

ORDINANCE NO. 759

AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING
ORDINANCE, 620, ARTICLE 5 BY ADDING THE "AG-1 RESIDENTIAL
AGRICULTURAL DISTRICT"; AMENDING ARTICLE 3 SECTION 303 BY
ADDING FURTHER DEFINITIONS; AND AMENDING ARTICLE 9 SECTION 920;
REPEALING ALL ORDINANCES OR PARTS THEREOF IN CONFLICT
HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY
OF GOTHENBURG, NEBRASKA, AS FOLLOWS:

Section 1. Article 5 of the Gothenburg Comprehensive Zoning Regulations

Ordinance shall be amended by adding the following sections:

501.50 AG 1 – RESIDENTIAL AGRICULTURAL DISTRICT

501.50.1 INTENT: This district is intended to provide low-
density, acreage residential use with a gross density of one
dwelling unit per a minimum of one acre.

501.50.2 PERMITTED PRINCIPAL USES AND STRUCTURES:
The following shall be permitted as uses by right:

1. Minimum 1,500 sq. ft. Single family dwellings.
2. Minimum 1,500 sq. ft. manufactured homes which
 otherwise complies with the provisions of Article
 619
3. Agricultural uses: Animals, other than a maximum
 of five domestic animals, shall not be permitted on
 less than three acres. A maximum of one non-
 domestic animal is allowed per acre for every acre
 or fraction of an acre above three acres. By way of
 example, no non-domestic animals shall be allowed
 on a parcel of less than three acres. For a parcel
 consisting of at least three, but less than four acres,
 one non-domestic animal shall be allowed. For a
 parcel consisting of at least four, but less than five

acres, two non-domestic animals shall be allowed, and so on.

501.50.3 PERMITTED ACCESSORY USES AND STRUCTURES: The following accessory uses and structures shall be permitted:

1. Accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as exceptions; provided, in addition to Section 602, no accessory structure shall be closer than the required side yard of this district.

PERMITTED SPECIAL USES: A building or premises may be used for the following purposes in the AG-1 Residential Agricultural District if a special permit for such use has been obtained in accordance with Article 7 of the Ordinance.

1. Public and quasi-public uses of an education, recreational or religious type including public and parochial elementary schools, junior high schools, high schools and colleges; churches, parsonages, and other religious institutions.
2. Public uses of an administrative, public service or cultural type including city, county, state or federal administrative centers and courts, libraries, police and fire stations and other public buildings, structures, and facilities.
3. Expansion of nonconforming uses.
4. Electrical distribution substations, gas regulator stations, communication equipment buildings, public service pumping stations, and/or elevated pressure tanks.

501.50.4 PROHIBITED USES AND STRUCTURES: All other uses and structures which are not specifically permitted or not permissible as special uses shall be prohibited from the AG-1 Residential Agricultural District.

501.50.5 HEIGHT AND AREA REGULATIONS: The maximum height and minimum lot requirements within the AG-1 Residential Agricultural District shall be as follows:

	<u>Lot Area</u> <u>(sq. ft.)</u>	<u>Lot</u> <u>Width</u>	<u>Req'd</u> <u>Front</u> <u>Yard</u>	<u>Req'd</u> <u>Side</u> <u>Yard</u>	<u>Req'd</u> <u>Rear</u> <u>Yard</u>	<u>Height</u>
Dwelling, Single- Family	1 ACRE	140'	35'	15'	50'	35'
Other Permitted Uses	1 ACRE	140'	35'	15'	50'	35'

501.50.6 MAXIMUM LOT COVERAGE: 25 percent.

501.50.7 Non Conforming Use for Zone AG 1.

Any non conforming use in existence at the time of the creation of this district may be continued. Existence of a structure such as a confinement facility, or feedlot, which does not contain livestock at the time of the creation of this district, still qualifies as a non conforming use, regardless of the length of time that such facility is in a period on nonuse.

Section 2. Article 3 Section 303 is amended to read as follows:

Definitions to be added:

303.01. ACCESSORY USE OR BUILDING: A subordinate building or use which customarily is incidental to that of the main or principal building or use of the premises. Customary accessory uses include, but are not limited to, tennis courts, swimming pools, detached garages, air conditioners, garden houses, fire places, patios, antenna/satellite dishes, barbecue ovens and residential storage sheds. Garages or other accessory uses attached to the principal structure shall be considered a part thereof and meet the requirements of the principal structure.

303.02. ALLEY: A dedicated public right-of-way, other than a street which provides only a secondary means of access to abutting property, the right-of-way which is 20 feet or less in width.

303.03. APARTMENT: A part of a building consisting of a room or suite of rooms intended, designed or used as a place of residence by an individual or a single family dwelling.

303.04. BLOCK: A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroads, rights-of-way, or boundary line of the block.

303.05. BUILDABLE AREA: The portion of a lot remaining after required yards have been provided.

303.06. BUILDING: Any structure designed or intended for the enclosure, shelter, or protection of persons, animals or property.

303.07. BUILDING HEIGHT: The vertical distance above grade to the highest point of the coping of a flat roof, or the average height of the highest gable of pitched, hipped or shed roof. (See Appendix—Illustration)

303.08. BUILDING COVERAGE: Any area of a portion of a lot which is covered by all buildings on that lot.

303.09. CHILD CARE CENTER: A facility which is or should be licensed by the Nebraska Department of Social Services as defined under Title 474 of the Nebraska Administration Code, Chapter 6, Section 002, as a Day Care Center.

303.10. CONDITIONAL USE PERMIT: A conditional use permit is a written permit issued by the Zoning Administrator with the written authorization of the City Council. This conditional use permit provides permission under specific conditions to make certain conditional uses of land in certain zoning districts as stipulated under exceptions in each of the zoning district regulations.

303.10.1 Domestic Animal -- A domestic animal shall be described as an animal that is normally considered a house pet. Examples of this type shall include dogs, cats and other small domestic animals.

303.11. DWELLING: Any building or portion thereof which is designed and used exclusively for residential purposes.

303.12. DWELLING ATTACHED: A residential building which is joined to another dwelling at one or more sides by a party wall or walls.

303.13. DWELLING, MULTI-UNIT OR MULTI-

FAMILY: A building use by two or more families living independently of each other in separate dwelling units but not including hotels, motels or resorts.

303.14. DWELLING, SINGLE-FAMILY: A building having accommodations for and occupied by one family.

303.15. EASEMENT: A grant by the property owner to the public, a corporation or persons of the use of a tract of land for a specific purpose or purposes.

303.16. EXCEPTION: A use that would not be appropriate generally or without restriction throughout the zoning district, but which, if controlled as to the number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning districts as exceptions, if specific provision for such exception is made in this Ordinance.

303.17. FARMSTEAD: An area thirty (30) acres or more on which is located at least one farm residence and on which farm products of value of one thousand (1000) dollars or more are normally produced each year.

303.18. FARM RESIDENCE: Residential dwellings located on a farmstead including mobile homes appurtenant to agricultural operations including the living quarters for persons employed on the premise.

303.19. FEEDLOT: The confined feeding of food to animals in buildings, lots, pens, pool, or ponds which normally are not used for raising crops or grazing animals.

303.20. FLOOD PLAIN: Those lands within the zoning jurisdiction of the City of Gothenburg which are subject to a one percent (1%) or greater chance of flooding in any given year. The regulatory flood plain for this Ordinance shall be based on the official Flood Hazard Boundary Map or Flood Insurance Rate Map issued by the Federal Insurance Administration, U.S. Department of Housing and Urban Development and any revision thereto. Copies of said map shall be on file in the Office of the City Clerk.

303.21. FLOOD AREA: The total number of square feet of

floor space within the outside of the exterior walls of a building, not including storage space in cellars or basements, garages, and other areas of no regular access by patrons.

303.22. GROUP HOME: A facility in which more than two (2) but less than sixteen (16) persons who are unrelated by blood, marriage, or adoption reside which receiving therapy or counseling, but not nursing care, for any of the purposes listed below. Such a facility shall be licensed or approved by the State of Nebraska or other appropriate agency.

- (a) Adaptation to living with, or rehabilitation from, the handicaps of physical disability;
- (b) Adaptation to living with, or rehabilitation from, the handicaps of emotional or mental disorder, or mental retardation;
- (c) Adaptation to living with, or rehabilitation from, physical and/or sexual abuse;
- (d) Rehabilitation from the effects of drug or alcohol abuse;
- (e) Supervision which under a program of alternatives to imprisonment, including, but not limited to pre-release, work-release and probationary programs.

303.23. HOME OCCUPATION: An occupation or activity carried on within the dwelling or accessory building by a member of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character nor infringe upon the right of neighboring residents to enjoy a peaceful occupancy of their homes. Specifically excluded are outdoor storage and outside display of merchandise, equipment or machinery.

303.24. LOT: A parcel of land occupied or intended for occupation by a use permitted in this Ordinance, and fronting upon a street. (See Appendix for Illustration)

303.25. LOT, CORNER: A lot abutting two or more streets at their intersection.

303.26. LOT COVERAGE: The percentage of a lot which, when viewed directly from above, would be covered by a structure or structures, or any part thereof, excluding projecting roof eaves.

303.27. LOT DEPTH: The distance between the midpoints

of the front lot line and the mid-point of the rear lot line.

303.28. LOT FRONTAGE: The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots see Article 611. (See Appendix—Illustration).

303.29. LOT OF RECORD: A lot which is part of a subdivision recorded in the office of the Register of Deeds, or a lot or parcel described by metes and bounds the description of which has been so recorded.

303.30. LOT WIDTH: The distance on a horizontal plane between the side lot lines of a lot, measured at right angles to the line establishing the lot depth at the established building set back line.

303.31. MANUFACTURED HOME: A factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built to compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or a modular housing unit as defined in Section 71-1557 of the Nebraska Revised Statutes bearing the seal of the Department of Health.

303.32. MOBILE HOME: A year-round, transportable structure which is a single family or two-family dwelling unit suitable for permanent (more than thirty (30) days) living quarters, more than eight (8) feet wide and thirty-two (32) feet in length designed and built to be towed on its own chassis and designed to be used as a single family or two-family dwelling with or without a permanent foundation when connected to the required utilities.

303.33. MOBILE HOME PARK: Any area of land upon which one or more mobile homes are parked, connected to utilities and used by one or more persons for living or sleeping purposes.

303.34. NONCONFORMING USE: The use of any dwelling, building, structure, lot, land or premises, or part thereof, which was existing and lawful prior to the effective date of this

Ordinance and which does not conform with the provisions of this Ordinance and any amendments thereto.

303.34.1 Non-Domestic Animal – A non-domestic animal shall be described as an animal that is normally not considered a house pet. Examples of this type shall include livestock such as cows, horses and other large animals.

303.35. NONSTANDARD USE: Lots occupied by building or structures or uses which existed immediately prior to the effective date of this Ordinance and any amendments thereto which fail to comply with any of the following: minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height or parking for the district in which they are located, event though the use of the premises conforms to the permitted uses within the district as identified in the provisions of this Ordinance.

303.36. PARKING SPACE, OFF-STREET: An area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

303.37. SIGN: Any device which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of, an advertisement or announcement which directs attention to an object, product, place, activity, person, institution, organization or business, but shall not include any display of official notice or official flag.

303.38. SETBACK LINE: A line or lines designating the area outside of which buildings may not be erected.

303.39. STREET: All property acquired or dedicated to the public and accepted by the appropriate governmental agencies for street purposes.

303.40. STREET, CENTER LINE: A line midway between street lines.

303.41. STREET LINE: A dividing line between a lot, tract, or parcel of land and the contiguous street. The right-of-way line of a street.

303.42. STRUCTURE: Anything constructed or erected,

the use of which requires permanent location on the ground or attachment to something have a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures and street signs.

303.43. **STRUCTURAL ALTERATION:** Any change to the supporting members of a structure including foundations, bearing walls, or partitions, columns, beams, girders or any structural change in the roof.

303.44. **TOWNHOUSE:** One of a group or row of not less than two (2) nor more than twelve (12) attached, single-family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately. For the purpose of the side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

303.45. **VARIANCE:** A variance is a relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to the conditions peculiar to the property, and not the result of the actions of the applicant, a literal enforcement of the Ordinance would result in unnecessary and undue hardship.

303.46. **YARD:** A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from thirty (30) inches above the general ground level of the graded lot upward; provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any yard subject to the district regulations. (See Appendix for Illustration)

303.47. **YARD, FRONT:** A yard extending from the front lot line adjoining a public street to the front of the building between side lot lines.

303.48. **YARD, REAR:** A yard extending between side lot lines and measured horizontally at right angles to the rear lot line from the rear lot to the nearest point of the main building.

303.49. **YARD, REQUIRED:** The required minimum open space between the property line and the yard line. The required yard shall contain no building or structure other than the projection of the usual steps, unenclosed balconies, or open porches, or as otherwise provided in this Ordinance.

303.50. YARD, SIDE: A yard between a building and the side lot line measured horizontally at right angles to the side lot line from the side lot line to the nearest point of the main building.

Section 3. A copy of Section 920 of the Gothenburg Comprehensive Zoning Regulations Ordinance is attached hereto and incorporated herein by this reference.

Section 4. Article 9, Section 920 of the Gothenburg Comprehensive Zoning Regulations Ordinance is hereby amended to read as follows:

920 SUBDIVISION ANNEXATION: PETITION FOR ANNEXATION: Any subdivision of land which is contiguous to the City, must be annexed to the City. Before approval for the final plat is give, the Municipal Body shall receive a Petition for annexation from the owners of the subdivided properties.

Section 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 6. This ordinance shall become effective from and after its passage, approval and publication as required by law.

PASSED AND APPROVED this 2nd day of October, 2001.

CITY OF GOTHENBURG,
DAWSON COUNTY,
NEBRASKA.

By: Larry Franzen
Larry Franzen, Mayor

ATTEST:

Connie Stull
Connie Stull, City Clerk

APPROVED AS TO FORM:

Steven P. Vinton, City Attorney