

An ordinance zoning the City of Gothenburg in order to promote the public health, safety, morals and general welfare, to conserve the value of property and to lessen or avoid congestion in the public streets and highways by dividing the incorporated territory of the City of Gothenburg, Nebraska, into districts, regulating the uses permitted in such districts, limiting the height of buildings and other objects, specifying minimum plot areas, and other requirements, and providing for enforcement and appeals.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GOTHENBURG, NEBRASKA.

SECTION 1. Definitions.----Words used in the present tense include the future; words used in the singular number include the plural, and words used in the plural number include the singular; and the word "building" includes the word "structure."

The word "shall is mandatory and not directory.

Building: A structure having a roof supported by columns, or walls for the shelter, support or enclosure of persons, animals, or chattels; and when separated by divisions walls from the ground up, and without openings, each portion of such building shall be deemed a separate building.

Dwelling: A building occupied by one or more families.

House Trailer: Any vehicle used or so constructed as to permit its being used as a conveyance upon the public streets or highways when duly licensed, and so constructed as to permit the occupancy thereof as a dwelling or sleeping place for one or more persons.

SECTION 2. District Classifications.----For the purpose of this ordinance the incorporated territory of the city is hereby divided into the following classes of districts, arranged in order from the most restrictive to the least restrictive:

Residence "A" District

Residence "B" District

Central Business District

Industrial District.

SECTION 3. District Boundaries.----District boundaries are as indicated on the Zoning Plan which accompanies and is hereby made a part of this ordinance. Unless otherwise specifically dimensioned or designated on said Zoning Plan, district boundaries shall be: (1) the center lines of streets, highways, drives, or alleys. (2.) lot lines, (3) midway between block line, or (4) as determined by use of the scale on the map.

Any land hereafter annexed to the incorporated territory of the city shall be classified as in Residence "A" District until differently classified by amendment.

SECTION 4. General Use Provisions----No premises shall be used and no building shall be used, constructed, reconstructed, extended or structurally altered or moved into any dsitric except in conformity with the provisions of this ordinance which apply to the district in which said premises or building is located. Structural alterations are hereby defined as any change in the supporting member of a building, such as bearing walls, columns, beams or girders.

No dump shall be established in any district except on issuance of a special permit therefor. A dump is hereby defined as any premises used primarily for disposal, whether by deposition, abandonment, discarding dumping, reduction, burial incineration, or by any other means, and by whatever purpose, of any garbage, sewage, trash, refuse, waste

material of any kind, trunk, discarded machinery, discarded automobiles, offal or dead animals.

No building of whatever description, shall be moved either into or out of or within any district except on issuance of a special permit therefor. Any building so moved shall conform to the surrounding buildings both as to type, structure and condition.

The lawful use of any premises or building existing at the time of the adoption of this ordinance, though not in conformity with the provisions hereof, may be continued; but if such nonconforming use is abandoned for any period of six consecutive months, any future use shall be in conformity with the provisions of said ordinance. A nonconforming use shall not be physically extended except to any portion of the same premises or building which portion was arranged or designed for such non-conformance at the time of passage of this ordinance. A building devoted to non-conforming uses may not be reconstructed or structurally altered to any extent exceeding fifty per cent of the value of the building, providing such reconstructing or structurally altering shall not increase the square footage of the premises, nor may such building be moved to another site, unless the use of said building is changed to a conforming use. A non-conforming use shall not be changed except to a more restrictive use. Any building or premises changed from a non-conforming use to a conforming use may not thereafter be changed back to any non-conforming use.

Temporary buildings and other temporary structures existing at the time of passage of this ordinance shall not be considered as legal non-conforming uses, but shall be subject to all provisions of said ordinance. On written order from the Board of Adjustment, the owner or owners of any such building or structure shall make, within a period of sixty days, such changes as to use and location as may be required to bring the same into compliance with this ordinance. For the purpose of this ordinance, a temporary building shall be considered as any portable or demountable building, or any building not securely anchored or bonded to a substantial foundation extending at least three feet below grade; and temporary structures shall be considered to include, but without limitation, all outdoor advertising, signboards and billboards.

SECTION 5 Residence "A" District Use Provisions.

A. In any residence "A" District, no building or premises shall be used for other than one of the following uses:

1. Dwelling for one or two families.
2. Parks, playground, golf-course, and similar non-commercial recreational uses, except ball parks and tennis courts.
3. Home occupations, including any use customarily conducted entirely within a dwelling and carried on by the inhabitants thereof with the assistance of not more than two persons who are not inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling as a residence and does not change the character thereof; provided that there shall be no external evidence of any home occupation except one name plate or sign not exceeding four (4) square feet in area.
4. Accessory buildings located not less than five (5) feet from any dwelling, and accessory uses, including the following: private garage, with storage facilities only, for not more than three selfpropelled motor vehicles, and buildings used for non-commercial recreation, such as game rooms and guest houses.
5. Subject to special use permit, schools, libraries, churches, dwellings for three or more families, including apartments and semi-detached or group houses, and institutions of an educational, philanthropic or eleemosynary nature, provided the property owners within two hundred (200) feet shall file their written consent with the Board of Adjustment.

B. Area Requirements. Every dwelling hereafter erected in Residence "A" District shall contain not less than one thousand square feet (1000) sq. ft. of floor space, on the main floor of said dwelling not including floor space used for a garage or purposes other than residential if a one story building and none hundred square feet if two story building, provided however, if the dwelling to be constructed is to be a multi-level construction, said dwelling shall contain nine hundred square feet (900 sq.ft.) on any combination of two levels thereof.

C. Light, ventilation, sanitation and protection requirements: Every dwelling hereafter erected in Residence "A" District shall comply with the following requirements.

1. No structure, the major portion of which, consists of a basement, shall be occupied for living and/or sleeping purposes by human beings.
2. Every dwelling hereafter erected shall be placed upon a substantial wall foundation providing at least a two foot air space between the ground surface and ground floor of a dwelling and such wall shall be constructed of cement, brick, stone, concrete blocks or any combination thereof, provided that no air space is required where the ground floor is constructed of cement. All exterior walls shall be finished with butt wood siding, wood shingles, aluminum, stucco on metal lath, brick, or brick or stone masonry veneer or other similar standard siding materials. No roll roofing material shall be used for siding purposes. All wood exterior finish shall be painted or similarly protected. All roofs shall be finished with asphalt, asbestos or wood shingles or other standard roofing material or materials, of a permanent nature and construction. All Chimneys and outlets for stoves and furnaces shall be constructed in a first class manner of fireproof materials in conformity of all fire laws of the State. Every dwelling hereinafter remodeled or altered shall conform to the provisions of this paragraph.
3. Buildings erected as garages shall in no case be occupied for dwelling purposes unless they comply with all the provisions of this ordinance.
4. No outdoor toilets, cesspools and septic tanks shall be constructed or installed.
5. Tents, housetrailer and/or automobile trailers shall not be used for dwelling purposes unless special permission is given by the Mayor and City Council and no trailer camps shall be permitted.

SECTION 2. Residence "B" District.

A. Use Provisions: In any Residence "B" District, no building or premises shall be used for other than one or more of the following uses:

1. Any use permitted in the Residence "A" District.
2. Dwellings for three or more families, including apartments and semi-detached or group houses.
3. On any premises, one sign advertising any permitted use; provided such sign shall not be nearer than five (5) feet to any lot line, shall not exceed two (2) feet by three (3) feet in size and shall not be illuminated except by lighting so shielded that only such sign shall be illuminated.
4. Clubs, lodge rooms, fraternal societies.
5. Private garage with storage facilities only and with capacity not exceeding the number of dwelling units which are located on the same premises or to which such garage is accessory.
6. Mortuaries.

B. Area Requirements Every dwelling hereafter erected in Residence "B" District shall contain not less than seven hundred square feet (700 sq. ft.) of floor space, on the main floor thereof, not including floor space used for a garage or purposes other than residential, provided, however, if the dwelling to be constructed is to be a multi-level construction, said dwelling shall contain seven hundred square feet (700 sq. ft.) on any combination of two levels thereof.

C. Light, ventilation, sanitation and protection requirements.

1. Not structure, the major portion of which consists of a basement shall be occupied for living and/or sleeping purposes by human beings.
2. Every dwelling hereafter erected shall be placed upon a substantial wall foundation providing at least a two foot air space between the ground surface and ground floor of a dwelling and such wall shall be constructed of cement, brick, stone, concrete blocks or any combination thereof, provided that no air space is required where the ground floor is constructed of cement. All exterior walls shall be finished with butt wood siding, aluminum, stucco on metal lath, brick or brick stone masonry vaneer or other similar standard siding materials. No roll roofing material shall be used for siding purposes. All wood exterior finish shall be painted or similarly protected. All roofs shall be finished with asphalt, asbestos or wood shingles or other standard roofing material or materials of a permanent nature and construction. All Chimneys and outlets for stoves and furnaces shall be constructed in a first class manner of fireproof materials and in conformity of all fire laws of the state. Every dwelling hereinafter remodeled or altered shall conform to the provisions of this paragraph.
3. Buildings erected as garages shall in no case be occupied for dwelling purposes unless they comply with all provisions of this ordinance.
4. All outdoor toilets, cesspools and septic tanks shall be constructed and installed in accordance with the regulations of the State Department of Health. Wherever sanitary sewers are readily accessible, no outdoor toilets, cesspools or septic tanks are permitted.
5. Tents, housetrailers and/or automobile trailers shall not be used for dwelling purposes unless special permission is given by the Mayor and City Council and no trailer camps shall be permitted without special permission from the Mayor and City Council.

SECTION 7 Central Business District Use Provisions.--- In any Central Business District no building or premises shall be used for other than one or more of the following uses:

1. Any use permitted in the Residence "B" District.
2. Retail business and service establishments, including bakeries and shops for custom work or for making articles to be sold at retail on the premises.
3. Business and professional offices.
4. Restaurants, cafes, refreshment stands and other eating places.
5. Public garages, vehicle repair shops and filling stations; provided that none of the foregoing shall have any entrance or exit for motor vehicles within three hundred feet, measured within street or alley lines, of any entrance or exit of a public or private school, playground, public library, hospital, church, orphanage or children's home.
6. Theatres and assembly halls
7. Trailer camps, cabin camps.
8. Dance halls, bowling alleys and other commercial recreation establishments.

9. Taverns, night clubs and bars; provided that no establishment in which malt or alcoholic beverage is dispensed shall have any entrance or exit within three hundred feet of any church school or Residence "A" District, except private clubs and lodges which are excluded from such provision provided further that any such establishment shall face on 8th Street, within said district, provided, however, that the Mayor and Board of Adjustment, may, by the issuance of a special permit, waive the requirement that such establishments face on 8th Street, within said District.

10. Accessory buildings and accessory uses.

11. Such other uses as, in the opinion of the Board of Adjustment are of the same general character as those listed in this section and will not be detrimental to the district in which located.

SECTION 8 Industrial District Use Provisions. ----- In any industrial district no building or premises shall be used for other than one or more of the following uses:

1. Any use permitted in the Central Business District.

2. Foundry; boiler works.

3. Grain drying or poultry feed manufacture; feed mill; flour mill.

4. Light or power plant central station.

5. Brick or tile manufacture.

6. Warehouse or bulk storage, except bulk storage of gas of liquid fertilizer and gas petroleum products such as propane and butane shall not be permitted without the issuance of a special permit by the Board of Adjustment.

7. Junk yards, wrecking or dismantling establishments; provided that the same shall be conducted entirely within a completely enclosed building or behind a masonry wall or painted wood wall of approved design not less than seven feet in height.

8. Any manufacturing or industrial operations of any kind not otherwise prohibited by law; provided that any process which emits dust, odor, gas, fumes, noise or vibration exceeding in amount or offensive character that of any use listed above, shall be subject to special use permit to be granted by the Board of Adjustment.

SECTION 9 Residence Lot Area and Coverage.---- For each one-family or two-family dwelling together with its accessory buildings, the minimum area of lot shall be as follows:

1. When private well and septic tank are provided, 20,000 square feet; provided that when soil conditions permit and written approval is obtained from the City Board of Health, an area of 10,000 square feet shall be acceptable.

2. When public water supply and septic tank are provided, 7,500 square feet; provided that when soil conditions permit and written approval is obtained from the City Board of Health, an area of 6,000 square feet shall be acceptable.

3. When public water supply and public sewer are provided, 5,000 square feet, provided said frontage shall be at least 50 feet. All buildings, including accessory buildings on any lot shall not cover more than twenty-five percent of the area of such lot if in a Residence "A" District, nor more than thirty-five percent if in a Residence "B" District. For the purpose of this ordinance, a lot shall be construed as any plot or parcel of ground or land occupied or to be occupied by a building and its accessory buildings, together with any required open spaces, having not less than the minimum required area and having its principal frontage on a street.

SECTION 10 Front Yard Required.----- The front yard for any building or other structure hereafter erected or structurally altered in any Residence District shall not be less than twenty (20) feet nor more than forty (40) feet.

Motor fuel pumps shall be not less than fifteen (15) feet from any street right of way line. Outdoor advertising signs and outdoor advertising structures in the Central Business District shall be located not less than five (5) feet from the street or highway right of way line.

SECTION 11. Side Yards Required.----- Every dwelling in a Residence "A" or Residence "B" District shall have two side yards each of at least ten feet (10') in width in Residence "A" District and Five (5') Feet in Residence "B" District provided that the side yard on the street side of any main building located on a corner lot in any such district shall be at least twelve (12) feet wide. An accessory building in any such district shall be located not less than two (2) feet from the side lot line; provided that on a corner lot such accessory building shall be located not less than twenty-five (25) feet from the street line on the side of such corner lot, provided further that if such an accessory building is constructed within 50 feet of the front of the building area, a side yard of 5 feet will be required.

No side yard shall be required for any building in the Central Business District, nor for any fire-resistant building in a Restricted Business District unless located on a corner lot, provided that one side yard of not less than five (5) feet wide shall be required for any lot adjacent to a Residence District.

SECTION 12. Rear Yard Required.--- Every dwelling shall have a rear yard at least fifteen (15) feet deep from house to alley or rear property line. Every main building in the Central Business District or in an Industrial District shall have a rear yard at least ten (10) feet deep. All rear yards in the Central Business District or in an Industrial District shall be measured to the center of the alley, if any, or to the rear lot line, if there is no alley.

SECTION 13 Exceptions to Yard Requirements.----- If one-fourth or more of the frontage in any block in any Residence District, exclusive of the frontage along the side of a corner lot, has been improved with dwellings and the front yards on such lots vary in depth to an extent no greater than six feet, then the front yard requirements of Section 10 shall be disregarded in such block and in lieu thereof, the front yard required on each lot in said block shall be a depth not less than the average of the front yards of the lots on which are located such buildings, to a maximum of fifty (50) feet.

Where the front yard requirements of this ordinance would produce substantial irregularities due to the variations in platting or in right-of-way width, the Board of Adjustment may define uniform set-back requirements on such street when such action will not result in increasing by more than five (5) feet the front yards otherwise required.

For the purpose of computing yard dimensions, the following architectural feature shall be disregarded: cornices, canopies, eaves extending not more than two feet; fire escapes or uncovered outside stairs, extending not more than three feet; landing places and uncovered porches having floor levels not higher than the entrance floors to the respective buildings and extending not more than six feet into a front or rear yard, nor more than three feet into a side yard, railings not more than three feet high around such landings or porches (fences not exceeding five feet high in any front or rear yard, not exceeding seven feet high in any rear yard.)

SECTION 14 Future Right-of-Way Lines.--- No building or other structure shall hereafter be erected or located between the right-of-way lines of any existing or proposed street, as indicated on the Zoning Plan, nor closer to any such right-of-way line than the depth of the respective front or side yard hereinbefore specified. The requirements for front yards on all lots, and for side yards on the street side of corner lots, shall be applied with respect to future right-of-way lines, where such are indicated on the Zoning Plan, the same as if such lines were the front or side lot lines of the lots affected. For the purpose of this ordinance, a street shall be construed as any public or private thoroughfare which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road or any other thoroughfare except an alley.

SECTION 15 Duties of Building Inspector.----- In addition to the duties imposed by other laws and ordinances, it shall be the duty of the Building Inspector, when considering any application for a building permit, to apply the provisions of this ordinance and to refuse a permit when the proposed structure and premises would violate any use, height, area, yard, or other requirements of the same. Issuance by the Building Inspector of any permit in violation of this ordinance, whether by error or otherwise, shall not validate any construction or use of premises, nor prevent the application of penalties or abatement proceedings as provided by law.

It shall also be the duty of said Inspector to report to the appropriate parties, with the object of securing speedy compliance, any violation of the terms of this ordinance, which may come to his attention. The said Inspector may on any application or permit, request the Board of Adjustment to give an interpretation of the meaning and application of any provision of this ordinance.

SECTION 16 Building Inspector --- There is hereby created the office of Building Inspector who shall be appointed by the Mayor with approval of a majority of the City Council for one year terms, which said terms of office shall expire on April 30 of each year. Said Building Inspector shall be paid fees or salaries as determined by the Mayor and City Council

SECTION 17 Board of Adjustment Created.----- The City Council is hereby designated as the Zoning Board of Adjustment and as such Board of Adjustment shall meet at least once each month and at such other times as it may determine. The City Clerk shall be Clerk of the Board of Adjustment, and shall issue permits upon applications from builders showing character of building and location, when approved by the Building Inspector, and special use permits when ordered by the Board of Adjustment.

Said Board shall adopt such rules of procedure as it may deem necessary to carry into effect the provision of this ordinance.

SECTION 18 Special Use Permits-- Special use permits may be issued by order of the Board of Adjustment for any of the following:

1. Any use for which a special use permit is required or permitted by provisions of this ordinance.
2. Public Utility or public service uses or public buildings in any district found to be necessary for the public health safety, convenience or welfare.
3. A temporary use or structure for a specified period of time and subject to specified conditions including cessation of such use and removal of such structure whenever, in the opinion of the Board of Adjustment, the condition of development or occupancy of other premises in the district in conformance with the provision of this resolution, renders such cessation or removal desirable.
4. The extension of a district where the boundary line thereof divides a lot in one ownership at the time of adoption of this resolution. Such extension shall not exceed a maximum distance of twenty (20) feet into any Residence or Restricted Business District or forty (40) feet into Central Business District, or sixty (60) feet into an Industrial District.

Written application for a special use permit shall accompany an application for a building permit where such building permit is required.

SECTION 19 Variances.--- The Board of Adjustment shall have the power to vary or modify the strict application of any provision of this resolution in cases where there are practical difficulties or unnecessary hardships in the way of such strict application, and in no other case.

Written application for a variance shall accompany an application for a building permit, if such permit is required, and shall be transmitted forthwith to the Board of Adjustment. The applicant shall present a statement and qualified evidence, in such form as the said Board may require, showing that, and the said Board shall not grant a variance unless it finds that:

1. That there are special circumstances or conditions applying to the land, building or use referred to in the application.
2. The granting of the application is necessary for the preservation and enjoyment of substantial property right.
3. The granting of the application will not materially affect adversely the health or safety for persons residing or working in the neighborhood of the proposed use, and will not be materially detrimental to the public welfare of injurious to property or improvements in said neighborhood.

In granting any variance under the provisions of this section, the Board of Adjustment shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of the regulations or provisions in the application of which the variance is granted, as to light, air, character of the neighborhood, and generally, the public health, safety, comfort, convenience and general welfare.

SECTION 20 Appeals ---Upon appeal from a decision of the Building Inspector or other administrative offices, the Board of Adjustment shall have power to decide any question involving the interpretation of any provision of this ordinance, including determination of the location of any district boundary if there is uncertainty with respect thereto.

Appeal from any decision of the Board may be made by an aggrieved person or persons in the manner provided by law.

SECTION 21 Violations and Penalties--- Any person violating any provision of this ordinance shall on conviction be fined in a sum of not less than \$10.00 nor more than \$100.00 provided that each day said ordinance is violated shall be deemed a separate offense, and provided further that continued violation for a period in excess of ten(10) days of any provision of this ordinance shall be deemed to be a nuisance and the City Attorney shall file an action in the manner provided by law for the abatement of such nuisance.

SECTION 22 Short Title ---- This ordinance shall be known and may be cited as the Gothenburg Zoning Ordinance.

SECTION 23 Purpose of Catch Heads ----- The catch heads appearing in connection with the foregoing article and sections are intended to serve the purpose of an index and shall be wholly disregarded by any person, officer, court or other tribunal in construing the terms and provisions of this ordinance.

SECTION 24 Interpretation----- The provisions of this ordinance shall be construed as the minimum requirement with respect to the subject treated therein, and shall not nullify the more restrictive provisions of the other laws or private covenants and agreements.

SECTION 25 Amendments----- An amendment to this ordinance may be considered by the City Council on its own initiative or on petition by one or more owner of land proposed to be affected. A 3/4 majority of the said Council shall be required in order to adopt any amendment against which a protest has been signed by the owners of twenty per cent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending one hundred feet (100') therefrom, or of those directly opposite thereto extending one hundred feet (100') from the street for frontage of such opposite lots.

No amendment shall be voted upon by the City Council nor become effective until after a public hearing in relation thereto, at which interested parties and citizens shall have an opportunity to be heard. Notice of time and place of such hearing shall be given by publication thereof, in a legal newspaper of general circulation in the county, in time at least ten (10) days prior to such hearing.

SECTION 26 Validity----- Each section and each subdivision of a section is hereby declared to be independent of every other section or subdivision of a section, so far as inducement for passage of this

ordinance is concerned, and the invalidity of any section or subdivision of a section of this ordinance shall not invalidate any other section or subdivision thereof.

SECTION 27 Effective Date.----- This ordinance shall be full force and effect upon its due passage and publication as required by law.

PASSED and approved this 14th day of July 1921.

Mayor George Mann

ATTEST:

Nellie Ballmer, City Clerk

(SEAL)