning district in which they are located.

L. **Landscaping** shall be in accordance with Article V, Section 5000; Landscaping Regulations.

Section 4250.5 Sketch Approval.

A. In order to allow the developer and the planning staff to reach an understanding on basic design requirements, community objectives, and ordinance regulations prior to detailed design, the developer may file a sketch plan with the planning staff. The sketch plan should include, but not be limited to, the following:

1. An area map showing adjacent property owners and existing uses within 300 feet of the parcel;
2. A legal description of the parcel;
3. Name of developer if different from owner;
4. North arrow, graphic scale, and date of the drawing;
5. Significant physical features within the parcel, including significant contours, watercourses, ponds, lakes, and wetlands;
6. Proposed major changes to the above physical features;
7. Proposed zoning districts on and within 300 feet adjacent to the proposed PUD;
8. An indicator of the contemplated land use, including net density for each type of residential land use proposed, net floor to area ratio of commercial and industrial uses proposed;
9. Proposed circulation system;
10. Existing circulation system; and
11. Any other documents and supportive information deemed necessary by the planning staff.

Section 4250.6 Preliminary Plan Requirements.

A. Preliminary plan(s) legibly drawn to a scale of no less than one inch equals 100 feet. If the preliminary plan requires more than one sheet, a single-sheet comprehensive plan shall be drawn at an appropriate scale, and a key diagram showing the relative location of the several sections shall be added to each sheet. This preliminary plan shall contain the following data:

1. Name and address of recorded owner of development and property owners within 300 feet of the parcel;
2. Name of developer if different from owner;
3. Name of individual responsible for preparation of the plan;
4. North arrow, graphic scale, and the date of the drawing;
5. Tract boundaries, and a statement of the total acreage of the tract;
6. Significant physical features within the tract, including existing two foot contours, floodplains subject to 100 year flood frequency, natural drainage patterns, drainage swales, watercourses, ponds, lakes, and wetlands; and proposed major changes in those features;
7. Zoning districts on and within 300 feet adjacent to the proposed PUD;
8. All contemplated land uses within the tract;
9. An indicator of the contemplated intensity of use (i.e., total number of dwelling units, type, and density in residential development; number of prospective tenants in office, commercial and industrial development or recreation development);
10. Existing buildings that may affect future development and proposed location of all principal structures and associated parking areas;
11. Proposed circulation systems (pedestrian, bicycle, auto, mass transit), by type, how they relate to the existing network outside this site;
12. Existing rights-of-way and easements which may affect the PUD Project;
13. In the case of plans which call for development in phases, a phasing plan at an appropriate scale showing the successive phases, and estimated time frame;
14. Types of soils based on the U.S.D.A. Soil Survey of Elkhart County, Indiana;
15. Proposed lot coverage of buildings and structures;
16. Total amount of open space including separate figures for unimproved and improved;
17. Property lines (if any) within the PUD;
18. Number of lots (if any), together with approximate lot area;
19. All existing sanitary and storm sewers, water lines, fire hydrants, utility transmissions lines, bridges, railroads, etc., within the project boundaries;
20. A description of the proposed system for drainage, water supply, and sewage disposal;
21. Proposed grants of easements and purpose of easements;

22. A general landscaping plan as required by section 4250.4 (L) of this ordinance; and
23. Any other documents and supporting information deemed necessary by the planning staff, Plan Commission, or City Council.

- B. The Plan Commission shall hold a public hearing on the preliminary PUD, and within forty (40) days refer the Preliminary PUD to the City Council with a recommendation.

Section 4250.7 **Final Review.**

- A. **Procedure.** Within thirty-six (36) months following approval of the final preliminary plan, the final plan in the number of copies deemed necessary by the Plan Commission shall be submitted to the planning staff. An extension of time beyond the thirty-six (36) month period may be granted by the Plan Commission upon a determination based on evidence that extenuating circumstances warrant such action. If the Plan Commission determines that the final preliminary plan lapses, the city shall remove the PUD Overlay Zone from the Official Map following public notice and hearing before the Plan Commission and approval by the City Council.
- B. **Plan Abandonment.** If the developer fails to file applications for final plan approval within the required period of time, or if the preliminary plan is given approval and thereafter, but prior to final approval, the developer elects to abandon the development plan, the approval shall be deemed to be revoked and that area included in the development plan shall be subject to automatically revert to its previous zoning classification before the PUD was requested. If the area included in the development plan was annexed with the PUD (Overlay), the property shall automatically be zoned compatible to the Elkhart County zoning district on the date prior to annexation.
- C. **Plan Approval.** The Zoning Administrator or City Plan Commission, as appropriate, shall act to approve, or disapprove the final plan in accordance with the following guidelines:
1. If the final plan complies with the approved preliminary plan, the Zoning Administrator or City Plan Commission, as appropriate, shall within 40 days, grant such development plan final approval.
 2. In the event the final plan as submitted is incomplete or contains variations from the plan given preliminary approval, the Zoning Administrator or City Plan Commission, as appropriate, may refuse to grant final approval and shall, within 40 days from the filing of the application for final approval, so advise the developer of such refusal, setting forth in such notice the reasons why one or more of the variations are not in the public interest, and stipulating the process by which to correct such variations.
 3. The decision of the Zoning Administrator under this Section is appealable to the Plan Commission in accordance with the Plan Commission Rules of Procedure and this Ordinance. The decision of the Plan Commission under this Section is subject to judicial review.
- C. **Recording.** The approved final plan shall be recorded by the staff at the expense of the developer in the office of the Recorder of Elkhart County, Indiana. Copies of the final approved plan as recorded shall be forwarded to the Plan Commission in numbers as determined necessary by the Plan Commission for distribution to the various local agencies.

- D. **Expiration of Plan.** If construction has not begun and/or no use established in the PUD or one of its phases within thirty-six (36) months of the approval date of the final preliminary plan by the City Council, this plan shall lapse and be of no further effect, after a determination by the Plan Commission at a public meeting. If this plan lapses under the provision of this section, the city shall remove the PUD Overlay Zone from the Official Zoning Map following public notice and hearing before the Plan Commission and approved by the City Council and shall file a notice of revocation with the recorded final plan. The zoning regulations applicable prior to development approval shall be in effect or the property shall automatically be zoned compatible to the Elkhart County zoning district on the date prior to the annexation.

Section 4250.8 **Final Plan Requirements.**

- A. Final plans shall include all the data requirements set forth for preliminary plans. It shall not be necessary to resubmit supporting maps and data submitted with the preliminary plan provided there has been no change. The following additional data shall be illustrated in or attached to the final plan:
1. Legal description of the property, property boundary lines with dimensions, north arrows, scale of not less than one inch equals 100 feet. The drawing shall be sealed by a professional land surveyor or engineer registered in this state;
 2. If no benchmarks exist, the same shall be established in accordance with established standards and applicable state statutes. Perimeter survey of the plat is not required. The location of all perimeter monuments with elevations of all bench marks, if any;
 3. Significant physical features within the proposed development tract as in the preliminary plan including proposed contours and final grades;
 4. Location of all proposed land uses including residential uses by type, commercial uses, industrial uses, community facilities, recreation areas, open spaces, rights-of-way to be dedicated, etc., with area devoted to each use;
 5. The location and heights of all buildings and structures including all exterior signs, distances between buildings and distances between buildings, streets, and rights-of-way and/or property lines;
 6. For multiple family, number of dwelling units by type and numbers of bedrooms, the location and square footage of floor space to be devoted to nonresidential use, together with use specifications;
 7. The location, square footage and number of car spaces in all parking areas, and/or specifications of types and size of other parking facilities;
 8. Interior property lines, lines of easements or tenancy subdivision lot lines, if applicable, based on the boundary survey of the site and completely dimensioned. Lots, and all lines of easements or tenancy shall be numbered;
 9. Location and size of all public and/or common open spaces; the ownership and proposed maintenance; offers of dedication or covenants governing their PUD;
 10. Proposed and existing streets, including but not limited to the following:
 - a. The pavement width;

- b. The location and elevation of street monuments;
 - c. Final street profiles, cross-sections, and specifications;
 - d. Any controls proposed at intersections;
11. Proposed systems for drainage, water supply and sewer disposal;
 12. Exact location of all fire hydrants, transmission lines, etc., within the proposed land development tract;
 13. Location, width and purpose of existing and proposed easements and utility right-of-way;
 14. Copies of deed restriction, covenants, and bylaws to be imposed upon the use of land, building, and structures;
 15. Landscaping shall be in accordance with Article V, Section 5000 Landscape Regulations;
 16. A complete and executed copy of the performance and/or maintenance guarantees, if applicable, signed by the Board of Public Works and Safety, or as agreed upon by the developer and the city;
 17. A certification of ownership, acknowledgment of plan and certificate of dedication (if any) lettered on the plan, and duly acknowledged and signed by the owner of the property and notarized.
 18. In the case the PUD is to be developed in stages or sections, the requirements as listed herein shall apply only to the stage or section for which final approval is being sought. However, the final plan presented for the stage or section must be considered as it related to information presented for the entire PUD in the application for zoning approval.

Section 4250.9 Changes to the Approved Plan.

- A. **Minor Changes.** Minor changes in the phases, location, setting, size and heights of buildings and structures, and off-street parking facilities, may be authorized by the Zoning Administrator or Plan Commission, as set forth in B. below, without additional public hearing if required by engineering or other circumstances not foreseen at the time the preliminary or final plan was approved. No change authorized by this subsection may cause any of the following:
1. A change in the use or character of the development;
 2. An increase in the intensity of use;
 3. An increase in the problems of traffic circulations and public utilities;
 4. A reduction of off-street parking and loading spaces;
 5. A reduction in required pavement widths; and
 6. An encroachment into any required setback or further encroachment into a previously approved setback.

B. Minor Change Procedure.

1. The request for a modification to an approved final plan for a PUD, must be in accordance with the Rules of Procedure of the Plan Commission and this Ordinance.
2. The following minor modifications to an approved final plan for a PUD may be either approved, denied, or sent to the Plan Commission by the Zoning Administrator:
 - a. Additions to structures that do not exceed 10 percent of the previously approved total gross floor area of the project provided that overall density of the project does not increase;
 - b. Shifts in structures or off-street parking facilities toward a property line and/or an abutting street that do not vary more than five feet from the previously approved position;
 - c. Shifts in structures or off-street parking facilities position away from a property line and/or an abutting street that do not vary more than ten feet from the previously approved position; or
 - d. Additional height of a structure that does not exceed 10 percent of the previously approved height.
 - e. The Zoning Administrator may transfer an application for any of the above minor modifications to an approved final plan for a PUD without first making a decision, when the Zoning Administrator, in its sole discretion, determines it would be in the best interest of all parties, or upon written request of the applicant.
3. The following minor modifications to an approved final plan for a PUD must be submitted by the Zoning Administrator to the Plan Commission as a staff item:
 - a. Additions to structures of greater than 10 percent of the previously approved total gross floor area of the project but not exceeding 20 percent of the previously approved total gross floor area provided that overall density of the project does not increase;
 - b. Shifts in structures or off-street parking facilities toward a property line and/or an abutting street that vary more than five feet but not more than ten feet from the previously approved position;
 - c. Shifts in structures or off-street parking facilities away from a property line and/or an abutting street that vary more than ten feet but not vary more than twenty feet from the previously approved position; or
 - d. Additional height of a structure greater than 10 percent but not exceeding 20 percent of the previously approved height.
4. A decision by the Zoning Administrator to allow or deny a minor modification to an approved final plan for a PUD, or when such request is submitted as a staff item to the Plan Commission, is considered an administrative matter and does not require a public hearing or public meeting.
5. When the Zoning Administrator decides to allow or deny a minor modification to an approved final plan for a PUD, or such request is approved when presented as a staff item to the Plan Commission, written notice of the decision must be given to the applicant and to all interested parties in accordance with the Rules of Procedure of the Plan Commission; no prior notice is required.

6. An interested party may appeal the Zoning Administrator’s decision to allow or deny a minor modification to an approved final plan for a PUD to the Plan Commission within ten (10) business days of the date of the written notice of the Zoning Administrator's decision.
7. The decision of the Plan Commission to allow or deny a minor modification to an approved final plan for a PUD is subject to judicial review.

C. **Major Changes.** All other changes in use, a relocation of streets and /or rights-of-way, every change in the provisions of open space and changes other than listed above, (section 4250.9 (A)), the request shall proceed in accordance with section 6240.2 of the Zoning Ordinance.

Section 4250.10 Density Increases.

Density increases shall be governed by precepts listed below which are to be treated as additive and not compounded.

A. The following is a table of maximum base densities per acre permitted in the underlying zones:

TABLE OF MAXIMUM BASE DENSITIES PER ACRE		
Zone	Dwelling Unit Type	Net Density Per Acre¹ (Dwelling Units)
R-1	Single-family with sewer and water	5.445
	Single-family with either sewer and water	4.356
	Single-family with neither sewer and water	2.904
R-2	Single-family	5.808
	Duplex/two-family	8.712
R-3	Single-family	7.26
	Duplex/two-family	17.424
	Multiple units	20

B. Open space reservation shall be considered for density increases according to the following provisions:

1. The first acre of common open space per 20 acres of gross, if improved, permits a maximum increase of eight percent; if unimproved, six percent is allowed;
2. The second acre of common open space per 20 acres of gross, if improved, permits a maximum increase of four percent, in unimproved, three percent is allowed;
3. Each additional acre of common open space per 20 acres of gross, if improved, permits a maximum increase of three percent, if unimproved, two percent is allowed;

¹ Net density per acre area excludes dedicated (or proposed) rights-of-way.

4. Percent bonus for 20 acres of project:

Open Space Acreage	Improved	Unimproved
1	.08	.06
2	.12	.09
3	.15	.11
4	.18	.13
5	.21	.15

C. Character identity and architectural and siting variation incorporated in a development shall be considered cause for density increases not to exceed 15 percent, provided these factors make a substantial contribution to the objectives of a PUD. The degree of distinctiveness and the desirable variation achieved shall govern the amount of density increase which the City Council may approve. Such variations may include, but are not limited to the following:

1. In addition to any landscaping required in Article V, Section 5000 Landscape Regulations (a maximum increase of five percent); streetscape; open space and plazas, use of existing landscape; pedestrian way treatment; and recreation uses;
2. Siting (a maximum increase of five percent); visual focal points; use of existing physical features such as topography; view; sun and wind orientation; circulations patterns; physical environment; variation in building setbacks; and building groups (such as clustering); and
3. Design features (a maximum increase of five percent); street sections; architectural styles; harmonious use of materials; parking areas broken by landscape features; and varied use of housing types.

D. **Density.** The City Council reserves the right to reduce the density on a particular project when it has been determined that such a reduction is warranted by:

1. Conditions specifically applicable to the project, such as topography, character of the surrounding property, etc.; or
2. Inconvenient or unsafe access of the development; or
3. Traffic congestion for the streets adjoining the development; or
4. An excessive burden imposed on parks, recreation areas, schools, and other public facilities which serve or are proposed to serve the development.

Section 4250.11 Supplemental Regulations.

- A. **Signs.** Signs, as regulated by section 5100 of this ordinance.
- B. **Parking.** Off-street parking facilities, as required or permitted by section 5110 of this ordinance.

- C. **Loading.** Off-street loading requirements, in accordance with section 5120 of this ordinance.
- D. **Fences.** Fences in accordance with section 5130 of this ordinance.
- E. **Accessory Uses.** Accessory structures and uses as defined herein and as regulated by section 5150 of this ordinance.
- F. **Visibility.** Vision requirements shall be in accordance with section 5180 of this ordinance.
- G. **Screening.** Screening in accordance with section 5190 of this ordinance.
- H. **Temporary Buildings.** Temporary buildings and uses for construction purposes for a period not to exceed one year.
- I. **Home Occupations.** Home occupations as regulated in section 5200 of this ordinance.

Section 4250.12 Zoning Designation Binding Successors in Interest.

- A. **Continuance.** Whenever a tract of land has been designated as Planned Unit Development, that zoning designation shall continue in effect irrespective of subsequent changes in ownership, whether all of or a portion of the designated tract; and the uses and regulations of that zoning shall bind and be applicable to any successors in interest to those who were the owners of that tract at the time this zoning was imposed upon that real estate.
- B. **Revocation of Zoning Clearance Permit.** Failure to conform to the provisions of the Planned Unit Development shall require the developer to show just cause at a public hearing conducted by the Plan Commission why such zoning clearance permits should not be revoked. The Plan Commission or the City Council may initiate the revocation proposal.
- C. **Utilities.** All lots and uses in this PUD (Overlay) District must be served by city sewer and water. Sewer and water main extensions shall be built to city specifications and shall be the responsibility of the developer and not the city.

Section 4260 **Wireless Communications Service Location (WCSL) Overlay District.**

It shall be the intent of this district to be an overlay district and may be established in addition to the underlying use and district regulations. The City of Goshen aims to encourage the delivery of wireless technologies throughout the City while managing the proliferation of communication towers. The intent of this ordinance is to manage the type, location, and development criteria of wireless facilities and wireless support structures, and promote the use of these facilities by multiple users.

Section 4260.1 **Designation and Application Procedures.**

- A. The WCSL Overlay District shall include those areas described in Appendix J hereto and any areas subsequently added thereto less any areas subsequently deleted therefrom. Wireless facilities with wireless support structures shall be permitted as provided herein in the WCSL Overlay District.
- B. Permit Required. No person or other legal entity shall install or construct any WCSL or make substantial modifications of a wireless support structure, as defined by this ordinance, unless and until a Tower Use Permit (TUP) has been issued pursuant to the requirements of this ordinance.
- C. Amateur Radio Exclusion. This ordinance shall not govern the installation of any amateur radio facility that is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive only antennas. Such installations shall comply with any other applicable provisions of the Zoning Ordinance.
- D. Airport Location. Any WCSL located or proposed to be located in airport areas governed by the FAA shall also comply with the provisions of all applicable local, state and federal airport regulations.
- E. Building Codes. Construction of all WCSL shall comply with the requirements of the City of Goshen Building Codes and permitting process in addition to the requirements of this Ordinance.

Section 4260.2 **Permitted Uses/Development Criteria.**

Permitted uses, subject to the limitations within the WCSL Overlay District, will include the underlying zoning district uses plus WCSL, in compliance with this ordinance and with the following development criteria:

- A. Height Standards. The following height standards shall apply to all WCSL installations:
 - 1. Wireless facilities with wireless support structures shall have a maximum height as set out in Appendix J.
 - 2. Substantial modification of a wireless support structure shall require approval in accordance with Section 6240.2 of this ordinance.
- B. Setback Standards. The following setback standards shall apply to all WCSL installations:
 - 1. The wireless equipment compound, including any fence, shall meet the accessory setback provisions of the zoning district in which they are located.
- C. Landscaping. The following landscaping requirements shall apply to all WCSL installations:

1. Landscape plantings shall be required for any wireless equipment compound or wireless facilities with wireless support structures. The landscape plan shall consist of a mix of deciduous trees, pines, shrubs, and bushes. On each side of the wireless equipment compound or wireless facilities with wireless support structures, plants shall be sized according to the following table:
 - a. Standard deciduous trees - 1 1/4" or larger in caliper;
 - b. Small ornamental or flowering trees: 1" or larger in caliper;
 - c. Pine trees - 3' or larger in height;
 - d. Bushes - approximately 3' in height;
 - e. Shrubs - no specific height.
 2. Landscape Preservation. Existing mature tree growth and natural land form on the site shall be preserved to the extent feasible; provided, however, that vegetation that causes interference with the antennas or inhibits access to the wireless equipment compound may be trimmed or removed.
 3. Existing Vegetation. Existing vegetation on a WCSL may be used in lieu of required landscaping where approved by the Zoning Administrator.
 4. Streetside trees shall be planted as required by Section 5000 of this ordinance on the parcel on which the WCSL is located.
- D. Aesthetics, Placement, Materials and Colors. All WCSL shall be designed so as to be compatible with the existing structures and surroundings to the extent feasible, including placement in a location which is consistent with proper functioning of the WCSL, the use of compatible or neutral colors, or camouflage technology.
- E. Lighting and Signage. The following lighting and signage requirements shall apply to all WCSL:
1. Artificial Illumination. WCSL shall not be artificially illuminated, directly or indirectly except for:
 - a. Security and safety lighting of equipment buildings if such lighting is appropriately down shielded to keep light within the boundaries of the WCSL.
 - b. Such illumination of the WCSL as may be required by the FAA or other applicable authority installed in a manner to minimize impacts on adjacent residences.
 - c. Unless otherwise required by the FAA or other applicable authority, the required light shall be red and shielded upward.
 2. Signage. WCSL may display one sign no greater than 2' x 2' in area, flush mounted on the equipment building or fence, containing information as may be required by state or federal regulations governing WCSL.
- F. Radio Frequency Emissions/Sound. The following radio frequency emissions standards shall apply to all WCSL installations:

1. Radio Frequency Impact. The FTA gives the FCC jurisdiction of the regulation of Radio Frequency (RF) emissions, and WCSL that do not exceed the FCC standards shall not be conditioned or denied on the basis of RF impact.
 2. Sound Prohibited. No unusual or unreasonable sound emissions including, but not limited to alarms, bells, buzzers or the like are permitted.
- G. Structural Integrity. Each wireless support structure shall be capable of supporting multiple antenna arrays.
- H. Site Sharing Agreement. All applicants for WCSL are required to submit a statement with the application agreeing to allow reasonable market site sharing opportunities to other WCS providers. The statement shall include the applicant's policy regarding site sharing by other providers. A site sharing agreement shall be considered a condition of issuance of a TUP (Tower Use Permit). A TUP shall not be issued unless the applicant complies with the site sharing policy outlined in Section 4260.5 of this ordinance.
- I. Fencing. Fence height shall be in accordance with Article V, Section 5130, of this ordinance. Fences shall meet the accessory setback provisions of the zoning district in which they are located.

Section 4260.3 Review Process

- A. The applicable Development Criteria referred to herein are those set forth in Section 4260.2 of this ordinance.
- B. Permitting Procedures. New WCSL shall be established, and substantial modifications of a wireless support structure shall be approved, following the provisions of Section 6240.2 of this ordinance.
- C. Applications for collocation, as defined by this ordinance, are not subject to Planning/Zoning review.

Section 4260.4 Approval Process

- A. Application Submission. All requests for a TUP, shall submit an application in accordance with the requirements of this section.
1. Eligible Applicants. The following may apply for a TUP under this ordinance:
 - a. A person that provides WCS.
 - b. A person that owns or otherwise makes available infrastructure required for WCS.
 2. Application Contents. Each applicant requesting a TUP under this ordinance shall submit the following:
 - a. The name, business address, and point of contact for the applicant.
 - b. The location of the proposed or affected wireless support structure or wireless facility.
 - c. A complete set of drawings prepared by a licensed architect or engineer that will include a site plan, elevation view and other supporting drawings, calculations and other documentation showing the location and dimensions of all improvements for the WCSL, including information concerning antenna locations, equipment and shelters, landscaping, parking, access, fencing and, if relevant as determined by staff, topography, adjacent uses and existing vegetation.

- d. Evidence supporting the choice of location for the proposed wireless support structure, including a sworn statement from the individual responsible for the choice of location demonstrating that collocation of wireless facilities on an existing wireless support structure was not a viable option because collocation:
 - i. Would not result in the same wireless service functionality, coverage and capacity;
 - ii. Is technically infeasible; or
 - iii. Is an economic burden on the applicant.
 3. Submission Requirements. Application for TUP shall be submitted to the Zoning Administrator on forms prescribed by the City. The application shall be accompanied by all information described above. If Plan Commission and/or City Council review is required, the application and site plan, when determined to be complete, shall be placed on the next available Commission agenda in accordance with the agenda deadlines established by the City.
 4. Technical Assistance. In the course of its consideration of an application, the City, the Zoning Administrator, the Plan Commission, Board of Zoning Appeals or the City Council may deem it necessary, in complex situations, to employ an engineer(s) or other consultant(s) qualified in the design and installation of WCSL to assist the City in the technical aspects of the application. In such cases, any additional costs incurred by the City for the technical review and recommendation will be based only on actual, direct, and reasonable costs incurred for the review, processing, and approval of the applicant, and shall be reimbursed by the applicant to the City prior to the final City hearing on the WCSL.
- B. Park Board Review. The following initial review authority shall be vested with the Goshen Park Board and apply to any TUP applications for WCSL on land which is designated as a park or as a future park.
1. Review Authority. Review of WCSL under this Section shall be conducted by the Goshen Park Board upon the filing of a complete WCSL application.
 2. Review Criteria. Each WCSL application shall be reviewed for compliance and compatibility with the Goshen Park and Recreation Comprehensive Plan and Developmental Criteria specified in Section 4260.2.
 3. Timing of Decision. The Zoning Administrator shall provide a completed WCSL application to the Superintendent of the Goshen Park and Recreation Department. The Superintendent shall place the matter on the next scheduled meeting of the Park Board. The Park Board shall render a decision on the WCSL application by written response to the applicant within 30 days after receipt of the completed application, except that an extension may be agreed upon by the applicant.
 4. Decision of Park Board. The Park Board may recommend to the Plan Commission to approve, modify, or deny the request.
- C. TUP Application Review.
1. Review Authority. Review of TUP applications under this Section shall be conducted by the City's consultant, Zoning Administrator or designee upon filing a TUP application.
 2. Review Criteria. Each application shall be reviewed for compliance with the Development Criteria specified in Section 4260.2 and review of the recommendation of the Park Board, if applicable.

3. **Timing.** Upon receipt of a TUP application, the Zoning Administrator shall review the application within ten (10) business days of its receipt to determine if the application is complete. If the application is not complete the applicant shall be notified in writing of all defects in the application. If written notice of the defects is not provided in writing to the applicant, the application is considered complete.
 4. **Curing Defects.** An applicant that receives written notice of an incomplete TUP application may cure the defects set forth in the notice and resubmit the corrected TUP application within thirty (30) days of receiving notice. If the applicant is unable to cure the defects within the thirty (30) day period, the applicant shall notify the City of the additional time required to cure the defects.
- D. **Plan Commission Review.** The following shall apply to all TUP applications requiring submission to the Plan Commission.
1. **Recommending Authority.** The Plan Commission shall be the recommending authority for TUP applications. A recommendation by the Plan Commission shall be to the City Council.
 2. **Notice.** Notice of the application and the public hearing by the Plan Commission shall be accomplished in the same manner as Section 6240, et al, under the Zoning Ordinance.
 3. **Hearing.** The Plan Commission shall review and consider the TUP application at a public hearing. At the hearing, interested persons may appear and offer information in support or opposition to the proposed application. The Plan Commission shall consider the following in reaching a decision:
 - a. **Development Criteria.** The TUP application shall be reviewed for compliance with the Development Criteria set forth in Section 4260.2; provided that the applicable Development Criteria may be amended or waived so long as the approval of the WCSL meets the goals and purposes of the Ordinance. The Plan Commission may recommend an alternative development criteria by specific inclusion in a motion for approval.
 - b. **Wireless Support Structure Siting Conditions.** The Plan Commission may recommend imposition of conditions and restrictions on the TUP application or on the premises benefited by the TUP as it deems necessary to reduce or minimize any adverse effects and to enhance the compatibility of the WCSL with the surrounding property, in accordance with the purposes and intent of this ordinance. The violation of any condition shall be grounds for revocation of the TUP. The Plan Commission may recommend such conditions in addition to the Development Criteria upon the following findings:
 - i. The WCSL would result in significant adverse visual impact on nearby residences.
 - ii. The conditions are based upon the purpose and goals of this ordinance.
 - iii. The conditions are reasonable and capable of being accomplished.
 - iv. The WCSL would result in non-compliance of the site on which the WCSL is located with other applicable requirements, such as on-site drainage, access.
 - c. **Action.** Following the public hearing and presentation of evidence, the Plan Commission shall take one of the following actions:
 - i. Recommend to the City Council the application as submitted.

- ii. Recommend to the City Council the application with conditions or modifications.
- iii. Defer to the City Council the application for additional information.
- iv. Recommend to the City Council the application be denied.

E. City Council Action. The City Council shall review this pursuant to Article VI, Section 6240, et seq.

Section 4260.5 Site Sharing Policy

All new WCSL shall be engineered, designed and constructed to be capable of accommodating multiple providers. A TUP shall not be issued until the applicant proposing a new WCSL submits a written statement agreeing to allow reasonable market site sharing opportunities to other WCS providers.

All wireless support structures up to a height of 150 feet shall be engineered and constructed to accommodate at least three (3) antenna array. All wireless support structures up to a height of more than 150 feet shall be engineered and constructed to accommodate at least four (4) antenna array.

Section 4260.6 Removal of Abandoned Wireless Facilities & Wireless Support Structures

Any wireless facility and/or wireless support structure that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the City, by its Zoning Administrator, at its election, may require the wireless facility and/or wireless support structure owner to remove the wireless facility and/or wireless support structure within 90 days after notice from the City to remove the wireless facility and/or wireless support structure. If the abandoned wireless facility and/or wireless support structure is not removed within 90 days, the City, by its Zoning Administrator, may revoke the TUP, remove the wireless facility and/or wireless support structure, and recover its costs from the wireless facility and/or wireless support structure owner for the removal of the wireless facility and/or wireless support structure. If there are two or more users on a single wireless facility and/or wireless support structure, this provision shall not become effective until all providers cease to use the wireless facility and/or wireless support structure. If the owner of an abandoned wireless facility and/or wireless support structure cannot be located or is no longer in business, the requirements of this section shall be the responsibility of the landowner on whose property the wireless facility and/or wireless support structure is located. Upon removal of the abandoned wireless facility and/or wireless support structure, the City, by its Zoning Administrator, shall recommend to the Plan Commission to remove the WCLS overlay district pursuant to Section 6240.2 or Section 4260.8 of this ordinance.

Section 4260.7 Nonconforming WCSL

WCSL in existence on the date of the adoption of this ordinance which do not comply with the requirements of this ordinance (nonconforming WCSL) are subject to the following provisions:

- A. Expansion. Nonconforming WCSL may continue to be used for the purpose now used, but may not be substantially modified without complying with this ordinance except as further provided in this Section.
- B. Repairs or Reconstruction. Nonconforming WCSL which become damaged due to any reason or cause, may be repaired and restored to its former use, location, and physical dimensions subject to the

provisions of this ordinance. Provided, however, that if the damage to the WCSL exceeds 50% of replacement cost, said WCSL may only be reconstructed or repaired in compliance with this ordinance.

- C. Any WCSL not in use for twelve (12) months shall be deemed abandoned and all rights as a nonconforming use shall cease.

Section 4260.8 Revocation of TUP

Any TUP issued pursuant to this ordinance may be revoked after a public hearing as provided hereinafter. If the Zoning Administrator finds that any permit holder has violated any provision of this ordinance, the Zoning Administrator shall notify the permit holder in writing that the TUP is revocable due to the permit holder's non compliance with the conditions of this ordinance, and the Zoning Administrator shall convene a public hearing at the Plan Commission with the permit holder no later than 60 days from the date of the letter. The Zoning Administrator may require the permit holder to correct the violation within a reasonable amount of time or the Zoning Administrator may recommend to the Plan Commission that the TUP be revoked. After the appropriate public hearing, the Plan Commission may revoke the TUP upon such terms and conditions, if any, that the Plan Commission may determine. Prior to initiation of revocation proceedings, the City shall notify the permit holder, in writing, of the specific areas of non compliance and specify the date by which such deficiencies must be corrected. The time for correction of deficiencies shall not exceed 60 days. The permit holder shall provide the City with evidence that the required corrective action has been taken. Should the permit holder fail to correct any deficiencies in the time required, the Plan Commission shall convene a public hearing to consider revocation of the TUP. The hearing shall be conducted pursuant to notice by publication in a newspaper with general circulation in the City not less than 10 days prior to the hearing and by written notice to the permit holder. At any such hearing, the permit holder may be represented by an attorney and may cross-examine opposing witnesses. Other interested persons may comment. The Plan Commission may impose reasonable restrictions with respect to time and procedure. The proceedings shall be recorded; provided, however, that stenographic services, if desired, shall be provided by the requesting party at that party's expense.

Section 4270 **Flood Control District (Overlay) Regulations.**

The general intent of the Flood Control District (Overlay) Regulations are to guide development in areas where potential for damage from floodwater exists. The identification of these areas was made by the Department of Homeland Security's Federal Emergency Management Agency (FEMA) and are shown on the Flood Insurance Rate Map (FIRM) dated August 2, 2011. For A Zones, or in the absence of a published FEMA map, or in the absence of identification on a FEMA map, the regulatory flood elevation, floodway, and floodway fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available (best available flood data/layer) as provided by the Indiana Department of Natural Resources. These maps, along with the Flood Insurance Study (FIS), dated August 2, 2011, are incorporated herein by reference and are made a part of this Ordinance.

The Floodplain, Floodway, and Floodway Fringe districts are intended to be "overlay" districts and will put forth additional requirements on top of the other zoning regulations placed on the land by the other sections of this Ordinance.

Section 4270.1 **Statutory Authorization.**

The Indiana Legislature has in IC 36-7-4 and IC 14-28-4 granted the power to local government units to control land use within their jurisdictions.

Section 4270.2 **Findings of Fact.**

- A. The flood hazard areas of the City of Goshen are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages.

Section 4270.3 **Statement of Purpose.**

The purpose of these Flood Control District (Overlay) Regulations are to guide development in the flood hazard areas in order to reduce the potential for loss of life and property, to reduce the potential for health and safety hazards, to reduce the potential for extraordinary public expenditures for flood protection and relief, to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Prevent unwise developments from increasing flood or drainage hazards to others;
- B. Protect new buildings and major improvements to buildings from flood damage;
- C. Protect human life and health from the hazards of flooding;
- D. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, which result in damaging increases in erosion or in flood heights or velocities;
- E. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- F. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- G. Control filling, grading, dredging, and other development which may increase erosion or flood damage;
- H. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands;
- I. Lessen the burden on the taxpayer for flood control projects, repairs to flood-damaged public facilities and utilities, and flood rescue and relief operations;
- J. Maintain property values and a stable tax base by minimizing the potential for creating flood blighted areas; and

- K. Make federal flood insurance available for structures and their contents in the City of Goshen by fulfilling the requirements of the National Flood Insurance Program.

Section 4270.4 Objectives.

The objectives of the Flood Control District (Overlay) Regulations are:

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in floodplains;
- F. To help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas; and
- G. To ensure that potential homebuyers are notified that property is in a flood area.

Section 4270.5 Lands to Which the Flood Control District (Overlay) Regulations Apply.

The Flood Control District (Overlay) Regulations shall apply to all SFHAs and known flood prone areas within the jurisdiction of Goshen City.

Section 4270.6 Basis for Establishing Regulatory Flood Data.

The Flood Control District (Overlay) Regulations protection standard is the regulatory flood. The best available regulatory flood data is listed below. Whenever a party disagrees with the best available data, the party needs to replace existing data with better data that meets current engineering standards. To be considered, this data must be submitted to the Indiana Department of Natural Resources for review and subsequently approved.

- A. The regulatory flood elevation, floodway, and floodway fringe limits for the studied SFHAs within the jurisdiction of the City of Goshen shall be as delineated on the one-percent annual chance profiles in the Flood Insurance Study of Elkhart County, Indiana, and Incorporated Areas, and the corresponding Flood Insurance Rate Map dated August 2, 2011, as well as any future updates, amendments or revisions, prepared by the Federal Emergency Management Agency with the most recent date.
- B. The regulatory flood elevation, floodway, and floodway fringe limits for each of the SFHAs within the jurisdiction of the City of Goshen, delineated as an "A Zone" on the FIRM of Elkhart County, Indiana, and Incorporated Areas dated August 2, 2011, as well as any future updates, amendments or revisions, prepared by the Federal Emergency Management Agency with the most recent date, shall be according to the best data available as provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile.
- C. In the absence of a published FEMA map, or absence of identification on a FEMA map, the regulatory flood elevation, floodway, and floodway fringe limits of any watercourse in the community's known flood prone areas shall be according to the best data available (best available flood data/layer) as provided by the Indiana Department of Natural Resources, provided the upstream drainage area from the subject site is greater than one square mile.
- D. Upon issuance of a Letter of Final Determination (LFD), any more restrictive data in the new (not yet effective) mapping/study shall be used for permitting and construction (development) purposes, replacing all previously effective less restrictive flood hazard data provided by FEMA.

Section 4270.7 Establishment of Floodplain Development Permit.

A floodplain development permit shall be required in conformance with the provisions of the Flood Control District (Overlay) Regulations prior to the commencement of any development activities in SFHAs.

Section 4270.8 Compliance.

No structure shall hereafter be located, extended, converted or structurally altered within the SFHA without full compliance with the terms of the Flood Control District (Overlay) Regulations and other applicable regulations. No land or stream within the SFHA shall hereafter be altered without full compliance with the terms of the Flood Control District (Overlay) Regulations and other applicable regulations.

Section 4270.9 Abrogation and Greater Restrictions.

The Flood Control District (Overlay) Regulations are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Ordinance and another ordinance, easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section 4270.10 Discrepancy between Mapped Floodplain and Actual Ground Elevations.

- A. In cases where there is a discrepancy between the mapped floodplain (SFHA) on the FIRM and the actual ground elevations, the elevation provided on the profiles shall govern.
- B. If the elevation of the site in question is below the base flood elevation, that site shall be included in the SFHA and regulated accordingly.
- C. If the elevation (natural grade) of the site in question is above the base flood elevation and not located within the floodway, that site shall be considered outside the SFHA and the floodplain regulations will not be applied. The property owner shall be advised to apply for a LOMA.

Section 4270.11 Interpretation.

In the interpretation and application of the Flood Control District (Overlay) Regulations all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

Section 4270.12 Warning and Disclaimer of Liability.

The degree of flood protection required by the Flood Control District (Overlay) Regulations is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods can and will occur on rare occasions. Therefore, the Flood Control District (Overlay) Regulations does not create any liability on the part of the City of Goshen, the Plan Commission, the Board of Zoning Appeals, the Indiana Department of Natural Resources, or the State of Indiana, or any elected or appointed official or employee thereof, for any flood damage that result from reliance on the Flood Control District (Overlay) Regulations or any administrative decision made lawfully thereunder.

Section 4270.13 Penalties for Violation.

Failure to obtain a floodplain development permit in the SFHA or failure to comply with the requirements of a floodplain development permit or conditions of a variance shall be deemed to be a violation of this Ordinance. All violations shall be considered a common nuisance and be treated as such in accordance with the provisions of the Zoning Ordinance for the City of Goshen. All violations shall be punishable by a fine not exceeding two thousand five hundred dollars (\$2,500) for each offense.

- A. **Separate Offenses.** A separate offense shall be deemed to occur for each day the violation continues to exist.
- B. **Suspending of Insurance Policy.** The Goshen City Floodplain Administrator shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by Standard Flood Insurance Policy to be suspended.

- C. **Other Lawful Action by City.** Nothing herein shall prevent the City of Goshen from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

Section 4270.14 Increased Cost of Compliance (ICC).

In order for buildings to qualify for a claim payment under ICC coverage as a "repetitive loss structure," the National Reform Act of 1994 requires that the building be covered by a contract for flood insurance and incur flood-related damages on two occasions during a 10-year period ending on the date of the event for which the second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded 25 percent of the market value of the building at the time of each such flood event.

Section 4270.15 Designation of Administrator.

The Zoning Administrator is appointed to administer and implement the provisions of Section 4270, Flood Control District (Overlay) Regulations, and related provisions, and is herein referred to as the Floodplain Administrator.

Section 4270.16 Floodplain Development Permit Procedures.

Application for a floodplain development permit shall be made to the Floodplain Administrator on forms furnished by the Floodplain Administrator prior to any development activities, and may include, but not be limited to, the following: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically the following information is required:

- A. Application Stage:
1. A description of the proposed development.
 2. Location of the proposed development sufficient to accurately locate property and structure(s) in relation to existing roads and streams.
 3. A legal description of the property site.
 4. A site development plan showing existing and proposed development locations and existing and proposed land grades.
 5. Elevation of the top of the planned lowest floor (including basement) of all proposed structures. Elevation should be in NGVD or NAVD 88. In either case, the conversion formula should be included.
 6. Elevation (in NAVD 88 or NGVD) to which any non-residential structure will be floodproofed.
 7. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development. A hydrologic and hydraulic engineering study is required and any watercourse changes submitted to Indiana Department of Natural Resources for approval, and then to FEMA as a Letter of Map Revision. The Floodplain Administrator shall notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.
 8. All provisions of Article VI, Section 6180, Improvement Location Permit.

B. Construction Stage

Upon placement of the lowest floor of an elevated structure or structure constructed on fill, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the NAVD 88 or NGVD elevation of the lowest floor, as built. Said certification shall be prepared by or under the direct supervision of a registered land surveyor, professional engineer, or architect and certified by the same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the lowest floor elevation survey data submitted. The permit holder shall correct deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop work order for the project.

Upon establishment of the floodproofed elevation of a floodproofed structure, it shall be the duty of the permit holder to submit to the Floodplain Administrator a floodproofing certificate. Certification shall be prepared by or

under the direct supervision of a registered professional engineer or architect and certified by the same. The Floodplain Administrator shall review the floodproofing certification submitted. The permit holder shall correct any deficiencies detected by such review before any further work is allowed to proceed. Failure to submit the floodproofing certification or failure to make required corrections shall be cause to issue a stop work order for the project.

C. Finished Construction

Upon completion of construction, an elevation certification (FEMA Elevation Certificate Form 086-0-33 or any future updates) which depicts the "as-built" lowest floor elevation is required to be submitted by the permit holder to the Floodplain Administrator. If the project includes a floodproofing measure, floodproofing certification on the current FEMA Floodproofing Certificate Form is required to be submitted by the permit holder to the Floodplain Administrator.

Section 4270.17 Duties and Responsibilities of the Floodplain Administrator.

The Floodplain Administrator and/or designated staff is hereby authorized and directed to enforce the provisions of Section 4270, Flood Control District (Overlay) Regulations, and related provisions. The Floodplain Administrator is further authorized to render interpretations of Section 4270, Flood Control District (Overlay) Regulations, and related provisions, which are consistent with its spirit and purpose.

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to:

- A. Review all floodplain development permits to assure that the permit requirements of the Flood Control District (Overlay) Regulations have been satisfied.
- B. Provide information and assistance to citizens upon request about permit procedures.
- C. Inspect and inventory damaged structures in SFHA and complete substantial damage determinations.
- D. Ensure that construction authorization has been granted by the Indiana Department of Natural Resources for all development projects subject to Section 4270.18.E and Section 4270.18.G.1 of the Flood Control District (Overlay) Regulations, and maintain a record of such authorization, either copy of actual permit or floodplain analysis and regulatory assessment.
- E. Ensure that all necessary federal or state permits have been received prior to issuance of the local floodplain development permit. Copies of such permits are to be maintained on file with the floodplain development permit.
- F. Maintain and track permit records involving additions and improvements to residences located in the floodway.
- G. Notify adjacent communities and the State Floodplain Coordinator prior to any alteration or relocation of a watercourse, and submit copies of such notifications to FEMA.
- H. Maintain for public inspection and furnish upon request local permit documents, damaged structure inventories, substantial damage determinations, regulatory flood data, SFHA maps, Letters of Map Change (LOMC), copies of DNR permits, letters of authorization, and floodplain analysis and regulatory assessments (letters of recommendation), federal permit documents, and "as-built" elevation and floodproofing data for all buildings constructed subject to the Flood Control District (Overlay) Regulations.
- I. Utilize and enforce all Letters of Map Change (LOMC) or Physical Map Revisions (PMR) issued by FEMA for the currently effective SFHA maps of the community.
- J. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- K. Verify and record the actual elevation of the lowest floor (including basement) of all new or substantially improved structures, in accordance with the permit procedures outlined in Section 4270.16.
- L. Verify and record the actual elevation to which any new or substantially improved structures have been floodproofed, in accordance with the permit procedures outlined in Section 4270.16.
- M. Review certified plans and specifications for compliance.
- N. Stop Work Orders
 1. Upon written notice from the Floodplain Administrator, the Building Commissioner shall issue a stop work order when work on any building, structure or premises is being done contrary to the Flood Control District (Overlay) Regulations.

2. Upon notice from the Building Commissioner, work on any building, structure or premises that is being done contrary to the provisions of the Flood Control District (Overlay) Regulations shall immediately cease.
 3. Such notice shall be in writing and shall be given to the owner of the property, or to his or her agent, or to the person doing the work, and shall state the conditions under which work may be resumed.
- O. Revocation of Floodplain Development Permits
1. The Floodplain Administrator may revoke a floodplain development permit issued under the provisions of the Flood Control District (Overlay) Regulations in cases where there has been any false statement or misrepresentation as to the material fact in the application or plans on which the floodplain development permit was based.
 2. The Floodplain Administrator may revoke a floodplain development permit upon determination that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the structure for which the floodplain development permit was issued is in violation of, or not in conformity with, the provisions of the Flood Control District (Overlay) Regulations.

Section 4270.18 Provisions for Flood Hazard Reduction.

- A. **General Standards.** In all SFHAs and known flood prone areas the following provisions are required:
1. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
 2. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
 3. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage below the FPG.
 4. New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.
 5. Electrical, heating, ventilation, plumbing, air conditioning equipment, utility meters, and other service facilities shall be located at/above the FPG or designed so as to prevent water from entering or accumulating within the components below the FPG. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPG.
 6. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
 8. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
 9. Any alteration, repair, reconstruction or improvements to a structure that is in compliance with the provisions of the Flood Control District (Overlay) Regulations shall meet the requirements of "new construction" as contained in this Ordinance.
 10. Any alteration, repair, reconstruction or improvement to a structure that is not in compliance with the provisions of the Flood Control District (Overlay) Regulations, shall be undertaken only if said non-conformity is not further, extended, or replaced.
- B. **Specific Standards.** In all SFHAs, the following provisions are required:
1. In addition to the requirements of Section 4270.18.A, all structures to be located in the SFHA shall be protected from flood damage below the FPG. This building protection requirement applies to the following situations:
 - a. Construction or placement of any new structure having a floor area greater than 400 square feet.
 - b. Addition or improvement made to any existing structure where the cost of the addition or improvement equals or exceeds 50% of the market value of the existing structure (excluding the value of the land).

- c. Reconstruction or repairs made to a damaged structure where the costs of restoring the structure to its before damaged condition equals or exceeds 50% of the market value of the structure (excluding the value of the land) before damage occurred.
 - d. Installing a travel trailer or recreational vehicle on a site for more than 180 days.
 - e. Installing a manufactured home on a new site or a new manufactured home on an existing site. The Flood Control District (Overlay) Regulations do not apply to returning the existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage.
 - f. Reconstruction or repairs made to a repetitive loss structure.
2. **Residential Construction.** New construction or substantial improvement of any residential structure (or manufactured home) shall have the lowest floor, including basement, at or above the FPG (two feet above the base flood elevation). Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 4270.18.B.4.
3. **Non-Residential Construction.** New construction or substantial improvement of any commercial, industrial, or non-residential structure (or manufactured home) shall either have the lowest floor, including basement, elevated to or above the FPG (two feet above the base flood elevation) or be floodproofed to or above the FPG. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of Section 4270.18.B.4. Structures located in all "A Zones" may be floodproofed in lieu of being elevated if done in accordance with the following:
- a. A registered professional engineer or architect shall certify that the structure has been designed so that below the FPG the structure and attendant utility facilities are watertight and capable of resisting the effects of the regulatory flood. The structure design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice. Such certification shall be provided to the Floodplain Administrator as set forth in the floodplain development permit procedures.
 - b. Floodproofing measures shall be operable without human intervention and without an outside source of electricity.
4. **Elevated Structures.** New construction or substantial improvements of elevated structures shall have the lowest floor at or above the FPG. Elevated structures with fully enclosed areas formed by foundation and other exterior walls below the flood protection grade (crawlspaces or under-floor spaces) shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls. The opening requirement does not apply to back-filled stem wall foundations. Designs must meet the following minimum criteria:
- a. Provide a minimum of two openings located in a minimum of two exterior walls (having a total net area of not less than one square inch for every one square foot of enclosed area).
 - b. The bottom of all openings shall be no more than one foot above the exterior grade or the interior grade immediately beneath each opening, whichever is higher.
 - c. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 - d. Access to the enclosed area shall be the minimum necessary to allow for parking for vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
 - e. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
 - f. The interior grade of such enclosed area shall be at an elevation at or higher than the exterior grade.
5. **Structures Constructed on Fill.** A residential or non-residential building may be constructed on a permanent land fill in accordance with the following:
- a. The fill shall be placed in layers no greater than one (1) foot deep before compacting to 95 percent of the maximum density obtainable with either the Standard or Modified Proctor Test method. The results of the test showing compliance shall be retained in the permit file.

- b. The fill should extend at least ten feet beyond the foundation of the structure before sloping below the BFE.
 - c. The fill shall be protected against erosion and scour during the flooding by vegetative cover, riprap, or bulkheading. If vegetative cover is used, the slopes shall be no steeper than 3 horizontal to 1 vertical.
 - d. The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties.
 - e. The top of the lowest floor including basements shall be at or above the FPG.
 - f. Fill shall be composed of clean granular or earthen material.
6. **Standards for Manufactured Homes and Recreational Vehicles.** Manufactured homes and recreational vehicles to be installed or substantially improved on a site for more than 180 days must meet one of the following requirements:
- a. The manufactured home shall be elevated on a permanent foundation such that the lowest floor shall be at or above the FPG and securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. Fully enclosed areas formed by the foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 4270.18.B.4. These requirements apply to all manufactured homes to be placed on a site:
 - i. Outside a manufactured home park or subdivision;
 - ii. In a new manufactured home park or subdivision;
 - iii. In an expansion to an existing manufactured home park or subdivision; or
 - iv. In an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood.
 - b. The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elevations that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. Fully enclosed areas formed by the foundation and other exterior walls below the FPG shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 4270.18.B.4. These requirements apply to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.
 - c. Recreational vehicles placed on a site shall either:
 - i. Be on the site for less than 180 days; and;
 - ii. Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions); or
 - iii. Meet the requirements for "manufactured homes" as stated earlier in this section.
7. **Accessory Structures.** Relief to the elevation or dry floodproofing standards may be granted for accessory structures. Such accessory structures shall meet the following standards:
- a. Shall not be used for human habitation.
 - b. Shall be constructed of flood resistant materials.
 - c. Shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters.
 - d. Shall be firmly anchored to prevent flotation or lateral movement.
 - e. Service facilities such as electrical or heating equipment shall be elevated or floodproofed to or above the FPG.
 - f. Shall be designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls as required for elevated structures in Section 4270.18.B.4.

8. **Above Ground Gas or Liquid Storage Tanks.** All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement.

- C. **Standards for Subdivision Proposals.** The Plan Commission shall review all proposed subdivisions to determine whether the subdivision lies in the SFHA as defined elsewhere by this Ordinance. If the Plan Commission finds the subdivision to be located in a floodway, the Plan Commission shall forward plans and materials to the IDNR for review and comment. The Plan Commission shall require appropriate changes and modifications in order to assure that:
1. All subdivision proposals shall be consistent with the need to minimize flood damage.
 2. All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical, and water systems, located and constructed to minimize flood damage.
 3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
 4. Base flood elevation data shall be provided for subdivision proposals and other proposed development (including manufactured home parks and subdivisions), which is greater than the lesser of fifty lots or five acres.
 5. On-site waste disposal systems, if provided, will be so located and designed to avoid impairment of them or contamination from them during the occurrence of the regulatory flood.
 6. Developers shall record the elevation of the SFHA on all subdivision plats containing lands within the SFHA prior to submitting the plats for approval by the Plan Commission.
 7. All subdivision proposals shall minimize development in the SFHA and/or limit density of development permitted in the SFHA.
 8. All subdivision proposals shall ensure safe access into/out of SFHA for pedestrians and vehicles (especially emergency responders).

D. **Critical Facility.** Construction of new critical facilities shall be, to the extent possible, located outside the limits of the SFHA. Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated to or above the FPG at the site. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the FPG shall be provided to all critical facilities to the extent possible.

E. **Standards for Identified Floodways.**

Located within SFHAs, established in Section 4270.6, are areas designated as floodways. The floodway is an extremely hazardous area due to the velocity of floodwaters, which carry debris, potential projectiles, and has erosion potential. If the site is in an identified floodway, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources and apply for a permit for construction in a floodway. Under the provisions of IC 14-28-1, a permit for construction in a floodway from the Indiana Department of Natural Resources is required prior to the issuance of a local building permit for any excavation, deposit, construction, or obstruction activity located in the floodway. This includes land preparation activities such as filling, grading, clearing, and paving, etc., undertaken before the actual start of construction of the structure. However, it does exclude non-substantial additions/improvements to existing (lawful) residences in a non-boundary river floodway. IC 14-28-1-26 allows construction of non-substantial additions/improvements to residences in a non-boundary river floodway without obtaining a permit for construction in the floodway from the Indiana Department of Natural Resources. Please note that if fill is needed to elevate an addition above the existing grade, prior approval for the fill is required from the Indiana Department of Natural Resources.

No action shall be taken by the Floodplain Administrator until a permit or letter of authorization (when applicable) has been issued by the Indiana Department of Natural Resources granting approval for construction in the floodway. Once a permit for construction in a floodway or letter of authorization has been issued by the Indiana Department of Natural Resources, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in Section 4270.18 of the Flood Control District (Overlay) Regulations have been met. The floodplain development permit cannot be less

restrictive than the permit for construction in a floodway issued by the Indiana Department of Natural Resources. However, a community's more restrictive regulations (if any) shall take precedence.

No development shall be allowed, which acting alone or in combination with existing or future development, that will adversely affect the efficiency of or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

For all projects involving channel modifications or fill (including levees) the City of Goshen shall submit the data and request that the Federal Emergency Management Agency revise the regulatory flood data per mapping standard regulations found at 44 CFR § 65.12.

F. Standards for Identified Floodway Fringe.

If the site is located in an identified floodway fringe, then the Floodplain Administrator may issue the local floodplain development permit provided the provisions contained in Section 4270.18 of the Flood Control District (Overlay) Regulations have been met. The key provision is that the top of the lowest floor of any new or substantially improved structure shall be at or above the FPG.

G. Standards for SFHAs Without Established Base Flood Elevation and/or Floodways/Floodway Fringes.

1. Drainage area upstream of the site is greater than one square mile:

If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined, and the drainage area upstream of the site is greater than one square mile, the Floodplain Administrator shall require the applicant to forward the application, along with all pertinent plans and specifications, to the Indiana Department of Natural Resources for review and comment.

No action shall be taken by the Floodplain Administrator until either a permit for construction in a floodway (including letters of authorization) or a floodplain analysis/regulatory assessment citing the one-percent annual chance flood elevation and the recommended FPG has been received from the Indiana Department of Natural Resources.

Once the Floodplain Administrator has received the proper permit for construction in a floodway (including letters of authorization) or floodplain analysis/regulatory assessment approving the proposed development, a floodplain development permit may be issued provided the conditions of the floodplain development permit are not less restrictive than the conditions received from the Indiana Department of Natural Resources and the provisions contained in Section 4270.18 of the Flood Control District (Overlay) Regulations have been met.

2. Drainage area upstream of the site is less than one square mile:

If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined and the drainage area upstream of the site is less than one square mile, the Floodplain Administrator shall require the applicant to provide an engineering analysis showing the limits of the floodplain and one-percent annual chance flood elevation for the site.

Upon receipt, the Floodplain Administrator may issue the local floodplain development permit, provided the provisions contained in Section 4270.18 of the Flood Control District (Overlay) Regulations have been met.

3. The total cumulative effect of the proposed development, when combined with all other existing and anticipated development, shall not adversely affect the efficiency of or unduly restrict the capacity of the floodway. This adverse effect is defined as an increase in the elevation of the regulatory flood of at least fifteen-hundredths (0.15) of a foot as determined by comparing the regulatory flood elevation

under the project condition to that under the natural or pre-floodway condition as proven with hydraulic analyses.

- H. **Standards for Flood Prone Areas.** All development in known flood prone areas not identified on FEMA maps, or where no FEMA published map is available, shall meet applicable standards as required per Section 4270.18.

Section 4270.19 **Variance Procedures in Flood Districts.**

- A. **Designation of Variance and Appeals Board.** The Board of Zoning Appeals as established by the Common Council of the City of Goshen shall hear and decide appeals and requests for variances from requirements of the Flood Control District (Overlay) Regulations.
- B. **Duties of Variance and Appeals Board.** The Board of Zoning Appeals shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Floodplain Administrator in the enforcement or administration of the Flood Control District (Overlay) Regulations. Any person aggrieved by the decision of the Board of Zoning Appeals may appeal such decision to the Circuit or Superior Court of Elkhart County, Indiana.
- C. **Variance Procedures.** In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Ordinance, and:
1. The danger of life and property due to flooding or erosion damage;
 2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 3. The importance of the services provided by the proposed facility to the community;
 4. The necessity to the facility of a waterfront location, where applicable;
 5. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 6. The compatibility of the proposed use with existing and anticipated development;
 7. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 8. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 9. The expected height, velocity, duration, rate of rise, and sediment of transport of the floodwaters at the site; and
 10. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- D. **Conditions for Variances.**
1. Variances shall only be issued when there is:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing laws or ordinances.
 2. No variance for a residential use within a floodway subject to Section 4270.18.E or Section 4270.18.G.1 of the Flood Control District (Overlay) Regulations may be granted.
 3. Any variance granted in a floodway subject to Section 4270.18.E or Section 4270.18.G.1 of the Flood Control District (Overlay) Regulations will require a permit from the Indiana Department of Natural Resources.

4. Variances to the provisions for flood hazard reduction of Section 4270.18.B may be granted only when a new structure is to be located on a lot of one-half acre or less in size, contiguous to and surrounded by lots with existing structures constructed below the FPG.
5. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and be such that the maximum practical flood protection will be given to the proposed construction.
6. Variances may be granted for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum to preserve the historic character and design of the structure.
7. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Flood Protection Grade and the elevation to which the lowest floor is to be built and stating that the cost of the flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. See Section 4270.19.E.
8. The Floodplain Administrator shall maintain the records of appeal actions and report any variances to the Federal Emergency Management Agency or the Indiana Department of Natural Resources upon request. See Section 4270.19.E.

E. Variance Notification.

Any applicant to whom a variance is granted that allows the lowest floor of a structure to be built below the Flood Protection Grade shall be given written notice over the signature of the Floodplain Administrator that:

1. The issuance of a variance to construct a structure below the Flood Protection Grade will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
2. Such construction below the Flood Protection Grade increases risks to life and property.

The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.

- F. Special Conditions.** Upon the consideration of the factors listed in Section 4270.19, and the purposes of the Flood Control District (Overlay) Regulations, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of the Flood Control District (Overlay) Regulations.

Section 4270.20 Severability.

If any section, clause, sentence, or phrase of the Flood Control District (Overlay) Regulations is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

Section 4280 **Historic Commercial District (Overlay District).**

The regulations of this Ordinance shall govern and control the erection, alteration, relocation, maintenance, removal, and design of all signs within the Historic Commercial District (Overlay District, which includes the Core Historic Commercial District), of the City of Goshen. In interpreting and applying the provisions of this section of the Zoning Ordinance, it shall take precedence and be controlling when there is conflict between its provisions and those of other sections of the Zoning Ordinance. The specific area of the Historic Commercial District (Overlay District) is described and depicted in Appendix I of this Ordinance.

Section 4280.1 **General Provisions.**

- A. All signs shall be constructed, connected, operated, and maintained according to the specifications of the applicable building and electrical codes.
- B. All signs shall be maintained in a good state of repair.

Section 4280.2 **Permitted Sign Types.**

The following signs shall be permitted in the Historic Commercial District of the City of Goshen as accessory structures, subject to all applicable standards:

- A. Freestanding Signs
 - 1. Number. No more than one (1) freestanding sign per zoning lot shall be permitted, except that:
 - a. Freestanding signs in lieu of wall signs shall be permitted in a multi-tenant office or industrial building provided that each tenant has a separate entrance. The sign shall be located at the entrance to the tenant's space. No sign shall exceed ten (10) square feet or five feet (5') in height.
 - b. On intersecting arterial roads, as designated in the Subdivision Ordinance, a second freestanding sign shall be permitted following the developmental requirements specified in the Table of Sign Requirements and other provisions of the Zoning Ordinance.
 - 2. Height. No freestanding sign shall exceed the maximum height as specified in the Table of Sign Requirements.
 - 3. Area. No freestanding sign shall exceed the maximum area as specified in the Table of Sign Requirements.
 - 4. Sign Location On Site. No freestanding sign shall be located closer than ten feet (10') to a building with the exception that a small freestanding ground sign five feet (5') in height or equal to or less than ten (10) square feet in area may be as close as three feet (3') from a building. No freestanding sign shall be closer than fifty feet (50') to another freestanding sign on the same zoning lot.
 - 5. Setback. No freestanding signs shall be located closer than five feet (5') to an interior or exterior property line. See Appendix H.

6. Distance Measurement. The location of a freestanding sign shall be measured as the distance between the point of reference specified and the closest point on the sign.
7. Vision Clearance. Freestanding signs within the vision clearance triangle shall comply with the requirements of Article V, Section 5180 of the Zoning Ordinance, as amended.
8. Overhang. No freestanding sign may overhang over any part of a structure, parking or loading space, driveway or maneuvering site.
9. Landscaping. All freestanding signs must be located in a landscaped area separated and protected from vehicular circulation and parking areas. A minimum of two (2) square feet of landscaping will be required for every one (1) square foot of sign face. All landscaped areas shall be maintained and kept in a good state of repair.

B. Wall Signs

1. Number. A maximum of one (1) wall sign per street frontage per establishment shall be permitted, except that:
 - a. Additional wall signs for different uses within an establishment may be permitted, provided there is a separate entrance from the exterior of the building, and they meet the additional requirements herein.
 - b. One wall sign may be permitted on a wall not immediately adjacent and contiguous to a street, provided the wall is contiguous and adjacent to a municipally owned parking lot.
 - c. One wall signs may be permitted at or adjacent to the rear entrance of an establishment provided such sign does not exceed thirty-two (32) square feet.
 - d. No wall signs will be allowed for individual tenants in a multi-story, multi-tenant office-industrial building, unless otherwise permitted in this Section.
2. Signable Wall Area. Each wall sign shall be located within a selected signable wall area. The sign area may be computed using a combination of two (2) adjoining geometric shapes (circles, squares, rectangles, triangles only). The vertical dimensions of such wall sign shall not exceed six feet (6') except that:
 - a. The Planning Director may authorize additional vertical dimensions if the wall sign is less than fifteen percent (15%) of the total area of the wall and three hundred feet (300') from the viewing vantage point.
3. Sign Limits. Signable wall area shall not extend above the roof line of a building or beyond the premises of a particular establishment.
4. Percentage of Area. The area of a wall sign shall not exceed the maximum percentage of signable wall area as specified in the Table of Sign Requirements, or ten (10) square feet, whichever is greater, however, the maximum wall sign shall not exceed seventy-five (75) square feet.
5. Projections. No wall sign shall project from the building wall more than eighteen inches (18").

6. Height. The top of a wall sign shall be placed no higher than thirty feet (30') from finished grade or two (2) stories, whichever is less.

C. Projecting Signs

1. Number. Where permitted in the Table of Sign Requirements, one projecting sign per street frontage per establishment shall be permitted, provided no other signs for such establishment are located on the same building wall.
2. Area. The area of a projecting sign may not exceed twenty-five (25) square feet.
3. Height. No projecting sign shall extend above the roof line of the building on which it is located or sixteen feet (16') from finished grade, whichever is less.
4. Projection. No projecting sign shall project from the building wall more than five feet (5').
5. Clearance. Projecting signs shall be located such that a clearance of eight feet (8') is maintained from finished grade to the lower edge of the sign face.

D. Changeable Copy Signs. Manual changeable copy signs shall be permitted when incorporated into a permitted wall or freestanding sign subject to all applicable standards provided:

1. Lettering used on manual changeable copy signs directed to local or collector streets shall be at least three inches (3") in height.
2. Lettering used on manual changeable copy signs directed to secondary or major arterial streets shall be at least six inches (6") in height.
3. Lettering used on manual changeable copy signs directed to pedestrians shall be one inch (1") in height.
4. No more than sixty percent (60%) of the sign area may be changeable copy sign.
5. Changeable copy on a sign face shall be composed in proportion to the entire sign face with a border or similar treatment around the changeable copy to integrate it into the sign face.
6. Lettering of changeable copy shall be of a single legible lettering style and shall be of uniform size throughout the changeable copy portion of the sign.

E. Temporary signs shall be permitted, provided that:

1. No more than one (1) temporary sign shall be permitted per zoning lot.
2. The temporary sign shall not exceed fifty (50) square feet in area.
3. For each zoning lot no temporary-sign may be displayed for more than a total of 30 days within a twelve (12) month period of time.
4. Flashing lights of any size, type or dimension shall be prohibited.

- F. Sandwich Board Signs. Sandwich board signs shall be permitted, provided that:
1. No more than one (1) sandwich board sign per zoning lot.
 2. The sign is not permanently anchored to the ground.
 3. The sign shall not exceed four feet (4') in height, measured from the sidewalk or surrounding ground on which it is located.
 4. The area of one sign panel shall not exceed twelve (12) square feet.
 5. The sign shall be displayed only during business hours of the premises where located.
 6. The sign shall be located so as not to pose a safety hazard to pedestrians, bicyclists or motorists.
 7. Sandwich board signs placed in the right-of-way, including City sidewalks, shall be permitted only with Board of Works approval.
 8. The sign shall be made of sign grade wood or metal with a professional standard of construction, finish and graphics.
- G. Electronic Message Center Signs. Electronic message center (EMC) signs shall be permitted in the non-core Historic District only, as shown in Appendix I, provided that:
1. The EMC is incorporated into a permitted permanent wall or freestanding sign subject to all applicable standards provided.
 2. There is no more than one EMC sign per zoning lot.
 3. No more than fifty percent (50%) of the sign area may be EMC sign, and EMC signs are counted as part of the total sign area.
 4. The EMC sign shall have no illumination which is in continuous motion or appears to be in continuous motion, and continuous scrolling of messages is prohibited.
 5. The EMC sign must show the entire message at one time.
 6. The EMC sign message shall not consist of flashing, scintillating, chasing or animated lights, and must remain static and depicted for a minimum of three (3) seconds.
 7. The intensity of the illumination of the EMC sign message shall not change within the context of the same message.
 8. Electronic message center signs shall be programmed not to exceed 250 Nits during the day and 125 Nits at night.

9. EMC signs on arterial or collector streets shall have a sign face a minimum of eighteen inches (18") in height. On all other streets, the EMC sign face must be a minimum of fifteen inches (15") in height.

10. The addition of an EMC sign to any non-conforming sign shall be prohibited.

Section 4280.3 Table of Sign Requirements.

Signs permitted in the Historic Commercial District of the City of Goshen shall be erected in accordance with the specifications set forth in the Table of Sign Requirements, by street classification and proximity to residential zoning districts.

- A. Signs located within one hundred feet (100') of a residential zoning district shall conform to the standards specified in Table 1.1. All other signs shall conform to the standards specified in Table 1.2.
- B. "Street Classification" shall refer to the functional classification of the City of Goshen streets as set forth in the Subdivision Ordinance of the City of Goshen. Signs directed to more than one street shall be considered to be directed to the more intense classification. For streets not specifically classified in the Subdivision Ordinance the classification for those streets shall be determined by the Planning Director.

TABLE OF SIGN REQUIREMENTS

Table 1.1 Signs located within 100 feet (100') of a Residential Zoning District as designated on the Official Zoning Map of the City of Goshen (Ordinance 3011).

STREET CLASSIFICATION	AREA ¹ / HEIGHT ²		% SIGNABLE WALL AREA	
	FREESTANDING		WALL	PROJECTING
Local	20	6	30%	NP
Collector	25	6	30%	P
Arterial	32	8	30%	P

Table 1.2 Signs **not** located within 100 feet (100') of a Residential Zoning District as designated on the Official Zoning Map of the City of Goshen (Ordinance 3011).

STREET CLASSIFICATION	AREA ¹ / HEIGHT ²		% SIGNABLE WALL AREA	
	FREESTANDING		WALL	PROJECTING
Local	25	6	40%	NP
Collector	32	6	40%	P
Arterial	36	8	40%	P

P: Permitted

NP: Not Permitted

¹ Maximum permitted area in square feet per sign face

² Maximum height from average grade at curb line or edge of pavement in feet

Section 4280.4 **Bonuses.**

- A. To encourage quality in sign design, the maximum sign area and height for signs as set forth in the Table of Sign Requirements may be increased by a specified percentage for compliance with the design criteria listed below.
- B. Bonuses shall be granted cumulatively up to twenty-five percent (25%) for compliance with the following criteria. The percentage increase shall be based on the original **maximum sign area** allowed provided:
 - 1. Twenty-five percent (25%) bonus in area and height for any freestanding sign which is the only freestanding sign on a zoning lot on which more than one such sign would otherwise be permitted.
 - 2. Fifteen percent (15%) bonus in area for monument style signs if the sign height is equal to or less than seventy-five percent (75%) of the maximum height allowed.
 - 3. Fifteen percent (15%) bonus in area for any wall sign which consists of individual letters or words mounted directly on the building surface.
 - 4. Ten percent (10%) bonus in area for wall signs within a shopping center of more than three (3) establishments.
 - 5. For freestanding signs in Table 1.2 only, an increase of two feet (2') in the height of a sign shall be permitted for each additional five foot (5') setback from the front lot line (right of way) to a maximum height of fourteen feet (14'), provided all other provisions of this Ordinance are met.
- C. Any signs erected under the bonus provisions contained in this Section shall be adequately and continuously maintained, including landscaping as provided herein, by the tenant and owner and such successors and assigns as benefit from the bonus provisions in this Section.

Section 4280.5 **Illumination.**

Any sign permitted under these regulations may be illuminated, provided such illumination complies with the following:

- A. With the exception of automatic teller machines (ATMs) or other similar devices, all illuminated signs within one hundred feet (100') of any residential zoning district shall be turned off between the hours of ten o'clock (10:00) P.M. and six o'clock (6:00) A.M. unless the establishment is engaged in the operation of its business with employees on the premises during such period.
- B. Illumination shall be prevented from striking or causing a glare on the street or nearby properties.
- C. Illumination shall be constant in intensity and color and shall not consist of flashing, animated, chasing or scintillating lights. Cool white lights shall be required for any sign that is interior lit.
- D. The intensity of illumination for the sign shall be even over the face of the sign with no bright spots.
- E. Freestanding signs that are illuminated externally shall be by concealed fixtures so that no reflectors, extension arms, or fixtures are visible from the street.

- F. Signs that are part of a building shall have internal lighting or a concealed means of illumination. The only exception shall be decorative fixtures that are consistent with the style of the building.

Section 4280.6 Lawful Non-conforming Signs.

- A. A sign which was in existence on the date this Ordinance was adopted, and which was constructed in accordance with the Ordinances and other applicable laws in effect on the date of its construction, but which by reason of its size, height, location, design, or construction is not in conformance with the requirements of this Ordinance, shall be considered a non-conforming sign.
- B. Non-conforming signs which were made non-conforming by the adoption of this Ordinance, or were lawful non-conforming before the adoption of this Ordinance may remain in place and be maintained subject to Section 4280.6 of this Ordinance.
- C. The owner or beneficial user of any non-conforming sign shall maintain such sign in good and safe condition and repair, provided that said sign shall not be changed or altered in any manner including face changes; shall not be changed to another nonconformity; shall not be expanded; shall not be structurally altered to prolong its useful life; or shall not be moved in whole or part to any other location where it would remain non-conforming.
- D. Any non-conforming sign which is damaged or destroyed by any means in excess of fifty percent (50%) of its fair market value immediately preceding the damage or destruction shall be removed immediately.
- E. Any non-conforming sign which is abandoned, as defined in Section 4280.7, shall be removed within ten (10) days after given notice.
- F. Non-conforming signs which are within ten percent (10%) of compliance of any height, area or location requirement and which conform to all other provisions of this Section, shall be considered conforming for purposes of these regulations.

Section 4280.7 Abandoned Signs.

- A. Any sign which is located on property which becomes vacant for greater than sixty (60) shall be presumed to have been abandoned.
- B. Any sign which has been abandoned shall be removed, or have the face replaced with a weatherproof, blank face by the owner, agent or person having the beneficial use of the building, structure or zoning lot upon which such a sign is located within ten (10) days after given notice. Failure to comply with this section shall constitute a violation of the Zoning Ordinance subject to Article VI, Section 6260.

Section 4280.8 Sign Permits.

- A. Unless otherwise exempted under this Ordinance, no sign shall be erected, structurally altered or relocated without a Sign Application Permit issued by the Zoning Administrator or his/her designated representative and a Sign Permit issued by the Building Department for such sign, as applicable.

- B. No permit shall be required for repainting, cleaning and other normal maintenance or repair of a legal sign structure for which a permit has been previously issued.

Section 4280.9 Sign Permit Application.

The following requirements are necessary to submit for review:

A. Requirements For Non-freestanding Signs

1. Site Plan or Survey. A scaled survey or site plan of the property on which the sign will be located showing all of the following information:
 - a. Scale, North Arrow and address of the site.
 - b. All property lines.
 - c. Location of any existing or proposed buildings on the property and any existing signs on the property.
 - d. Location of proposed sign with distance to property lines and other buildings indicated.
2. Building Elevation. A scaled drawing of the face of the building to which the sign will be attached showing the following information:
 - a. All windows, doors, canopies, awnings, roof lines and other architectural elements on the building face, indicating building materials.
 - b. Drawings indicating the signable area of the wall, canopy, or awning on which the sign will be mounted.
 - c. Location and size of the sign on the building face including height above finished grade and projection from the mounting surface.
3. Sign Elevation. A scaled elevation of the face of the proposed sign showing the following information:
 - a. Description of sign and frame including materials and method of attachment.
 - b. All specifications of the sign face including size and style of all lettering, graphics, and items of information.

B. Requirements For Freestanding Signs

1. Site Plan. A scaled site plan of the property on which the sign will be located showing all dimensions and containing all of the following information:
 - a. Scale, North Arrow, and address of site.
 - b. All property lines, driveways, and parking areas, and easements on the property.

- c. Location map showing adjacent zoning classification of properties within 100'.
 - d. Location of all existing and proposed buildings on the site and any existing freestanding signs already on the property.
 - e. Location of the proposed freestanding sign with all distances to property lines, buildings, and other adjacent freestanding signs indicated.
 - f. Location and extent of any existing or proposed landscaping at the base of the sign including, but not limited to plant species, number, size, and spacing.
2. Sign Elevation. A scaled elevation of each face of the proposed sign showing the following information:
- a. All dimensions of the sign and supports including height.
 - b. Description of materials of all surfaces including supports.
 - c. All specifications of the sign face including size and style of letters, graphics, and other items of information.

Section 4280.10 Standards for Review and Approval.

All sign permit applications will be reviewed according to the physical parameters and design standards included within this Ordinance. Upon receipt of a complete application, the staff is required to rule within ten (10) working days. Delays can be minimized by complete submittals of necessary materials and adequate advance communication of intentions. The permit will be issued if such application conforms with the standards of this Ordinance.

- A. If the work authorized under said permit has not been completed within one year following the Sign Application Permit issue date, said permit shall become null and void.
- B. No sign shall be erected, structurally altered or relocated after the date of adoption of this Ordinance without a valid Sign Application Permit issued by the Zoning Administrator or his/her designated representative and Sign Permit issued by the Building Department, as applicable.

Section 4280.11 Sign Permit Exceptions.

The following types of signs shall be exempt from all permit requirements.

- A. Home occupation signs meeting the conditions of the home occupation criteria as described in this Ordinance.
- B. In a zoning lot where a business is operated, one window sign, provided the sign does not occupy more than twenty-five percent (25%) of the total area of the windows facing a street frontage up to a maximum of twenty (20) square feet in area.
- C. In a zoning lot that is currently for sale or rent, one additional sign, provided that it does not exceed seven (7) square feet in area and is removed within seven (7) days of the real estate closing or lease transaction.

Section 4280.12 Prohibited Signs.

The following signs are specifically prohibited in the Historic District:

- A. Any sign which is located in or which extends over the public right-of-way, unless approved by the Board of Works.
- B. Any sign which moves or assumes a non-stationary position by mechanical means or under normal wind currents.
- C. Signs erected on or attached to any street, highway right-of-way, curb, curbstone, hydrant, lamp pole, tree, barricade, temporary walkway, telephone, telegraph, or electric light pole, other utility pole, public fence, or on a fixture of the fire alarm or police system.
- D. Roof-mounted signs
- E. Mobile signs
- F. Electronic message center signs within the Core Historic Commercial District, as described and depicted in Appendix I of this Ordinance
- G. Inflatable displays
- H. Revolving signs
- I. Strings of pennants, propellers, pinwheels, streamers and other similar small objects except as permitted as temporary signs.
- J. Human signs
- K. Ground signs