

ORDINANCE NO. 905

AN ORDINANCE OF THE CITY OF GOTHENBURG, AMENDING ZONING REGULATIONS, TITLE XV, CHAPTER 152 OF THE CODE OF ORDINANCES OF THE CITY OF GOTHENBURG, NEBRASKA, BY REVISION OF ALL SECTIONS OF SAID CHAPTER 152; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH AND PROVIDING FOR AN EFFECTIVE DATE.

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

Section 1. Title XV, Chapter 152 of the Code of Ordinances of the City of Gothenburg, Nebraska is hereby amended to read as set forth on Exhibit "A" which is attached hereto and incorporated herein by this reference.

Section 2. The original Title XV, Chapter 152 of the Code of Ordinances of the City of Gothenburg, Nebraska is hereby repealed.

Section 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 4. This ordinance shall become effective from and after its passage, approval and publication in pamphlet form as required by law.

Passed and approved this 20<sup>th</sup> day of Jan., 2015.

CITY OF GOTHENBURG, DAWSON  
COUNTY, NEBRASKA

BY Joyce E. Hudson  
Joyce Hudson, Mayor

ATTEST:

Connie L. Dalrymple  
Connie Dalrymple, City Clerk



APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "Michael L. Bacon", written over a horizontal line.

Michael L. Bacon  
City Attorney



Exhibit "A"



**CHAPTER 152: ZONING**

Section

**General Provisions**

- 152.001 Title; jurisdiction
- 152.002 Purpose
- 152.003 Definitions
- 152.004 Application and interpretation

**Zoning Districts**

- 152.015 Planning Commission recommendations; districts created
- 152.016 Official zoning map
- 152.017 Boundary interpretation; annexation
- 152.018 AG General Agricultural District
- 152.019 AG 1 Residential Agricultural District
- 152.020 R-1 Residential District
- 152.021 R-2 Residential District
- 152.022 R-3 Residential District
- 152.023 R-4 Residential District
- 152.024 C-1 Central Business District
- 152.025 C-2 Highway Commercial District
- 152.026 I-1 Light Industrial/Storage/Warehouse District
- 152.027 I-2 Industrial District
- 152.028 GB Greenbelt/Conservation District
- 152.029 P Public Use District
- 152.030 AHA Airport Hazard Area

- 152.092 Powers
- 152.093 Variance request procedure
- 152.094 Appeal from decision

**Administrative Procedure and Enforcement**

- 152.105 Procedure for interpretation of regulations
- 152.106 Zoning Administrator
- 152.107 Certificate of zoning compliance
- 152.108 Final inspection
- 152.109 Amendments
- 152.110 Complaint of violation

152.999 Penalty

Appendix A: Illustrations

**Supplementary Regulations**

- 152.040 Intersection visibility
- 152.041 Accessory uses
- 152.042 Building projections
- 152.043 Height regulation exceptions
- 152.044 Access to structures required
- 152.045 Residential utility and lot area requirements
- 152.046 Temporary structures
- 152.047 Parking regulations
- 152.048 Required loading spaces
- 152.049 Industrial use performing standards
- 152.050 Adjustment of front yard requirement
- 152.051 Assignment of street address
- 152.052 Replacing nonstandard accessory building on narrow lot
- 152.053 Truck parking
- 152.054 Other vehicles
- 152.055 Home occupation standards; inconspicuous home occupation
- 152.056 Sign regulation
- 152.057 Fences, walls, and hedges
- 152.058 Manufactured homes
- 152.059 Towers
- 152.060 Wind energy systems

**Special Use Permit**

- 152.075 General authority
- 152.076 Procedures

**Board of Zoning Adjustment**

- 152.090 Creation; membership
- 152.091 Meetings

**GENERAL PROVISIONS**

**§ 152.001 TITLE; JURISDICTION.**

(A) This chapter shall be known, referred to, and cited as the Zoning Ordinance of the City of Gothenburg, Nebraska. (Ord. 850, passed 8-4-2009, § 101)

(B) The provisions of this chapter shall apply within the corporate limits of the city, and within the territory beyond the corporate limits for a distance of one mile in all directions, as defined on the Official Zoning Map of the city, as the same may be amended by subsequent annexation.

(Ord. 850, passed 8-4-2009, § 102)

**§ 152.002 PURPOSE.**

In pursuance of the authority conferred by Neb. RS Chapter 19, Article 9, § 19-901, as amended, this chapter is enacted for the purpose of promoting the health, safety, convenience, order, prosperity, and welfare of the present and future inhabitants in the city by regulating and restricting the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes in accordance with the comprehensive plan and the zoning map adopted herewith.

(Ord. 850, passed 8-4-2009, § 103)

§ 152.003 DEFINITIONS.

(A) *General provisions.* The following rules of construction shall apply unless inconsistent with the plain meaning of the context of this chapter.

- (1) *Tense.* Words used in the present tense include the future tense.
- (2) *Number.* Words used in the singular include the plural, and words used in the plural include the singular.
- (3) *SHALL and MAY.* The word *SHALL* is mandatory; the word *MAY* is permissive.
- (4) *Headings.* In the event that there is any conflict or inconsistency between the heading of a subchapter, section or division of this chapter and the context thereof, the heading shall not be deemed to affect the scope, meaning, or intent of the context.

(Ord. 850, passed 8-4-2009, §§ 301.01 through 301.04)

(B) *General terminology.*

(1) The word *CITY* shall mean the City of Gothenburg, Nebraska. The word *CITY COUNCIL* shall mean the City Council of Gothenburg, Nebraska. The words *PLANNING COMMISSION* shall mean the Planning Commission duly appointed by the municipality.

(2) Words or terms not herein defined shall have their ordinary meaning in relation to the context.

(C) *Definitions.* For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

*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.

*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.

*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.

*DWELLING, DUPLEX.* A building containing two (2) dwelling units. Each unit is totally separated from each other by an unpierced wall extending from ground to roof.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

*DWELLING, MULTI-UNIT OR MULTI-FAMILY.* A building used by two or more families living independently of each other in separate dwelling units but not including hotels, motels, or resorts.

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

*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.

*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. The uses may be permitted in the zoning districts as exceptions, if specific provision for the exception is made in this chapter.

*FARMSTEAD.* An area ten (10) acres or more on which is located at least one farm residence and on which farm products of a value of \$1,000 or more are normally produced each year.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

*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.

*FLOOD PLAIN.* The lands within the zoning jurisdiction of the city which are subject to a 1% or greater chance of flooding in any given year. The regulatory flood plain for this chapter shall be based on the official Flood Hazard Boundary Map or Flood Insurance Rate Map issued by the Federal Insurance Administration, United States Department of Housing and Urban Development and any revision thereto. Copies of the map shall be on file in the office of the City Clerk.

*FLOOR AREA.* 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.

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

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

*BUILDING.* An enclosed structure, anchored to permanent foundation, and having exterior or party walls and a roof, designed for the shelter of persons, animals or property. When divided by other than common or contiguous walls, each portion or section of such building shall be regarded as a separate building, except that two buildings connected by a breezeway shall be deemed one building. The term "Building" includes "structure".

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

*BUILDING HEIGHT.* Vertical distance above grade to the highest point of the coping of a flat roof, or to the average height of the highest gable of pitched, hipped, or shed roof. (See Appendix A: Illustrations.)

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

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

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

*CHILD CARE HOME.* A facility which is or should be registered by the State Department of Health and Human Services as a family day care home under Neb. RS 71-1908-1918.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

*CITY.* City of Gothenburg, Nebraska.

*CITY COUNCIL.* City Council of Gothenburg, Nebraska.

*DOMESTIC ANIMAL.* An animal that is normally considered a house pet. Examples of this type shall include dogs, cats, and other small domestic animals.

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

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

*GROUP HOME.* Facility in which more than two but less than 16 persons who are unrelated by blood, marriage, or adoption reside while receiving therapy or counseling, but not nursing care, for any of the purposes listed below. The facility shall be licensed or approved by the state 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; and
- (e) Supervision while under a program of alternatives to imprisonment, including, but not limited to, pre-release, work-release, and probationary programs.

*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.

*INCONSPICUOUS HOME OCCUPATION.* An occupation or activity carried on solely within the dwelling (and not in an outbuilding) by a member of the family residing in the dwelling, which occupation or activity is incidental and secondary to the residential occupancy of the dwelling. The occupation shall not change the residential character of the dwelling, nor infringe upon the rights of neighboring residents to enjoy a peaceful occupancy of their home. Specifically excluded are any outdoor storage, display, or merchandise, equipment, or machinery. Outbuildings may not be used for any purpose whatsoever, and no individual who is not a resident of the dwelling may be employed in any inconspicuous home occupation.

*KENNELS, COMMERCIAL.* The raising and boarding of five (5) or more dogs or cats, or any combination thereof, shall meet the definition of a commercial kennel.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

*KENNELS, DOMESTIC.* The raising and boarding of no more than four (4) dogs or cats, or any combination thereof, may be kept on the premises of a dwelling. Offspring of any domestic pet in excess of four (4) animals may be housed on the premises for a period not to exceed ninety (90) days.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)



**LANDFILL.** A disposal site employing an engineering method of disposing solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day and in conformance with the requirements of the Nebraska Department of Health and Human Service System.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**LIVESTOCK, CONFINEMENT FACILITIES/OPERATIONS.** Shall mean any building(s), lot(s), pen(s), pool(s) or pond(s) or other confined spaces, which normally are not used for raising crops or grazing animals, which are designed and/or used for on-going confined raising, feeding or management of animals for more than 180 consecutive days.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

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

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

**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.

**LOT DEPTH.** The distance between the midpoints of the front lot line and the mid-point of the rear lot line.

**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 § 152.050. (See Appendix A: Illustrations.)

**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.

**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 setback line.

**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 Neb. RS 71-1557 bearing the seal of the Department of Health and Human Services.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

9

**NONSTANDARD USE.** Lots occupied by buildings or structures or uses which existed immediately prior to the effective date of this chapter 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, even though the use of the premises conforms to the permitted uses within the district, as identified in the provisions of this chapter.

**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.

**PLANNING COMMISSION.** The Planning Commission duly appointed by the City Council.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**PORCH.** A roofed open area usually attached to or part of and with direct access to or from a building.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**RECYCLING CENTER.** A facility which accepts salvage material limited to paper, aluminum foil, containers made of glass, plastic, metal, aluminum, and paper; and similar household wastes; no hazardous material as defined by state and federal law is accepted; there is no wrecking or dismantling of salvage material and no salvage material is held outside a building.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**SANITARY LANDFILL.** A lot or parcel of land used primarily for the disposal, abandonment, dumping, burial or burning of garbage, sewage, trash, refuse, junk, discarded machinery or motor vehicles, or parts thereof, or other waste, and which is in conformance with the requirements of the Nebraska Department of Health and Human Service System.

**SANITARY TRANSFER STATION.** A collection point for temporary storage of refuse. No processing of refuse would be allowed. The transfer station must be in conformance with the requirements of the Nebraska Department of Health and Human Service System.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

11

**MOBILE HOME.** A year-round, transportable structure which is a single-family or two-family dwelling unit suitable for permanent (more than 30 days) living quarters, more than eight feet wide and 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. This portable dwelling may consist of one (1) or more units that can be telescoped when towed and expanded later for additional capacity, or two (2) or more units, separately towable but designed to be joined as one (1) integral unit. Nothing in this definition shall be construed so as to include prefabricated, modular, precut dwelling units or these manufactured in sections or parts away from the site and transported thereto for assembly.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**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 purpose, and meets all of the requirements of § 152.022(F). A mobile home park includes any premises set apart for supplying to the public parking space, either free of charge or for revenue purposes for one (1) or more mobile homes, connected to utilities and used by one (1) or more persons living, or sleeping purposes and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**MODULAR HOME.** Any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units not fabricated on the final site for the dwelling units, which units are movable or portable until placed on a permanent foundation and connected to utilities. All modular homes shall bear a label or seal indicating that it was built in accordance with the Nebraska Uniform Standards for Modular Housing Units Act, as established in Section 71-1557 of the Nebraska revised Statutes.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

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

**NONDOMESTIC ANIMAL.** 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.

10

**SALVAGE OR JUNK YARD.** A place where waste, discarded or salvaged metals, building materials, paper, textiles, used plumbing fixtures, abandoned or inoperable motor vehicles or parts thereof, and other used materials are bought, sold, exchanged, stored, baled or cleaned; and places or yards for the storage of salvaged metal, materials and equipment; but not including pawn shops and establishments for the sale, purchase or storage of used cars or trucks presently in operable condition, boats or trailers presently in operable condition, and used furniture and household equipment in usable condition and not including the processing of used, discarded or salvaged material as part of manufacturing operations.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**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.

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

**SPECIAL USE PERMIT.** A written permit issued by the Zoning Administrator with the written authorization of the City Council. The **SPECIAL 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. See Section 152.075 for the procedure and criteria to be considered when reviewing an application for a **SPECIAL USE PERMIT**.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

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

**STREET, CENTER LINE.** A line midway between street lines.

**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.

**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.

**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.

12

**TOWNHOUSE.** One of a group of row of not less than two (2) nor more than 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.

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

**WIND ENERGY CONVERSION SYSTEM (COMMERCIAL).** A wind energy conversion system under common or aggregated ownership or operating control that includes substations, MET towers, cables/wires and other building accessories, whose main purpose is to supply electricity to off-site customers.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**WIND ENERGY CONVERSION SYSTEM (SMALL).** A wind energy conversion system which has a rated capacity of up to Twenty-Five (25) kilowatts and which is incidental and subordinated to another use of the same parcel. A system is considered a small wind energy system only if it supplies electrical power for site use, except that when a parcel on which the system is installed also received electrical power supplied by a utility company, access electrical power generated and not presently needed for onsite use may be sold back to the utility company. *(25 Kilowatt limit approved by the Gothenburg Planning Commission and City Council may be increased to a maximum of 100 Kilowatts with Nebraska State Legislature authorization by future amendment)*

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**YARD.** A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from 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 A: Illustrations.)

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

**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.

**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 chapter.

13

#### § 152.004 APPLICATION AND INTERPRETATION.

(A) *General.* The zoning regulations set forth by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

(Ord. 850, passed 8-4-2009, Art. 2, § 201)

(B) *Zoning affects every building and use.* No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered, except in conformity with all of the zoning regulations herein specified for the district in which it is located. Permitted special uses are allowed only by a special permit granted by the City Council upon finding that the specified conditions exist.

(Ord. 850, passed 8-4-2009, § 202)

(C) *Yard and lot reduction prohibited.* No yard or lot existing at the time of passage of this chapter shall be reduced by private action in dimension or area below the minimum requirements set herein. Yards or lots created after the effective date of this chapter shall meet the minimum requirements established by this chapter, except as provided by division (D) below.

(Ord. 850, passed 8-4-2009, § 203)

(D) *Combination of lots and portion of lots.* If a lot or portion of a lot, or two or more lots, or combinations of lots and portions of lots, with continuous frontage in single ownership, are of record at the time of passage of this chapter, and if all or part of the lots do not meet the requirements established for lot width and area, the following rules shall apply.

(Ord. 850, passed 8-4-2009, § 204)

(1) *Eighty percent rule applicable in all cases concerning three lots or less.* Where the lot, portion of lot, or combination consists of sufficient width and area to provide at least 80% of the width and area generally required for three lots or less in the district, the land may be divided for use into three lots or less, each of which shall have at least 80% of the lot width and area generally required in the district.

(Ord. 850, passed 8-4-2009, § 204.01)

(2) *Rule for other multiple lots not covered by division (D)(1).* Where the lot, portion of lot, or combination consists of greater width or area than generally required for creation of three lots, the land shall be divided for use into lots all of which conform to the lot width and area generally required in the district, provided however, that in the division one remaining lot may be created having not less than 80% of the lot width and area generally required in the district or that reduction equivalent in total to the reduction on a remaining lot may be distributed between the divisions created.

15

**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.

(Ord. 850, passed 8-4-2009, §§ 303.01 through 303.55)

**ZONING MAP.** The term "Zoning Map" means a map or maps officially enacted by the governing body as part of this ordinance showing the boundaries of a zoning district or districts, a copy or copies of which, certified to have been enacted as provided by law, is filed in the office of the City Clerk as an official record of the City.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

14

(Ord. 850, passed 8-4-2009, § 204.02)

(E) *Minimum requirements.* In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Whenever the provisions of this chapter require a greater width or size of yards, courts or other spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other chapter, the provisions of this chapter shall govern. Wherever the provisions of any other chapter require a greater width or size of yards, courts or other open spaces, or require a lower height of buildings or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the provisions of this chapter, the provisions of the chapter shall govern.

(Ord. 850, passed 8-4-2009, § 205)

(F) *Nonconformities.* Intent. Nonconformities are of three types: nonconforming lots of record, nonconforming structures and nonconforming uses. Any lawful use of land or structure existing at the time of enactment or subsequent amendment of this ordinance, but not in conformity with its provisions, may be continued subject to the following conditions:

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

(1) *Nonconforming Lots of Record:* The Zoning Administrator may issue a Permit for any nonconforming lot of record provided that:

(a) Said lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited, and

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

(b) Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the zoning regulation, and

Said lot can meet all required yard regulations for the district in which it is located.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

#### (2) *Nonconforming Structures:*

(a) *Authority to Continue:* Any structure, which is devoted to a use, which is permitted in the zoning district in which it is located, but which is located on a lot, which does not comply with the use regulations, and/or the applicable yard and height regulations may be continued, so long as it remains otherwise lawful.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

16

(b) **Enlargement, Repair, Alterations:** Any nonconforming structure may be enlarged, maintained, repaired, remodeled, or rebuilt; provided, however, that no such enlargement, maintenance, repair or remodeling shall not create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure, unless the property owner receives a Special Use Permit in accordance with the Zoning District in which it is located, see §152.076 (E).

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

(c) **Damage or Destruction:** In the event any nonconforming structure, with the exception of a residential dwelling, is damaged or destroyed, by any means, to the extent of more than 75 percent of its assessed fair market value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located. When a non-residential structure is damaged to the extent of 75 percent or less of its assessed fair market value, no repairs or restoration shall be made unless a building permit is obtained within six (6) months, and restoration is actually begun within one (1) year after the date of such partial destruction and is diligently pursued to completion.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

(d) **Moving:** No nonconforming structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**(3) Nonconforming uses:**

(a) **Authority to Continue:** Any lawfully existing nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use or land, may be continued, so long as otherwise lawful.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**(b) Ordinary Repair and Maintenance:**

(1) Normal maintenance and incidental repair, or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, water and/or waste disposal systems, may be performed on any structure or system that is devoted in whole or in part to a nonconforming use.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

17

properties. Once such use has changed, it may no longer be returned to the original use or any other less appropriate use.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

(h) **Abandonment or Discontinuance:** When a nonconforming use is discontinued or abandoned, for a period of twelve (12) consecutive months, such use shall not thereafter be re-established or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

(i) **Nonconforming Accessory Uses:** No use, which is accessory to a principal nonconforming use, shall continue after such principal use shall cease or terminate.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

19

(2) Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official in charge of protecting the public safety who declares such structure to be unsafe and orders its restoration to a safe condition.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

(c) **Extension:** A nonconforming use shall not be extended, enlarged, or increased in intensity. Such prohibited activities shall include, without being limited to the extension of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of these Regulations (or on the effective date of subsequent amendments hereto that cause such use to become nonconforming).

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

(d) **Enlargement:** No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

(e) **Damage or Destruction:** In the event that a nonconforming building or use, excluding residential buildings, is damaged to the extent of more than seventy-five (75) percent of its reasonable replacement value, the property shall conform to the zone in which it is located.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

(f) **Moving:** No structure that is devoted in whole or in part to a nonconforming use and nonconforming use of land shall be moved in whole or in part for any distance whatever, to any location on the same or any other lot, unless the entire structure and the use thereof or the use of land shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

(g) **Change in Use:** If no external structural alterations are made which will expand the area or change the dimensions of the existing structure, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use provided that the governing body after receiving a recommendation from the Planning Commission, by making findings in the specific case, shall find that the proposed use is more appropriate to the district than the existing nonconforming use. More appropriate shall mean creating less traffic, noise, glare, odor or other characteristics of the proposed use. In permitting such change, the governing body may require appropriate conditions and safeguards to protect surrounding areas and

18

## ZONING DISTRICTS

### § 152.015 PLANNING COMMISSION RECOMMENDATIONS; DISTRICTS CREATED.

(A) It shall be a purpose of the Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. The Planning Commission shall make a preliminary report and hold public hearing thereon before submitting its final report, and the City Council shall not hold its public hearing or take action until it has received the final report of the Planning Commission.

(Ord. 850, passed 8-4-2009, § 401)

(B) The city is hereby divided into zoning districts, as named and described in §§ 152.018 through 152.028 of this chapter.

(Ord. 850, passed 8-4-2009, § 402)

### § 152.016 OFFICIAL ZONING MAP.

(A) The boundaries of the districts are shown upon a map, which is made a part hereof by reference, which map is designated as the "Gothenburg Zoning District Map," dated May 21, 1996, and signed by the Mayor and City Clerk and hereinafter referred to as the "Official Zoning Map."

(B) The signed copy of the Zoning Map containing the zoning districts designated at the time of adoption of this chapter shall be maintained in the office of the City Clerk for the use and benefit of the public.

(C) (1) If, in accordance with the provisions of this chapter, changes are made in the district boundaries or other matter portrayed on the Official Zoning Map, the changes shall be entered on the appropriate part of the Official Zoning Map promptly after the amendment has been approved by the City Council, with an entry on the Official Zoning Map as follows:

"On (date), by official action of the City Council, the following change was made in the Official Zoning Map (brief description of the nature of the change)," which entry shall be signed by the Mayor and attested by the City Clerk.

(2) No amendment to this chapter which involves matter portrayed on the Official Zoning Map shall become effective until after the change and entry have been made on the map.

(D) No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this chapter.

20

(E) (1) In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret, the City Council may, by resolution, adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map.

(2) The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof.

(Ord. 850, passed 8-4-2009, § 403)

#### § 152.017 BOUNDARY INTERPRETATION; ANNEXATION.

(A) Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

(1) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow the center lines;

(2) Boundaries indicated as approximately following platted lot lines shall be construed as following the lot lines;

(3) Boundaries indicated as approximately following city limits shall be construed as following the city limits;

(4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

(5) Boundaries indicated as parallel to or extension of features indicated in divisions (A) (1) through (4) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;

(6) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by divisions (A)(1) through (5) above, the Board of Zoning Adjustment shall interpret the district boundaries; and

(7) Where district boundary line divides a lot which was in single ownership at the time of passage of this chapter, the Board of Zoning Adjustment may permit, as an exception, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.

(Ord. 850, passed 8-4-2009, § 404)

(B) All territory which may hereafter be annexed to the zoning area shall be in the AG General Agricultural District until otherwise changed at the time of annexation, or where the area annexed was zoned some other district prior to annexation, the same district shall apply within the zoning area until otherwise changed at the time of annexation. (Ord. 850, passed 8-4-2009, § 405)

21

(2) Agricultural service establishment primarily engaged in performing agricultural, animal husbandry, or horticultural services on a fee or contract basis; agricultural product milling and processing; establishments engaged in performing services such as crop dusting, fruit picking, grain cleaning, harvesting, and plowing; farm equipment service and repair;

(3) Public utility and public service structures, including electric transmission lines and distribution substations, and gas regulator stations;

(4) Public and private open recreational facilities, operated for profit or otherwise;

(5) Public and quasi-public uses of an educational or religious type;

(6) Community facilities and institutions, including cemeteries, hospitals, private, noncommercial clubs and lodges;

(7) Public uses of an administrative, public service, or cultural type;

(8) Sewage treatment plants for primary and secondary treatment; public and private sanitary landfills in conformance with §152.062; gravel plants and asphalt or concrete batch plants;

(9) Irrigation wells, waste retention pits, and silage bunkers;

(10) One single-family rental unit, when the same is rehabilitated or created in an existing structure. Provided, however, no special use permit shall authorize a subdivision thereof;

(11) Commercial Kennels;

(12) Alternative energy systems utilizing Biomass, Geothermal, Hydropower, Solar and/or Wind sources in conformance with "Net Metering" per Nebraska State Statutes §70-2001 to §70-2005 (August 30, 2009 as Amended). Individual or "Small Wind Energy Conversion Systems (SWECS) shall also be in conformance with the provisions of §152.063 of these Regulations, and

(13) Salvage or junk yards which comply with the provisions of §152.061.

(Ord. 850, passed 8-4-2009, § 501.04)

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

(E) **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 General Agricultural District.

(Ord. 850, passed 8-4-2009, § 501.05)

23

#### § 152.018 AG GENERAL AGRICULTURAL DISTRICT.

(A) **Intent.** This district is intended primarily for application to rural areas of the city, which are generally characterized by extensive or intensive agricultural uses of land.

(Ord. 850, passed 8-4-2009, § 501.01)

(B) **Permitted principal uses and structures.** The following shall be permitted as uses by right:

(1) Any form of agriculture including the raising of crops, horticultural uses, animal husbandry, poultry husbandry, but excluding commercial auction yards and barns and livestock confinement facilities/operations;

(2) Single-family and mobile home dwellings;

(3) Bulk grain storage, both publicly or privately owned or managed; and

(4) Irrigation and flood control projects.

(Ord. 850, passed 8-4-2009, § 501.02)

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

(C) **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;

(2) Home occupations, which comply with the provisions of §152.055

(3) One-family residences including mobile homes for farm residence or adjacent to farm residences for relatives or farm workers; and

(4) Roadside stands for the sale of agricultural produce grown on the site.

(Ord. 850, passed 8-4-2009, § 501.03)

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

(D) **Permitted special uses.** A building or premises may be used for the following purposes in the AG General Agricultural District if a special permit for the use has been obtained, in accordance with §§ 152.075 and 152.076:

(1) Airports and heliports, including crop dusting strips;

22

(F) **Special regulations.** Provision must be made for disposal of manure and other organic wastes in the manner as to avoid pollution of ground water or any lake or stream.

(Ord. 850, passed 8-4-2009, § 501.06)

#### (G) Minimum lot requirements.

(1) The minimum lot area for single-family dwellings shall be ten (10) acres; or five (5) acres from an existing farmstead as defined in §152.003 in which a residence and outbuildings, if any, is to be split off from farmland and said home was constructed prior to June 1, 2012.

(2) The minimum lot area for uses prescribed as special uses shall be five acres, subject to approval of the City Council. (Ord. 850, passed 8-4-2009, § 501.07) (Am. Ord. 875, passed 5-15-12)

#### (H) Minimum yard requirements.

(1) **Front yard.** There shall be a minimum front yard of not less than a depth of 75 feet from the center line of a federal aid-primary or federal aid-secondary designated street or highway or 35 feet from the property line, whichever is greater. On all other streets or highways there shall be a minimum front yard of not less than a depth of 60 feet from the center line of the street or highway or 25 feet from the property line, whichever is greater; and further, these yard requirements shall apply to any yard abutting a public street or highway regardless of the lot being an interior or corner lot.

(2) **Rear yard.** There shall be a minimum yard of not less than a depth of 50 feet.

(3) **Side yard.** Side yards shall not be less than 15 feet.

(4) **Distance between structures.** The minimum distance between principal structures used for human habitation shall be 90 feet.

(Ord. 850, passed 8-4-2009, § 501.08)

(I) **Maximum height.** No limitations, except as provided for in Section 152.030.

(Ord. 850, passed 8-4-2009, § 501.09)

24

**§ 152.019 AG 1 RESIDENTIAL AGRICULTURAL DISTRICT.**

(A) **Intent.** This district is intended to provide low-density acreage residential use with a gross density of one dwelling unit per a minimum of three acres, when such individual dwelling has its own water well and sanitary disposal system.

(Ord. 850, passed 8-4-2009, § 501.50.1)

(B) **Permitted principal uses and structures.** The following shall be permitted as uses by right:

- (1) Single-family dwellings;
- (2) Manufactured homes which complies with the provisions of §152.058.

(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 nondomestic animal is allowed per acre for every acre or fraction of an acre above the three acres. By way of example, no nondomestic 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 nondomestic animal shall be allowed. For a parcel consisting of at least four, but less than five acres, two nondomestic animals shall be allowed, and so on.

(Ord. 850, passed 8-4-2009, § 501.50.2)

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

(C) **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 §152.041, no accessory structure shall be closer than the required side yard of this district.

(Ord. 850, passed 8-4-2009, § 501.50.3)

(D) **Permitted special uses.** A building or premises may be used for the following purpose in the AG-1 Residential Agricultural District if a special permit for the use has been obtained in accordance with §§ 152.075 and 152.076:

(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;

(H) **Nonconforming use for Zone AG-1.** Any nonconforming use in existence at the time of the creation of this district may be continued. Existence of a structure such as a livestock confinement facility/operation, which does not contain livestock at the time of the creation of this district, still qualifies as a nonconforming use, regardless of the length of time that the facility is in a period of nonuse.

(Ord. 850, passed 8-4-2009, § 501.50.8)

(3) Electrical distribution substations, gas regulator stations, communication equipment buildings, public service pumping stations, and/or elevated pressure tanks;

(4) Home occupations, which comply with the provisions of §152.055;

(5) Alternative energy systems utilizing Biomass, Geothermal, Hydropower, Solar and/or Wind sources in conformance with "Net Metering" per Nebraska State Statutes §70-2001 to §70-2005 (August 30, 2009 as Amended). Individual or "Small Wind Energy Conversion Systems (SWECS) shall also be in conformance with the provisions of §152.063 of these Regulations; and

(6) Rural subdivisions, in which all dwellings within the subdivision utilize a shared of "community style" water well and distribution system and/or sanitary sewer lagoon and collection system in accordance with the restrictions of the Nebraska Department of Environmental Quality (NDEQ) and the Department of Health and Human Services. In which case, the minimum lot sizes may be reduced to one (1) acre in area.

(Ord. 850, passed 8-4-2009, § 501.50.4)

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

(E) **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.

(Ord. 850, passed 8-4-2009, § 501.50.5)

(F) **Height and area regulations.** The maximum height and minimum lot requirements within the AG-1 Residential Agricultural District shall be as follows:

	Lot Area (sq. ft.)	Lot Width	Required Front Yard	Required Side Yard	Required Rear Yard	Height
Dwelling, single-family	1 acre	140 feet	35 feet	15 feet	50 feet	35 feet
Other permitted	1 acre	140 feet	35 feet	15 feet	50 feet	35 feet

(Ord. 850, passed 8-4-2009, § 501.50.6)

(G) **Maximum lot coverage.** 25%.

(Ord. 850, passed 8-4-2009, § 501.50.7)

**§ 152.020 R-1 RESIDENTIAL DISTRICT.**

(A) **Intent.** This district is intended to provide residential use with a gross density of two to three dwelling units per acre. (Ord. 850, passed 8-4-2009, § 502.01)

(B) **Permitted principal uses and structures.** All residential property located within the R-1 Residential District, shall meet Design Standards in §152.063. The following shall be permitted as uses by right:

- (1) Single-family dwellings;
- (2) Manufactured homes which comply with the provisions of § 152.058; and
- (3) Group homes.

(Ord. 850, passed 8-4-2009, § 502.02)

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

(C) **Permitted accessory uses and structures.** The following accessory uses and structures shall be permitted:

(1) Accessory uses and structures normally appurtenant to the permitted principal uses and structures and to permitted special uses and structures permitted as exceptions, when in accordance with the provisions of §152.041;

(Ord. 850, passed 8-4-2009, § 502.03)

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

(D) **Permitted special uses.** A building or premises may be used for the following purposes in the R-1 Residential District if a special permit for the use has been obtained in accordance with § 152.075 and §152.076:

(1) Public and quasi-public uses of an educational, 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) Electrical distribution substations, gas regulator stations, communication equipment buildings, public service pumping stations, and/or elevated pressure tanks;

(4) Inconspicuous home occupation, which comply with the provisions of §152.055; and

(5) Bed and breakfast guest houses.

(6) Alternative energy systems utilizing Biomass, Geothermal, Hydropower, Solar

and/or Wind sources in conformance with "Net Metering" per Nebraska State Statutes §70-2001 to §70-2005 (August 30, 2009 as Amended). Individual or "Small Wind Energy Conversion Systems (SWECS) shall also be in conformance with the provisions of §152.063 of these Regulations.

(Ord. 850, passed 8-4-2009, § 502.04)  
(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**(E) 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 R-1 Residential District.

(Ord. 850, passed 8-4-2009, § 502.05)

**(F) Height and area regulations.** The maximum height and minimum lot requirements within the R-1 Residential District shall be as follows:

	Lot Area (sq. ft.)	Lot Width	Required Front Yard	Required Side Yard	Required Rear Yard	Height
Dwelling, single-family	12,000 feet*	85 feet	25 feet	10 feet	Smaller of 30 feet or 20% of depth	35 feet
Other permitted uses	12,000 feet	85 feet	25 feet	10 feet	Smaller of 30 feet or 20% of depth	35 feet

Notes to above Table:

\* Single Family Dwellings and vacant platted lots in existence within the R-1 Residential District as of January 20, 2014 are exempt from the minimum lot area and width requirements. As long as the yard setbacks and height requirements are met, the dwellings may continue as permitted principle structures and not be classified as structures on non-conforming lots of record. Dwellings planned to be constructed on lots platted after January 20, 2014 shall meet all requirements of the above table.

(Ord. 850, passed 8-4-2009, § 502.06)  
(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**(G) Maximum lot coverage.** 35%.

(Ord. 850, passed 8-4-2009, § 502.07)

**(H) Design Standards.** All residential property located within the R-1 Residential District, shall meet Design Standards in §152.063.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

- (6) Home occupations, which comply with the provisions of §152.055;
- (7) Child care center;
- (8) Bed and breakfast guest houses; and
- (9) Mortuaries.
- (10) Alternative energy systems utilizing Biomass, Geothermal, Hydropower, Solar and/or Wind sources in conformance with "Net Metering" per Nebraska State Statutes §70-2001 to §70-2005 (August 30, 2009 as Amended). Individual or "Small Wind Energy Conversion Systems (SWECS) shall also be in conformance with the provisions of §152.063 of these Regulations.

(Ord. 850, passed 8-4-2009, § 503.04)  
(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**(E) 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 R-2 Residential District.

(Ord. 850, passed 8-4-2009, § 503.05)

**(F) Height and area regulations.** The maximum height and minimum lot requirements within the R-2 Residential District shall be as follows:

	Lot Area (sq. ft.)	Lot Width	Required Front Yard	Required Side Yard	Required Rear Yard	Height
Dwelling, single-family	7,500	50 feet	25 feet	10 feet	Smaller of 30 feet or 20% of depth	35 feet
Dwelling, two-family/ duplex	5,250 per family	35 feet per family	25 feet	10 feet	Smaller of 30 feet or 20% of depth	35 feet
Dwelling, multi-family	2,625 per family	70 feet	25 feet	10 feet	Smaller of 30 feet or 20% of depth <sup>(1)</sup>	45 feet
Other permitted uses	7,500	50 feet	25 feet	10 feet	Smaller of 30 feet or 20% of depth (1)	35 feet

(1) Buildings and structures exceeding one story shall provide an additional 5-foot setback for every 10 feet of building height above the first story

(Ord. 850, passed 8-4-2009, § 503.06)

**(G) Maximum lot coverage.** 35%. (Ord. 850, passed 8-4-2009, § 503.07)

**(H) All residential property located within the R-2 Residential District, shall meet Design Standards in §152.063.**

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**§ 152.021 R-2 RESIDENTIAL DISTRICT.**

**(A) Intent.** This district is intended to provide residential uses with a gross density of three to five dwelling units per acre.

(Ord. 850, passed 8-4-2009, § 503.01)

**(B) Permitted principal uses and structures.** All residential property located within the R-2 Residential District, shall meet Design Standards in §152.063. The following shall be permitted as uses by right:

- (1) Single-family dwellings;
- (2) Two-family, duplex dwellings;
- (3) Multi-family dwellings and/or townhouses;
- (4) Manufactured homes which comply with the provisions of § 152.058; and
- (5) Group homes.

(Ord. 850, passed 8-4-2009, § 503.02)  
(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**(C) Permitted accessory uses and structures.** The following accessory uses and structures shall be permitted:

(1) Accessory uses and structures normally appurtenant to the permitted principal uses and structures and to permitted special uses and structures permitted as exceptions, when in accordance with the provisions of §152.041;

(Ord. 850, passed 8-4-2009, § 503.03)  
(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**(D) Permitted special uses.** A building or premises may be used for the following purposes in the R-2 Residential District if a special permit for the use has been obtained in accordance with §§ 152.075 and 152.076:

- (1) Public and quasi-public uses of an educational, recreational, or religious type including public and parochial elementary schools, junior high schools, high schools and colleges; nursery schools, private nonprofit schools, churches, parsonages, and other religious institutions;
- (2) Public and private charitable institutions;
- (3) 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;
- (4) Electrical distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and/or elevated pressure tanks;

**§ 152.022 R-3 RESIDENTIAL DISTRICT.**

**(A) Intent.** This district is intended to provide mixed residential uses with a gross density of five dwelling units or more per acre.

(Ord. 850, passed 8-4-2009, § 504.01)

**(B) Permitted principal uses and structures.** All residential property located within the R-3 Residential District, shall meet Design Standards in §152.063. The following shall be permitted as uses by right:

- (1) Single-family dwellings;
- (2) Two-family, duplex dwellings;
- (3) Multi-family dwellings and/or townhouses;
- (4) Mobile homes which comply with the standards listed in §152.023 R-4 Residential District item (G);
- (5) Manufactured homes which comply with the provisions of § 152.058; and
- (6) Group homes.

(Ord. 850, passed 8-4-2009, § 504.02)  
(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**(C) Permitted accessory uses and structures.** The following accessory uses and structures shall be permitted:

(1) Accessory uses and structures normally appurtenant to the permitted principal uses and structures and to permitted special uses and structures permitted as exceptions, when in accordance with the provisions of §152.041;

(Ord. 850, passed 8-4-2009, § 503.03)  
(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**(D) Permitted special uses.** A building or premises may be used for the following purposes in the R-3 Residential District if a special permit for the use has been obtained in accordance with §§ 152.075 and 152.076:

- (1) Public and quasi-public uses of an educational, recreational, or religious type, including public and parochial elementary schools, junior high schools, high schools and colleges; nursery schools, private nonprofit schools, churches, parsonages, and other religious institutions;
- (2) Public and private charitable institutions;

(3) 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;

(4) Electrical distribution substations, gas regulator stations, equipment buildings, public service pumping stations, and/or elevated communications pressure tanks;

(5) Home occupations, which comply with the provisions of §152.055;

(6) Child care center;

(7) Mortuaries;

(8) Private garage or nonresidential building and other local commercial establishments providing services and supplies to the community and local trade area; and

(9) Alternative energy systems utilizing Biomass, Geothermal, Hydropower, Solar and/or Wind sources in conformance with "Net Metering" per Nebraska State Statutes §70-2001 to §70-2005 (August 30, 2009 as Amended). Individual or "Small Wind Energy Conversion Systems (SWECS) shall also be in conformance with the provisions of §152.063 of these Regulations.

(Ord. 850, passed 8-4-2009, § 504.04)

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**(E) 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 R-3 Residential District.

(Ord. 850, passed 8-4-2009, § 504.05)

**§ 152.023 R-4 RESIDENTIAL DISTRICT.**

**(A) Intent.** This district is intended to provide residential use for mobile homes and mobile home parks. (Ord. 850, passed 8-4-2009, § 505.01)

**(B) Permitted principal uses and structures.** All residential property, with the exception of mobile homes, located within the R-4 Residential District, shall meet Design Standards in §152.063. The following shall be permitted as uses by right:

(1) Single-family dwellings;

(2) Two-family duplex dwellings;

(3) Multi-family dwellings and/or townhouses;

(4) Mobile homes, which comply with the provisions of item (G) of this Zoning District;

(5) Mobile home parks, which comply with the provisions of item (F) of this Zoning District;

(6) Manufactured homes which comply with the provision of § 152.058; and

(7) Group homes.

(Ord. 850, passed 8-4-2009, § 505.02)

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**(C) Permitted accessory uses and structures.** The following accessory uses and structures shall be permitted:

(1) Accessory uses and structures normally appurtenant to the permitted principal uses and structures and to permitted special uses and structures permitted as exceptions, when in accordance with the provisions of §152.041;

(Ord. 850, passed 8-4-2009, § 503.03)

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**(D) Permitted special uses.** A building or premises may be used for the following purposes in the R-4 Residential District if a special permit for the use has been obtained in accordance with §§ 152.075 and 152.076:

(1) Public and quasi-public uses of an educational, recreational or religious type, including public and parochial elementary schools, junior high schools, high schools and colleges; nursery schools, private nonprofit schools, churches, parsonages, and other religious institutions;

(2) Public and private charitable institutions;

**(F) Height and area regulations.** The maximum height and minimum lot requirements within the R-3 Residential District shall be as follows:

	Lot Area (sq. ft.)	Lot Width	Required Front Yard	Required Side Yard	Required Rear Yard	Height
Dwelling, single-Family	6,000	50 feet	20 feet	5 feet	Smaller of 30 feet or 20% of depth	35 feet
Dwelling, two-family/ duplex	3,750 per Family	60 feet	20 feet	5 feet	Smaller of 30 feet or 20% of depth	35 feet
Dwelling, multi-Family	1,500 per Unit	60 feet	20 feet	10 feet	Smaller of 30 feet or 20% of depth	45 feet
Manufactured homes/mobile homes	6,000	50 feet	20 feet	5 feet	Smaller of 30 feet or 20% of depth	35 feet

(Ord. 850, passed 8-4-2009, § 504.06)

**(I) Maximum lot coverage.** 35%.

(Ord. 850, passed 8-4-2009, § 504.07)

**(J) Design Standards.** All residential property located within the R-3 Residential District, shall meet Design Standards in §152.063.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

(3) 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;

(4) Electrical distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and/or elevated pressure tanks;

(5) Home occupation, which comply with the provisions of §152.076 item (E);

(6) Child care center; and/or

(7) Private garage or nonresidential building and other local commercial establishments providing services and supplies to the community and local trade area.

(8) Alternative energy systems utilizing Biomass, Geothermal, Hydropower, Solar and/or Wind sources in conformance with "Net Metering" per Nebraska State Statutes §70-2001 to §70-2005 (August 30, 2009 as Amended). Individual or "Small Wind Energy Conversion Systems (SWECS) shall also be in conformance with the provisions of §152.063 of these Regulations.

(Ord. 850, passed 8-4-2009, § 505.04)

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**(E) 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 R-4 Residential District.

(Ord. 850, passed 8-4-2009, § 505.05)

**(F) Mobile home parks.** A mobile home park may be established in this district, provided that the proposed mobile home park meets all of the following requirements:

(1) Certification of compliance with all chapters and regulations regarding mobile home park licensing, zoning, health, plumbing, electrical, building, fire prevention, and all other applicable chapters and regulations;

(2) Individual mobile home lots shall have an area of not less than 5,000 square feet for single-wide mobile homes, and 6,000 square feet for double-wide mobile homes. Each mobile home lot shall have a minimum width of 40 feet;

(3) Planting of trees and shrubs is required to the extent needed to provide for:

(a) Screening;

(b) Adequate shade; and

(c) A suitable setting for the mobile homes in the park as well as neighboring uses.

(4) A minimum of 25 feet measured from any entrance, lean-to, or other extension from the mobile home shall be maintained between mobile homes;

(5) A mobile home park shall have an area of not less than one acre, nor more than five acres, and no mobile home parking or office or service building shall be closer to a street right-of-way or other property line than 25 feet;

(6) A request for an exception shall set forth the location and legal description of the proposed mobile home park property, and a sketch of the proposed mobile home park, showing dimensions, driveways, proposed locations of mobile homes, the location of sanitary conveniences and other buildings and improvements;

(7) All mobile homes shall meet the standards specified in division (G) below, except for division (G)(1);

(8) Blocks for mobile homes in mobile home parks must be located along the full length of the frame, spaced no more than ten feet apart, and not more than five feet from the ends of the home. Blocks shall consist of a heavy concrete footer block (16 inches by 16 inches by four inches minimum), at least two standard concrete blocks, with cells aligned vertically and a concrete cap;

(9) Individually owned lots on which mobile homes are placed may be purchased within an approved mobile home park if the owner wishes to sell; and

(10) Recreational vehicles, campers, travel trailers may be located on a temporary basis not to exceed one year. The vehicles shall be exempt from skirting and tie down requirements.

(Ord. 850, passed 8-4-2009, § 505.06)

**(G) Mobile homes.**

(1) All mobile homes located on individually owned private lots in R-3 or R-4 shall be replaced on a permanent foundation of concrete block or poured reinforced concrete or other comparable foundation. The height of the mobile home floor shall be no more than three feet above grade level. The tongue of the mobile home shall be removed. The area of the mobile home shall be improved to provide an adequate and approved foundation for the placement and tie-down of the mobile home, thereby securing the superstructure and the foundation against uplift, frost upheaval, sliding, rotation, or overturning. All of the above requirements must be met or in place before occupancy.

(2) Skirting of all mobile homes located within a mobile home park is required. The skirting shall not attach a mobile home permanently to the ground, but shall be sufficient to withstand wind load requirements and shall not provide a harborage for debris or rodents, nor create a fire hazard. The skirting shall be provided with removable access panels sufficient to provide easy access to all utility connection points of the mobile home and its subsequent connection to the utility risers if they are located within the skirted area.

37

**§ 152.024 C-1 CENTRAL BUSINESS DISTRICT.**

**(A) Intent.** The intent of the C-1 Central Business District is to provide a commercial area for those establishments serving the general shopping needs of the trade area and in particular, those establishments customarily oriented to the pedestrian shopper. The grouping of uses is intended to strengthen the central business area as the center of trade, service, governmental, and cultural activities.

(Ord. 850, passed 8-4-2009, § 506.01)

**(B) Permitted principal uses and structures.** All commercial property located within the C-1 Central Business District, shall meet Commercial Design Standards in §152.064. The following shall be permitted as uses by right:

- (1) Business and professional offices;
- (2) Retail stores and service establishments which supply commodities or provide services primarily to meet the needs of residents of the trade area conducted entirely within an enclosed building; and
- (3) Dwelling units above the first story of a building.

(Ord. 850, passed 8-4-2009, § 506.02)  
(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**(C) Permitted accessory uses and structures.** The following accessory uses and structures shall be permitted:

(1) Accessory uses and structures normally appurtenant to the permitted principal uses and structures and to permitted special uses and structures permitted as exceptions, when in accordance with the provisions of §152.041;

(Ord. 850, passed 8-4-2009, § 503.03)  
(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**(D) Permitted special uses.** A building or premise may be used for the following purposes in the C-1 Central Business District if a special permit for the use has been obtained in accordance with §§ 152.075 and 152.076:

- (1) Single-family dwellings;
- (2) Two-family duplex;
- (3) Multi-family complex;
- (4) Wholesale; and
- (5) Car/truck wash.

39

(3) For either a permanent foundation or skirting, the mobile home shall be provided with anchors and tie-downs, such as cast-in-place concrete "dead men," eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors, or other devices securing the stability of the mobile home. The tie-downs devices shall be compatible with the foundation system provided for the mobile home such that the tie-down are designed to resist the action of frost in the same manner as the foundation system.

(4) A minimum of four anchors and tie-downs shall be placed on each full length of the frame or comply with manufacturer's recommendation, and shall be able to resist and design wind pressures. Wheels shall not be for bearing pressures.

(Ord. 850, passed 8-4-2009, § 505.07)

**(H) Height and area regulations.** The maximum height and minimum lot requirements within the R-4 Residential District for single-family dwellings, two-family duplex dwellings, multi-family dwellings and/or townhouses, manufactured homes, and mobile homes located outside mobile home parks shall conform to the provisions of § 152.022(F).

**(I) Design Standards.** All residential property, with the exception of mobile homes, located within the R-4 Residential District, shall meet Design Standards in §152.063.

(Ord. 850, passed 8-4-2009, § 505.08)

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

38

(6) Alternative energy systems utilizing Biomass, Geothermal, Hydropower, Solar and/or Wind sources in conformance with "Net Metering" per Nebraska State Statutes §70-2001 to §70-2005 (August 30, 2009 as Amended). Individual or "Small Wind Energy Conversion Systems (SWECS) shall also be in conformance with the provisions of §152.063 of these Regulations.

(Ord. 850, passed 8-4-2009, § 506.04)  
(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**(E) 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 C-1 Business District.

(1) There shall be no manufacturing, compounding, processing, or treatment of products other than that which is clearly incidental and essential to a retail store or business, and where all products are customarily sold at retail on premises; and

(2) The uses, operations, or products are not objectionable due to odor, dust, smoke, noise, vibration, or other similar causes.

(Ord. 850, passed 8-4-2009, § 506.05)

**(F) Height and area regulations.** The maximum height and lot requirements within the C-1 Central Business District shall be as follows:

(1) *Minimum lot area.* No limitations.

(2) *Minimum yard requirements.*

(a) *Front yard.* No limitations.

(b) *Rear and side yards.* No limitations, unless a commercial structure is located adjacent a residential lot. In these instances, there shall be a minimum rear and side yard requirement of ten feet.

(3) *Maximum height.* Forty-five feet. (Ord. 850, passed 8-4-2009, § 506.06)

**(G) Use limitations and utility requirements.**

(1) All business, service, repair, processing, storage or merchandise display on property abutting or facing a lot within a residential district shall be conducted wholly within an enclosed building, unless screened from the residential district by a sight-obscuring barrier permanently maintained at least six feet in height.

(2) All businesses located within this district shall utilize municipal water, sewer, and power facilities and at the owners expense.

(Ord. 850, passed 8-4-2009, § 506.07)

**(H) Design Standards.** All commercial property located within the C-1 Central Business District, shall meet Commercial Design Standards in §152.064

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

40



§ 152.025 C-2 HIGHWAY COMMERCIAL DISTRICT.

(A) *Intent.* The C-2 Highway Commercial District is intended primarily for application to areas along major highway entrances to the community in accord with policies of the comprehensive plan where access to the highway is afforded for the convenience of patrons traveling the highway.

(Ord. 850, passed 8-4-2009, § 507.01)

(B) *Permitted principal uses and structures.* All commercial property located within the C-2 Highway Commercial District, shall meet Design Standards in §152.064. The following shall be permitted as uses by right:

- (1) Establishments which provide services or supply commodities primarily for the convenience of patrons traveling on highways and roads; and
- (2) Other local commercial establishments providing services and supplies to the community and local trade area. (Ord. 850, passed 8-4-2009, §507.02)

(Ord. \_\_, passed \_\_\_\_ 2014, § \_\_\_\_\_)

(C) *Permitted accessory uses and structures.* The following accessory uses and structures shall be permitted:

- (1) Accessory uses and structures normally appurtenant to the permitted principal uses and structures and to permitted special uses and structures permitted as exceptions, when in accordance with the provisions of §152.041;

(Ord. 850, passed 8-4-2009, § 503.03)  
(Ord. \_\_, passed \_\_\_\_ 2014, § \_\_\_\_\_)

(D) *Permitted special uses.* A building or premises may be used for the following purposes in the C-2 Commercial District if a special permit for the use has been obtained in accordance with §§ 152.075 and 152.076:

- (1) Churches and other religious institutions;
- (2) Private clubs and lodges;
- (3) Public buildings and grounds;
- (4) Hospital, nursing home, and other medical facilities; and/or
- (5) Public and private charitable institutions.

(6) Alternative energy systems utilizing Biomass, Geothermal, Hydropower, Solar and/or Wind sources in conformance with "Net Metering" per Nebraska State Statutes §70-2001 to §70-2005 (August 30, 2009 as Amended). Individual or "Small Wind Energy Conversion Systems (SWECS) shall also be in conformance with the provisions of §152.063 of these Regulations.

(Ord. 850, passed 8-4-2009, § 507.04)  
(Ord. \_\_, passed \_\_\_\_ 2014, § \_\_\_\_\_)

(E) *Conditions for special uses.* Notwithstanding the requirements of §§ 152.075 and 152.076, the following regulations shall apply as minimum requirements for granting special use permits in the C-2 Highway Commercial District:

- (1) Where a site adjoins or is located across an alley from a residential district, a solid wall or fence or compact evergreen hedge six feet in height shall be located on the property line common to the districts, except in a required front yard;
- (2) Open storage of materials attendant to a permitted use or special permit use shall be permitted only within an area surrounded or screened by a solid wall or fence; and
- (3) No use shall be permitted, and no process, equipment, or materials shall be used, which are found by the Council to be objectionable to persons living or working in the vicinity by reasons of odor, fumes, dust, smoke, cinders, dirt, refuse, noise, vibrations, illumination, glare, or unsightliness, or to involve any hazard of fire or explosion.

(Ord. 850, passed 8-4-2009, § 507.05)

(F) *Height and area regulations.*

- (1) *Minimum lot requirements.* The minimum lot area shall be 8,000 square feet.
- (2) *Minimum yard requirements.*
  - (a) *Front yard.* There shall be a minimum front yard of not less than a depth of 20 feet from the property line.
  - (b) *Rear yard.* No limitations, unless abutting a residential district; then, the minimum rear yard shall be ten feet.
  - (c) *Side yard.* No limitations, unless abutting a residential district, then the minimum side yard shall be ten feet.
- (3) *Maximum lot coverage.* No limitations.

(4) *Maximum height.* No structure shall exceed 45 feet.  
(Ord. 850, passed 8-4-2009, § 507.06)

(G) *Design Standards.* All commercial property located within the C-2 Highway Commercial District, shall meet Design Standards in §152.064.  
(Ord. \_\_, passed \_\_\_\_ 2014, § \_\_\_\_\_)

§ 152.026 I-1 LIGHT INDUSTRIAL/STORAGE/WAREHOUSE DISTRICT.

(A) *Intent.* The intent of this district is to provide space for certain commercial and a limited range of industrial uses and structures which are able to meet certain performance standards to protect nearby noncommercial and nonindustrial uses from undesirable environmental conditions. Residential and other similar uses are prohibited from this district in order to limit environmental effects associated with certain commercial and industrial uses, irrespective of their meeting performance standards.

(Ord. 850, passed 8-4-2009, § 508.01)

(B) *Permitted principal uses and other structures.* The following shall be permitted as uses by right:

- (1) Wholesale, storage, and warehouse uses;
- (2) Agricultural uses, except livestock confinement facilities/operations;
- (3) Automobile service stations; and
- (4) Any industrial use which can meet the performance standards for this district set forth in § 152.049, provided the use is not specifically prohibited.

(Ord. 850, passed 8-4-2009, § 508.02)

(C) *Permitted accessory uses and structures.* The following accessory uses and structures shall be permitted:

- (1) Accessory uses and structures normally appurtenant to the permitted principal uses and structures and to permitted special uses and structures permitted as exceptions, when in accordance with the provisions of §152.041;  
(Ord. \_\_, passed \_\_\_\_ 2014, § \_\_\_\_\_)
- (2) Offices, retail stores, and watchperson's living quarters incidental to and on the same site with an industrial use. (Ord. 850, passed 8-4-2009, § 508.03)

(D) *Permitted special uses.* A building or premises may be used for the following purposes in the I-1 Light Industrial/ Storage/Warehouse District if a special permit for the use has been obtained in accordance with §§ 152.075 and 152.076:

- (1) Commercial/retail outlets;
- (2) Office buildings;
- (3) Public buildings and grounds utilized for maintenance facilities, shops and storage of materials;
- (4) Electrical distribution substations, gas regulator stations, communications equipment buildings, utility facilities, and grounds;

- (5) Recycling Center;
- (6) Sanitary Transfer Station; and

(7) Alternative energy systems utilizing Biomass, Geothermal, Hydropower, Solar and/or Wind sources in conformance with "Net Metering" per Nebraska State Statutes §70-2001 to §70-2005 (August 30, 2009 as Amended). Individual or "Small Wind Energy Conversion Systems (SWECS) shall also be in conformance with the provisions of §152.063 of these Regulations.

(Ord. 850, passed 8-4-2009, § 508.04)  
(Ord. \_\_, passed \_\_\_\_ 2014, § \_\_\_\_\_)

(E) *Conditions for approving industrial uses listed in the permitted principle uses and other structures; and permitted special uses.* Notwithstanding the requirements of §§ 152.075 and 152.076, the following regulations shall apply as minimum requirements for granting special permits in the I-1 Light Industrial District:

- (1) All uses shall meet or exceed the performance standards set forth in § 152.049;
- (2) A use not conducted entirely within a completely enclosed structure, on a site across a street or alley from a residential district, shall be screened by a solid wall or fence or compact evergreen hedge;
- (3) Where a site adjoins a residential district, a solid wall, fence, or compact evergreen hedge shall be located on the property line;
- (4) Storage of liquid petroleum products or chemicals of a flammable or noxious nature in excess of 25,000 gallons shall not be located closer than 50 feet from any structure intended for human habitation, or closer than 200 feet from any residential district; and
- (5) All open and un-landscaped portions of any lot shall be maintained in good condition free from weeds, dust, trash, and debris.

(Ord. 850, passed 8-4-2009, § 508.05)

(F) *Prohibited uses and structures.* All residential dwellings of any kind, and all other uses and structures which are not specifically permitted, or cannot meet the performance standards for industry set forth in § 152.049, shall be prohibited.

(Ord. 850, passed 8-4-2009, § 508.06)

(G) *Minimum lot requirements.* The minimum lot area shall be 10,000 square feet.

(Ord. 850, passed 8-4-2009, § 508.07)

(H) *Minimum yard requirements.*

(1) *Front yard.* There shall be a minimum front yard of not less than a depth of 20 feet from the property line.

(2) *Rear yard.* No limitations.

(3) *Side yard.* No limitations. (Ord. 850, passed 8-4-2009, § 508.08)

(I) **Maximum height.** No structure shall exceed 75 feet. (Ord. 850, passed 8-4-2009, § 508.09)

45

(7) Alternative energy systems utilizing Biomass, Geothermal, Hydropower, Solar and/or Wind sources in conformance with "Net Metering" per Nebraska State Statutes §70-2001 to §70-2005 (August 30, 2009 as Amended). Individual or "Small Wind Energy Conversion Systems (SWECS) shall also be in conformance with the provisions of §152.063 of these Regulations.

(Ord. 882, passed 3-5-2013)

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

(D) **Minimum lot requirements.** No limitations. (Ord. 850, passed 8-4-2009, §509.04)

(F) **Minimum yard and height requirements.**

(1) *Front yard.* There shall be a minimum front yard of not less than a depth of 20 feet from the property line.

(2) *Rear yard.* No limitations.

(3) *Side yard.* No limitations.

(4) *Maximum height.* No limitations. (Ord. 850, passed 8-4-2009, § 509.05)

(G) **Prohibited uses and structures.** All residential dwellings of any kind shall be prohibited in the I-2 Industrial District.

(H) (Ord. 850, passed 8-4-2009, § 509.06)

47

#### § 152.027 I-2 INDUSTRIAL DISTRICT.

(A) **Intent.** The intent of this district is to provide space for certain commercial and a wide range of industrial uses. Residential and other similar uses are prohibited from this district in order to limit environmental effects associated with certain commercial and industrial uses.

(Ord. 850, passed 8-4-2009, § 509.01)

(B) **Permitted principal uses and structures.** The following shall be permitted as uses by right:

(1) Wholesale, storage, and warehouse uses;

(2) Agricultural uses, excluding livestock confinement facilities/operations; and

(3) Industrial and manufacturing uses which comply with appropriate state and federal regulations. (Ord. 850, passed 8-4-2009, § 509.02)

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

(C) **Permitted accessory uses and structures.** The following accessory uses and structures shall be permitted:

(1) Accessory uses and structures normally appurtenant to the permitted principal uses and structures and to permitted special uses and structures permitted as exceptions, when in accordance with the provisions of §152.041;

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

(2) Offices, retail stores, and watchperson's living quarters incidental to and on the same site with an industrial use. (Ord. 850, passed 8-4-2009, § 509.03)

(D) **Permitted special uses.** A building or premises may be used for the following purposes in the I-2 Industrial District if a special permit for the use has been obtained in accordance with §§ 152.075 and 152.076:

(1) A sexually oriented business as defined in § 132.04 of this Code may be granted as a special permitted use if granted pursuant to §§ 152.075 or 152.076.

(2) Recycling Center.

(3) Sanitary Landfill, in conformance with the provisions of §152.062.

(4) Sanitary Transfer Station.

(5) Salvage or Junk Yard, in conformance with the provisions of §152.061.

(6) Commercial Kennels.

46

#### § 152.028 GB GREENBELT/CONSERVATION DISTRICT.

(A) **Intent.** The intent and purpose of this district is to provide for the retaining of natural growth of a particular area, to preserve the natural environment and resources from destructive land uses, to preserve certain locations which have a historical value, to protect natural spawning grounds, feeding grounds, and wildlife habitats, and to protect natural watercourses, drainage basins, and sloughs which are necessary to safeguard the health, safety, and welfare of the people.

(Ord. 850, passed 8-4-2009, § 510.01)

(B) **Permitted principal uses and structures.** The following shall be permitted as uses by right:

(1) Forests and production of woodland products, including portable sawmills for cutting timber grown on the premises;

(2) Public and private parks, recreational areas, hunting and fishing preserves, board docks, piers, landings, and campsites;

(3) Utility lines within rights-of-way and within ten feet of public road right-of-way; and

(4) Pasture and range land. (Ord. 850, passed 8-4-2009, § 510.02)

(C) **Permitted accessory uses and structures.** The following accessory uses and structures shall be permitted: accessory uses and structures normally appurtenant to the permitted uses and structures and to uses and structures permitted as exceptions.

(Ord. 850, passed 8-4-2009, § 510.03)

(D) **Permitted special uses.** A building or premise may be used for the following purposes in the Greenbelt/ Conservation District if a special permit for the use has been obtained in accordance with §§ 152.075 and 152.076:

(1) Campgrounds and recreational vehicle camps;

(2) Golf courses, country clubs, and appurtenant pro shops, restaurants, and liquor sales subject to local chapter;

(3) Utility substations;

(4) Signs subject to § 152.056;

(5) Flood control channels; water pumping stations and reservoirs; irrigation ditches and canal right-of-way; settling and water conservation recharging basins; parkways; and

(6) Single-family and mobile home dwellings. (Ord. 850, passed 8-4-2009, § 510.04)

48

(E) **Conditions for special permits.** Notwithstanding the requirements of §§ 152.075 and 152.076, the following regulations shall apply as minimum requirements for granting special permits in the Greenbelt/Conservation District:

(1) No land or water area shall be filled, dredged, or drained, nor shall any natural stream or floodway be encroached upon without prior submission of a report to the Zoning Board of Adjustment and to the appropriate Natural Resource District or Districts which specifies in detail the impact of the proposal on the natural environment;

(2) No woodlands shall be cleared for cultivation, or other purposes; provided, that this provision shall not prohibit the harvesting of woodland products on a sustained-yield basis; and

(3) Provided, however, that exceptions to the foregoing conditions may be authorized by the Board of Zoning Adjustment for navigation channels, drainage channels, roads, clearings, or other improvements necessary for the protection of existing uses or the proper development of adjacent properties, provided that the works or improvements shall be so limited that they will not tend to destroy or materially change the natural conditions of rivers, woodlands, swamp, marsh, shallows, or other wetlands.

(Ord. 850, passed 8-4-2009, § 510.05)

(F) **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 Greenbelt/Conservation District.

(Ord. 850, passed 8-4-2009, § 510.06)

(G) **Minimum lot requirements.** The minimum lot area for single-family and mobile home dwellings shall be 30 acres. (Ord. 850, passed 8-4-2009, § 510.07)

(H) **Minimum yard requirements.**

(1) **Front yard.** There shall be a minimum front yard of not less than a depth of 75 feet from the center line of a federal aid-primary or federal aid-secondary designated street or highway or 35 feet from the property line, whichever is greater. On all other streets or highways, there shall be a minimum front yard of not less than a depth of 60 feet from the center line of the street or highway, or 25 feet from the property line, whichever is greater; and further, these yard requirements shall apply to any yard abutting a public street or highway regardless of the lot being an interior or corner lot;

(2) **Rear yard.** There shall be a minimum yard of not less than a depth of 50 feet;

(3) **Side yard.** Side yards shall not be less than 15 feet; and

(4) **Distance between structures.** The minimum distance between principal structures used for human habitation shall be 90 feet.

49

#### § 152.029 P PUBLIC USE DISTRICT.

(A) **Intent.** The intent and purpose of this district is to provide for essentially mapping purposes which will identify real property of one-half acre or more presently owned and used by any governmental entity, including local, state, or federal governmental units, and put to some form of public use. This district is not intended to be applied to land that is used by governmental entities on an easement or leased basis if title to the land is in private ownership.

(Ord. 850, passed 8-4-2009, § 511.01)

(B) **Permitted principal uses and structures.** A building or premises owned by any governmental entity, including local, county, state, federal governmental units and their subdivisions, and in some form of public use, shall be permitted to be located in the P Public Use District. The provisions of this section shall not apply to land in private ownership, even if leased to or the subject of an easement to a governmental entity, or to describe the future location of public uses.

(Ord. 850, passed 8-4-2009, § 511.02)

(C) **Area regulations.** The P Public Use District shall have a minimum district size of one-half acre.

(Ord. 850, passed 8-4-2009, § 511.03)

51

(Ord. 850, passed 8-4-2009, § 510.08)

(I) **Maximum lot coverage. No limitations.**

(Ord. 850, passed 8-4-2009, § 510.09)

(J) **Maximum height. No limitations.** (Ord. 850, passed 8-4-2009, § 510.10)

(K) **Sign regulations.** All signs shall be in conformance with the regulations provided herein and with the provisions of § 152.056.

(Ord. 850, passed 8-4-2009, § 510.11)

50

#### § 152.030 AHA AIRPORT HAZARD AREA OVERLAY DISTRICT.

(A) **INTENT.** The intent of this district is to protect the safe use of public airports and their airport hazard area, within the City of Gothenburg, Nebraska and its extraterritorial jurisdiction, by limiting the location and height of structures within the operation, approach, transition and turning zones around airports which are registered with the Nebraska Department of Aeronautics, as designated on the Official Zoning Map of Gothenburg, Nebraska.

(1) Designated public airport. The designated public airport for which these regulations have been prepared is the Gothenburg Regional Airport located in Sections 14 and 15 Township 11 Range 25, Dawson County, Nebraska.

(2) Airport hazard area description. In accordance with Neb. RS 3-303, every political subdivision that has adopted a Comprehensive Plan and Zoning Regulations, and has an airport hazard area within the area of its zoning jurisdiction, must adopt, administer, and enforce the regulations in this section for such airport hazard area.

(B) **DEFINITIONS.** For purposes of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**AIRPORT.** Any area of land or water designed and set aside that is used or intended to be used for the landing and takeoff of aircraft and utilized or to be utilized in the interest of the public for such purposes; includes any related buildings and facilities. AIRPORT includes only public-use airports with state or federally approved airport layout plans and military airports with military service-approved military layout plans.

**AIRPORT HAZARD.** Any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft; that penetrates any approach, operation, transition, or turning zone.

**AIRPORT HAZARD AREA.** Any area of land or water upon which an airport hazard might be established if not prevented as provided in the act, but such area shall not extend in any direction a distance in excess of 3 miles from the adjacent boundary of an airport; the limits provided for approach, operation, transition, and turning zones.

**AIRPORT LAYOUT PLAN.** A scaled drawing of existing and proposed land, buildings, and facilities necessary for the operation and development of an airport prepared in accordance with state rules and regulations and federal regulations and guidelines.

**APPROACH ZONE.** A zone that extends from the end of each operation zone and is centered along the extended runway centerlines.

52

**ELECTRIC FACILITY.** An overhead electrical line, including poles or other supporting structures, owned or operated by an electric supplier as defined in Neb. RS 70-1001.01, for the transmission or distribution of electrical power to the electric supplier's customers.

**EXISTING RUNWAY.** An instrument runway or a visual runway that is paved or made of turf that has been constructed or is under construction.

**INSTRUMENT RUNWAY.** An existing runway with precision or non-precision instrument approaches as developed and published by the Federal Aviation Administration or an existing or proposed runway with future precision or non-precision instrument approaches reflected on the airport layout plan. After the effective date of this act, an airport shall not designate an existing or proposed runway as an instrument runway if the runway was not previously designated as such without the approval of the airport's governing body after a public hearing on such designation.

**OPERATION ZONE.** A zone that is longitudinally centered on each existing or proposed runway.

**PERSON.** Any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock association, or body politic and includes any trustee, receiver, assignee, or other similar representative thereof.

**POLITICAL SUBDIVISION.** Any municipality, city, village, or county.

**PROPOSED RUNWAY.** An instrument runway or a visual runway that has not been constructed and is not under construction but that is depicted on the airport layout plan that has been conditionally or unconditionally approved by, or has been submitted for approval to, the Federal Aviation Administration.

**RUNWAY.** A defined area at an airport that is prepared for the landing and takeoff of aircraft along its length.

**STRUCTURE.** Any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission or distribution lines.

**TRANSITION ZONE.** A zone that extends outward at a right angle to the runway centerline and upward at a rate of 1 foot vertically for every 7 feet horizontally. The height limit of a transition zone begins at the height limit of the adjacent approach zone or operation zone and ends at a height of 150 feet above the highest elevation on the existing or proposed runway.

**TREE.** Any object of natural growth.

53

(2) Operation zones are longitudinally centered on each existing or proposed runway:

(a) Length:

(1) For existing and proposed paved runways, the operation zones begin and end 200 feet beyond the end of each runway.

(2) For existing and proposed turf runways, the operation zones begin and end at the runway ends.

(3) For existing and proposed instrument runways, the operation zone is 1,000 feet wide, with 500 hundred feet on either side of the runway centerline.

(4) For all other existing and proposed runways, the operation zone is 500 feet wide, with 250 feet on either side of the runway centerline.

(b) Height limit: The height limit of the operation zones is the same as the nearest point on an existing or proposed runway or the surface of the ground, whichever is higher.

(3) Transition zones extend outward at right angles to the runway centerline and upward at a rate of 1 foot vertically for every seven feet horizontally (7:1). The height limit of these zones begins at the height limit of the adjacent operation zones or approach zones. The transition zones end at a height of 150 feet above the nearest existing or proposed runway end.

(4) Turning zones extend three miles as a radius from the corners of the operation zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the approach zone, operation zone, or transition zone. The height limit of the turning zones is 150 feet above the nearest existing or proposed runway end.

#### **(D) HEIGHT RESTRICTIONS.**

No building, transmission line, pole, tower, chimney, wires, or other structure or appurtenance of any kind or character shall hereafter be erected, constructed, repaired, or established, nor shall any tree or other object of natural growth be allowed to grow, above the heights described in (C) above.

#### **(E) AIRPORT ZONING MAP AND LOCATION.**

The boundaries, operation zones, approach zones, transition zones, and turning zones of the airport are indicated on the Airport Zoning Map, which is attached hereto and made a part hereof by reference. A copy of the Airport Zoning Regulations and Airport Zoning Map shall at all times be on file in the office of the Zoning Administrator and City Clerk.

55

**TURNING ZONE'S OUTER LIMIT.** The area located at a distance of 3 miles as a radius from the corners of the operation zone of each runway and connecting adjacent arcs with tangent lines, excluding any area within the approach zone, operation zone, or transition zone. The height limit of the turning zone is 150 feet above the highest elevation on the existing or proposed runway.

**VISUAL RUNWAY.** A runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an airport layout plan approved by the Federal Aviation Administration, a military service-approved military layout plan, or any planning documents submitted to the Federal Aviation Administration by a competent authority.

**(C) AIRPORT ZONES.** The following are intended for use with this specific overlay zoning district. Airport hazard area consists of approach zones, operation zones, transition zones and turning zones.

(1) Approach zones extend from the end of each operation zone and are centered along the extended runway centerlines. The zones dimensions are:

(a) Instrument runways:

(1) Length and width: The approach zones extend from the operation zone to the limits of the turning zone, measured along the extended runway centerline. The approach zones are 1,000 feet wide at the end nearest the runway and expand uniformly so that at a point on the extended runway centerline 10 miles from the operation zone where it is 16,840 feet wide.

(2) Height limit: The height limit of the approach zones begins at the elevation of the operation zone and rises 1 foot vertically for every 50 feet horizontally (50:1) up to a maximum of 150 feet above the nearest existing or proposed runway end. At 3 miles from such operation zone, the height limit resumes sloping 1 foot vertically for every 50 feet horizontally and continues to the 10-mile limit.

(b) Visual runways:

(1) Length and width: The approach zones extend from the operation zone to the limits of the turning zone, measured along the extended runway centerline. The approach zones are 500 feet wide at the end nearest the runway and expand uniformly so that at a point on the extended runway centerline 3 miles from the operation zone, the approach zone is 3,700 feet wide.

(2) Height limit: The height limit of the approach zones begins at the elevation of the operation zone and rises 1 foot vertically for every 40 feet horizontally (40:1) up to a maximum of 150 feet above the nearest existing or proposed runway end.

54

#### **(F) PERMIT REQUIREMENTS, EXCEPTIONS, APPLICATION FORMS AND FEES.**

(1) Anyone wishing to erect, construct, reconstruct, repair, or establish any building, transmission line, communication line, pole, tower, smokestack, chimney, wires, or other structure or appurtenance thereto of any kind or character; or to plant or replant any tree or other object of natural growth which, when mature, would violate the requirements of (C) above, within the Airport Hazard Area must first obtain a permit from Zoning Administrator.

(2) Exception. Within the turning zones, no permit shall be required for any construction, reconstruction, repair, or planting of anything which, when completed, or, in the case of natural growth, when mature, does not exceed 75 feet above the nearest existing or proposed runway end.

(3) Application form. Application for a permit as required under these regulations shall be made on a form to be available in the office of the Zoning Administrator and shall indicate the approximate location, ground elevation with reference to the end of the nearest runway or landing strip and height of the proposed structure or planting (mean sea level elevation).

(4) Permit fee. The fee for each permit issued shall be established by the City Council as indicated on the fee schedule annually adopted by the City Council.

#### **(G) NON-CONFORMING STRUCTURES.**

(1) Within the Airport Hazard Area, no non-conforming building, transmission line, pole, tower, chimney, wires, or other structure or appurtenance of any kind or character or object of natural growth, and no such structures or objects of natural growth have been torn down, destroyed, have deteriorated or decayed to an extent of 50% or more of their original condition, or abandoned for a period of 12 months or more, shall hereafter be replaced, substantially reconstructed, repaired, altered, replanted, or allowed to grow, as the case may be, to a height above the heights permitted by these regulations. Transmission lines and other communication lines shall be interpreted as all poles, wires, guys and all other equipment necessary for the operation and maintenance of same within the regulated zone.

(2) Except as provided in item number (3) below for certain electric facilities, all such airport zoning regulations adopted under the act shall provide that before any non-conforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit authorizing any replacement, alteration, repair, reconstruction, growth, or replanting must be secured from the administrative agency authorized to administer and enforce the regulations. A permit shall be granted under this division if the applicant shows that the replacement, alteration, repair, reconstruction, growth, or replanting of the non-conforming structure, tree, or non-conforming use would not result in an increase in height or a greater hazard to air

56

navigation than the condition that existed when the applicable regulation was adopted. For non-conforming structures other than electric facilities, no permit under this division shall be required for repairs necessitated by fire, explosion, act of God, or the common enemy or for repairs which do not involve expenditures exceeding more than 60% of the fair market value of the non-conforming structure, so long as the height of the non-conforming structure is not increased over its preexisting height.

(3) An electric supplier owning or operating an electric facility made non-conforming by the adoption of airport zoning regulations under the Airport Zoning Act may, without a permit or other approval by the political subdivision adopting such regulations, repair, reconstruct, or replace such electric facility if the height of such electric facility is not increased over its preexisting height. Any construction, repair, reconstruction, or replacement of an electric facility, the height of which will exceed the preexisting height of such electric facility, shall require a permit from the political subdivision adopting such regulations. The permit shall be granted only upon a showing that the excess height of the electric facility will not establish or create an airport hazard or become a greater hazard to air navigation than the electric facility that previously existed.

#### (H) MARKING OF NON-CONFORMING STRUCTURES.

Whenever the Zoning Administrator determines that a specific structure or object in the Airport Hazard Area exceeds the height restrictions and existed prior to the promulgation of these regulations, the owner(s) and/or the lessor(s) of the premises on which the structure or object is located shall be notified in writing by the Zoning Administrator. The owner(s) and lessor(s) shall, within a reasonable time, permit the marking and lighting of the structure or object. The Zoning Administrator shall specify the required marking and lighting, consistent with these regulations entitled "Marking and Lighting of Structures". The cost of marking or lighting shall not be assessed against the owner or lessor of said premises.

#### (I) ADMINISTRATIVE AGENCY; ENFORCEMENT.

The Zoning Administrator shall administer and enforce these regulations and shall be the administrative agency provided for in Neb. RS 3-319, and shall have all the powers and perform all the duties of the administrative agency as provided in the Airport Zoning Act.

#### (J) VARIANCE FROM REGULATIONS.

(1) Any person desiring to erect any structure, increase the height of any structure, permit the growth of any tree, or otherwise use his or her property in a manner inconsistent with the airport zoning regulations adopted under this regulation may apply to the Board of Zoning Adjustment for a variance from the zoning regulations in question. Such variances shall be allowed only if the Board of Zoning Adjustment makes the same findings for the granting of variances generally as set forth in Neb. RS

57

#### (O) CONFLICTING REGULATIONS.

In the event of any conflict between any airport zoning regulations adopted under this regulation and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, and whether such other regulations were adopted by the political subdivision which adopted the airport zoning regulations or by some other political subdivision, the more stringent limitation or requirement shall govern and prevail.

59

19-907 through 19-912.01, except that if the applicant demonstrates that the proposed structure or alteration of a structure does not require any modification or revision to any approach or approach procedure as approved or written by the Federal Aviation Administration on either an existing or proposed runway and the applicant provides signed documentation from the Federal Aviation Administration that the proposed structure or alteration of the structure will not require any modification or revision of any airport minimums, such documentation may constitute evidence of undue hardship and the Board of Zoning Adjustment may grant the requested variance without such findings. Any variance may be allowed subject to any reasonable conditions that the Board of Zoning Adjustment may deem necessary to effectuate the purposes of this regulation.

(2) In granting any permit under or variance from any airport zoning regulation adopted under this regulation, the administrative agency or Board of Zoning Adjustment may, if it deems such action is advisable to effectuate the purposes of the regulation and reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to permit the political subdivision, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

#### (K) ZONING BOARD OF ADJUSTMENT.

The City of Gothenburg Board of Zoning Adjustment shall be the Board of Zoning Adjustment with respect to these regulations. Said Board shall have and exercise the powers conferred by Neb. RS 3-320 et. seq. and such other powers and duties as are conferred and imposed by law.

#### (L) PERMITTED PRINCIPAL USES AND STRUCTURES.

Any use or structure that is permitted in the primary zoning district where this district is overlain, provided all buildings, structures and other obstacles comply with the height restrictions established in (C) above.

#### (M) SPECIAL USES.

Any special use that is permitted in the primary zoning district where this district is overlain where such special use has been duly authorized by the City Council in accordance with the requirements and procedures specified in this regulation, provided all buildings, structures and other obstacles comply with the height restrictions set forth in (C) above.

#### (N) ACCESSORY STRUCTURES.

Any accessory use or structure that is permitted in the primary zoning district where this district is overlain, provided all buildings, structures and other obstacles comply with the height restrictions established in (C) above.

58

## SUPPLEMENTARY REGULATIONS

### § 152.040 INTERSECTION VISIBILITY.

On a corner lot in all districts, except C-1, Central Business District, a sight triangle shall be provided where no obstruction between a height of three and one-half and ten feet shall exist. The triangle shall be formed from the center line of the intersecting streets for a distance of 90 feet. (See Appendix A—Illustrations.)

(Ord. 850, passed 8-4-2009, § 601)

### § 152.041 ACCESSORY USES.

(A) Uses for dwelling. Accessory buildings shall not be used for dwelling purposes unless specifically permitted.

(B) Front yard: no accessory building shall be located between the front building line of principal building and the front property line.

(C) Accessory buildings not a part of the main structure may be located in the required rear yard and eaves shall not be closer than two (2) feet to any side or rear lot line. A garage which is entered from an alley should not be located closer than ten (10) feet to the alley line. A freestanding or metal carport shall only be allowed in the rear yard as an accessory use structure.

(D) Accessory buildings, if not attached, must be located six (6) or more feet from the main structure if it creates a fire hazard or would subject the residential structure to a potential fire, such as a detached fireplace, barbecue ovens, flammable liquid storage, and the like.

(E) Maximum size of accessory buildings within an R-1, R-2, R-3 and R-4 Zoning District are as follows:

#### (1) For lots of one (1) acre or less:

- There shall be a maximum of three accessory buildings.
- The cumulative building area allowed for all detached accessory structures is 720 total square feet, or 75 percent of the total lot coverage of the permitted principal use, whichever is greater; up to the maximum allowable lot coverage of 35%
- Maximum height of the detached accessory garage is seventeen (17) feet.

60

**(2) For lots larger than one (1) acre:**

- There shall be a maximum of three accessory buildings,
- The cumulative building area allowed for all detached accessory structures is 1,200 total square feet, or 75 percent of the total lot coverage of the permitted principal use, whichever is greater; up to the maximum allowable lot coverage of 35%.
- Maximum height of the detached accessory garage shall not exceed 1.5 times the height of the principal structure, or the height requirement within the applicable district, whichever is less.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

(F) Accessory buildings which are attached to or not located more than six (6) feet from the main structure shall comply with the height, front, side, and rear yard requirements of the main building.

(G) (1) All accessory buildings require a building permit.

(2) All accessory buildings must follow the proper setbacks and other requirements of the accessory building zoning regulations.

(3) All accessory buildings on nonpermanent foundations must be anchored down in some way to the ground. (Example: Rods driven through the skids into the ground; mobile home tie downs with straps going over the top of the building secured to anchors driven into the ground.)

(H) All antenna/satellite dishes shall be located in the rear yard and comply with setback requirements for accessory uses.

(Ord. 850, passed 8-4-2009, § 602)

**§ 152.042 BUILDING PROJECTIONS.**

Every part of any required yard shall be open to the sky, unobstructed by a building, except:

- (A) Eaves may project into a front or rear yard 36 inches, exclusive of gutters.
- (B) Eaves may project into a side yard 24 inches, or two-fifths of the required side yard, whichever projection is greater, exclusive of gutters.
- (C) Ordinary projection of sills, belt courses, cornices, vertical solar screens, and ornamental features may project 12 inches.
- (D) Porches as provided for in Section 152.063 (D)

(Ord. 850, passed 8-4-2009, § 603)

**§ 152.047 PARKING REGULATIONS.**

(A) The minimum of off-street parking places to be provided on lots in all districts except C-1, Central Business District, shall be as shown in the following list:

**Use Parking Spaces Required**

Single- and two-family dwellings	1.0 per dwelling unit.
Rooming houses, dormitories, convalescent homes.	0.4 times the maximum lawful number of occupants.
Multi-family dwellings.	1.5 per dwelling unit.
Hotels.	1.0 per room in addition to spaces required for restaurant facilities.
Mobile homes.	1 per mobile home.
Retail stores and service.	1 per 350 square feet of floor space establishments and outdoor sales space.
Offices.	1 per 400 square feet of floor space.
Other commercial and industrial uses.	0.75 times the maximum number industrial uses of employees on the premises at any one time.
Bed and breakfast guest house.	1 space per 2 rental guest rooms.

(B) Where calculation in accordance with the foregoing list results in requiring a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.

(1) In Districts R-1, R-2, R-3, and R-4, required off-street parking shall be provided on the lot on which is located the use to which the parking pertains. In other districts, parking may be provided either on the same lot or on an adjacent or other lot, provided the lot on which the use requiring them is located are not separated by more than 300 feet at their closest points, measured along a street or streets.

(2) Where off-street parking is located on a lot other than the lot occupied by the use which requires it, site plan approval for both lots is required.

(Ord. 850, passed 8-4-2009, § 608)

**§ 152.048 REQUIRED LOADING SPACES.**

Except in District C-1, every lot used for commercial or industrial purposes shall be provided with an off-street loading space that will accommodate semi-trailers and tractors. The place shall have access to a public alley or public street. In District C-1, every lot used for commercial or industrial purposes shall be provided with a loading space having access to a public alley or, if there is no alley, to a public street.

**§ 152.043 HEIGHT REGULATION EXCEPTIONS.**

The height limitations contained in this chapter shall not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, domes, chimneys, grain elevators and accessory agricultural structures, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy, except as provided for in 152.030.

(Ord. 850, passed 8-4-2009, § 604)

**§ 152.044 ACCESS TO STRUCTURES REQUIRED.**

Every building hereafter erected or moved, with the exception of nonresidential agricultural related structures in the AG General Agricultural District, shall be on a lot adjacent a public street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

(Ord. 850, passed 8-4-2009, § 605)

**§ 152.045 RESIDENTIAL UTILITY AND LOT AREA REQUIREMENTS.**

(A) It shall be unlawful to occupy a residential structure or any building for living purposes that does not have an approved waste disposal system.

(B) No waste absorption field (septic tank, cess pools, and the like) shall be constructed any closer than 25 feet from any adjacent property line.

(C) There shall be no waste absorption field located closer than 50 feet from any other residential structure.

(D) There shall be no waste absorption field located closer than 50 feet from a water well; provided, however, where geology and subsurface conditions and topography would indicate that seepage could reach the well supply, a greater distance shall be required.

(Ord. 850, passed 8-4-2009, § 606)

**§ 152.046 TEMPORARY STRUCTURES.**

Temporary structures incidental to construction work, but only for the period of the work, are permitted in all districts; however, basements and cellars shall not be occupied for residential purposes until the building is completed.

(Ord. 850, passed 8-4-2009, § 607)

(Ord. 850, passed 8-4-2009, § 609)

**§ 152.049 INDUSTRIAL USE PERFORMING STANDARDS.**

(A) *General.* These performance standards shall apply as minimum standards in those districts where compliance with the standards is required.

(B) *Limited industrial performance standards.* To be permitted industrial use in the I-1 Industrial District, whether as a permitted use or through a special permit, the use must meet the following performance standards.

(1) *Physical appearance.* All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored in the open. Normal daily wastes of an inorganic nature may be stored in containers not in a building when the containers are not readily visible from the street.

(2) *Fire hazard.* No operation shall involve the use of highly flammable gases, acid, liquids, grinding processes or other inherent fire hazards. This provision shall not be construed to prohibit the use of normal heating fuels, motor fuels, and welding gases when handled in accordance with city regulations.

(3) *Noise.* No operation shall be carried on which involves noise in excess of the normal traffic noise of the adjacent street at the time of the daily peak hour of traffic volume. Noise shall be measured at the property line and when the level of the noise cannot be determined by observation with the natural senses, suitable instrument may be used and measurement may include break-downs into a reasonable number of frequency ranges.

(4) *Sewage and liquid wastes.* No operation shall be carried on which involves the discharge into a sewer, water course, or the ground of liquid wastes of any radioactive nature, or liquid wastes of a chemical nature which are detrimental to normal sewage plant operation or corrosive and damaging to sewer pipes and installations.

(5) *Air contaminants.*

(a) Air contaminants and smoke shall be less dark than designated Number One on the Ringleman Chart as published by the United States Bureau of Mines, except that smoke of a density designated as Number One shall be permitted for one four-minute period in each hour.

(b) Particulate matter of dust as measured at the point of emission by any generally accepted method shall not be emitted in excess of 0.2 grains per cubic foot as corrected to a temperature of 500°F, except for a period of four minutes in any one-half hour, at which time it may equal, but not exceed 0.6 grains per cubic foot as corrected to a temperature of 500°F.

(c) Due to the fact that the possibilities of air contamination cannot reasonably be comprehensively covered in this section, there shall be applied the general rule that there shall not be discharged from any sources whatsoever such quantity as to cause injury, detriment, nuisance or annoyance to any considerable number of persons or to the public in general, or to cause or have a natural tendency to cause injury or damage to business, vegetation, or property.

(6) *Odor.* The emissions of odors that are generally agreed to be obnoxious to any considerable number of persons shall be prohibited.

(7) *Gases.* The gases sulphur dioxide, hydrogen sulphide, and carbon monoxide shall not exceed five parts per million. All nitrous fumes shall not exceed one part per million. Measurements shall be taken at the property line of the particular establishment involved.

(Ord. 850, passed 8-4-2009, § 610)

#### § 152.050 ADJUSTMENT OF FRONT YARD REQUIREMENT.

The front yards located within the same zoning district may be adjusted in the following circumstances. (Ord. 850, passed 8-4-2009, § 611)

(A) Where any 40% of the frontage in the same zoning district is developed with two or more buildings that have a front yard of less depth than herein required, then where a building is to be erected on a lot that is within 100 feet of existing main buildings on either or both sides, the minimum front yard shall be a line drawn between the two closest front corners of the adjacent main buildings.

(Ord. 850, passed 8-4-2009, § 611.01)

(B) In the case of corner lots, the Zoning Administrator shall determine the front yard requirements, subject to the following limitations:

(1) At least one front yard shall be provided having the full depth required generally in the district; and

(2) The other front yard on the lot must align with existing main buildings but may be reduced to no less than half of the full depth required in the district.

(Ord. 850, passed 8-4-2009, § 611.02)

#### § 152.051 ASSIGNMENT OF STREET ADDRESS.

Street addresses shall be assigned by the City Clerk and the Chief of Police according to the E-911 addressing system. (Ord. 850, passed 8-4-2009, § 611.03)

65

(7) A home occupation shall provide additional parking area to accommodate all needs created by the home occupation, and shall be subject to review by the Planning Commission and City Council. The parking area shall not intrude on the required setbacks and side yard areas.

(Ord. 850, passed 8-4-2009, § 615)

(B) *Standards for inconspicuous home occupations.*

(1) Inconspicuous home occupations shall not occupy more than 30% of the total floor area of the dwelling which the inconspicuous home occupation is located. Thirty percent shall be calculated by including all storage of merchandise, machinery, equipment, and waiting rooms.

(2) The inconspicuous home occupation shall not increase traffic in the area where located, and shall not require any additional parking spaces.

(3) There shall be no offensive noise, vibration, smoke, dust, odor, heat, or glare noticeable beyond the confines of the dwelling. No manufacturing of any nature whatsoever shall be allowed in a dwelling which qualifies for an inconspicuous home occupation.

(4) The inconspicuous home occupation shall be carried on by the inhabitants living in the dwelling. No other person may be employed in the occupation.

(5) No signage shall be allowed to be displayed on the exterior of the dwelling.

(6) No exterior storage shall be allowed on the premises of material or equipment used as a part of the inconspicuous home occupation.

(7) The inconspicuous home occupation shall not create demand for more than two additional parking spaces. All additional parking must be accommodated without an intrusion on any required setbacks of front yard, rear yard or side yard. All parking accommodations shall be subject to the review of the Planning Commission and the City Council.

(Ord. 850, passed 8-4-2009, § 615.01)

67

#### § 152.052 REPLACING NONSTANDARD ACCESSORY BUILDING ON NARROW LOT.

In the R-1, R-2, R-3, and R-4 Residential Districts, a new or replacement accessory building may be erected on the site of an existing detached accessory building constructed on or before July 14, 1961, on a lot of record with a lot width of less than 50 feet, although the site does not meet the required minimum setback from a side or rear lot line(s), provided:

(A) The new replacement accessory building does not extend beyond the perimeter of the existing accessory building; and

(B) The new or replacement accessory building shall otherwise comply with all applicable city ordinances. (Ord. 850, passed 8-4-2009, § 612)

§ 152.053 reserved for future use.

§ 152.054 reserved for future use.

#### § 152.055 HOME OCCUPATION STANDARDS; INCONSPICUOUS HOME OCCUPATION.

(A) *Standards for home occupations.*

(1) Home occupations shall not occupy more than 30% of the total floor area of the main building, or if located in an accessory building, shall not occupy more than 15% of the total lot area.

(2) The operation shall not substantially increase traffic in the area.

(3) There shall be no offensive noise, vibration, smoke, dust, odors, heat, or glare noticeable at or beyond the property line.

(4) The use shall be carried on by the inhabitants living there, plus no more than one person in addition to members of the family.

(5) Signs and other advertising shall comply with the provisions of § 152.056.

(6) There shall be no exterior storage on the premise of material or equipment used as part of the home occupation.

66

#### § 152.056 SIGN REGULATION.

(A) *Intent and applicability.*

(1) The following regulations shall govern the locations, areas, heights, and types of signs permitted within the zoning jurisdiction of this chapter.

(2) All signs hereafter constructed, erected, printed or otherwise established, moved, altered, or changed shall comply with these regulations.

(3) After the effective date of this chapter, no sign shall be erected, enlarged, constructed, or otherwise installed without first obtaining a sign permit. A sign permit shall be legally issued only when in compliance with these regulations.

(4) No necessary sign, advertising display or structure, poster, or device shall be erected, moved, enlarged, maintained, or reconstruction except as expressly permitted by this section; provided, however, that state, county, and municipal signs and traffic signs installed for public purposes are exempt from these requirements.

(5) Nonconforming signs existing at the time of enactment of this chapter may be repaired or maintained, but may not be otherwise established, moved, altered, or changed except in compliance with the provisions of this chapter.

(Ord. 850, passed 8-4-2009, § 616.01)

(B) *On- and off-site on interstate or federal-aid primary highways.* The erection or maintenance of any advertising sign, display, or device which is visible to the traveled way of the National System of Interstate and Defense Highways, and the system of federal-aid primary roads of the state as defined by the State Department of Roads, is hereby prohibited unless in compliance with the regulations set forth in *Rules and Regulations Relating to the Control of Advertising in Areas Adjacent to the Interstate and Federal Aid Primary Highways*, as amended. Primary highways within zoning jurisdiction are highways.

(Ord. 850, passed 8-4-2009, § 616.02)

(C) *Prohibited signs.* Signs shall not be erected or maintained in a manner so as to obscure, or otherwise physically interfere with, an official traffic sign, signal, or device, or in a manner so as to obstruct or interfere with a driver's view of approaching, merging, or intersecting traffic. This shall also mean pedestrian traffic on sidewalks. All road signs shall be maintained in a neat and presentable condition.

(Ord. 850, passed 8-4-2009, § 616.03)

(D) *District regulations.*

(1) *AG and Agriculture AG-I Agriculture District.* No regulations apply other than those outlined herein.

68

(2) R-1 (under permitted special uses § 152.020(D)), R-2, R-3, and R-4 Residential Districts.

(a) Signs permitted in the R-2, R-3 and R-4 districts shall be attached to or within five feet of the main structure or building.

(b) Only one sign, not illuminated, less than four by eight or 32 square feet in area for each dwelling.

(c) Only one sign, not illuminated, may be approved by Special Use Permit advertising a Home Occupation under Section 152.075.

(d) Any temporary sign, not illuminated, less than six square feet in area, advertising the sale, lease, or rental of the property.

(3) C-1 Central Business District.

(a) Illuminated or nonilluminated signs identifying the character of the establishment. No one sign which lies flat or across the face of a building shall exceed 100 square feet in area.

(b) Signs which protrude outward from a building must do so at a 90 degree angle from the face of the building for a distance not to exceed six feet, and shall not exceed 24 square feet in area.

(4) C-2 Highway Commercial District. Illuminated or nonilluminated signs identifying the character of the establishment. No one sign which is freestanding and not attached to a building or structure shall exceed 100 square feet in area. Protruding signs must be at a 90 degree angle from the face of the building for a distance not to exceed eight feet, and shall not exceed 50 square feet in area.

(5) Industrial Districts (I-1 and I-2). In I-1 and I-2 Districts, identification and advertising signs are permitted, except that each sign shall be limited to 250 square feet in area, and the sign shall only identify the industry and be on property where the industry is located.

(6) Bed and breakfast guest houses.

(a) Only one sign per establishment.

(b) Sign shall be nonilluminated.

(c) Sign face shall not exceed four square feet.

(d) Sign shall be located no closer than five feet from any property line, and shall not obstruct the view of traffic approaching a street intersection nor extend onto public right-of-way.

(e) A wall or projecting sign affixed to a building shall not have the top of the sign project higher than ten feet from grade.

69

§ 152.057 FENCES, WALLS, AND HEDGES.

(A) Notwithstanding other provisions of this ordinance, fences, walls and hedges may be permitted in any required yard, provided that no fence, wall or hedge along the sides or front edge of any front yard shall be over three and one half (3 1/2) feet in height. Additionally, on a corner lot in a Residential District, a sight triangle shall be provided such that nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two and one half (2 1/2) feet and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines ninety (90) feet from the point of the intersections. The following regulations shall apply to the construction of fences.

(1) No solid fence shall be constructed closer to the street than the property line.

(2) No fence erected in a required front yard shall materially obstruct public view. Permitted types of fences shall include split rail, chain link, PVC vinyl or other similar material. No component of a front yard fence shall exceed three and one half (3 1/2) feet in height, nor shall any structural member exceed thirty-six (36) inches in cross-sectional area.

(3) No fence shall be constructed which will constitute a traffic hazard as identified in the site triangle of a corner lot (see above).

(4) No fence shall be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals by intent of its construction or by inadequate maintenance.

(5) No component of a fence along the perimeter of a property within Residential Districts, except fences erected upon public or parochial school grounds or in public parks and in public playgrounds, shall be constructed of a height greater than six (6) feet, except for the provisions of item number "10", below.

(6) All fences shall conform to the construction standards of the building code and other applicable ordinances and resolutions.

(7) In commercial and industrial districts, maximum height of fences shall be eight (8) feet. When industry standards for certain types of businesses require fences of greater heights, the Zoning Administrator at his direction, may allow greater heights.

(8) All fences shall be constructed in such a manner that the good or "finished side" of the fence faces neighboring property. The "finished side" shall be defined as the side of the fence without support posts, brackets, etc.

(9) All fences constructed in the City of Gothenburg shall comply with the provision of this section and obtain a building permit.

71

(f) Freestanding or pole signs shall not exceed four feet in height from the top of the sign to grade.

(Ord. 850, passed 8-4-2009, § 616.04)

(E) Temporary signs. Temporary, freestanding signs are authorized in any zoning district for a period not to exceed 30 days. The sign must not be permanently attached to a structure or fence and may not exceed a height of five feet, or a width of three feet. No temporary sign shall be placed in a location that obstructs the vision of a driver of an automobile or truck. A permit shall not be required for a temporary sign. No temporary signs shall be permitted on the public street right-of-way, parks, alleys, or other public areas.

(Ord. 850, passed 8-4-2009, § 616.05)

(F) Discontinuation of use. In the event the use or need of a sign shall cease, the sign shall be removed promptly and the area restored to a condition free from refuse and rubbish. After 30-days' notice and failure to do so, the city shall remove the sign and assess the charges to the owner.

(Ord. 850, passed 8-4-2009, § 616.06)

(G) Sign permits.

(1) No sign shall be constructed, erected, remodeled, relocated, or expanded until a sign permit for the sign has been obtained, authorized, and signed by the Zoning Administrator, excluding general maintenance. The requirement shall pertain to permanent signs only. A fee, to be set by the City Council, shall be required to process the sign permit application. In addition, information pertinent to sign characteristics and dimensions must be presented to the Zoning Administrator with sufficient time to determine compliance with the chapter.

(2) A sign exceeding zoning regulations may be erected if a special permit for the use has been obtained in accordance with §§ 152.075 and 152.076.

(Ord. 850, passed 8-4-2009, § 616.07)

(H) Awnings and/or canopies.

(1) Awnings and/or canopies extending into the city right-of-way shall be permitted as a part of sign permit. (Ord. 850, passed 8-4-2009, § 616.08)

(2) Any awnings and/or canopies extending into the city right-of-way shall follow the code reference of § 30.134 of this code of ordinances, as amended from time to time.

(Ord. 850, passed 8-4-2009, § 616.09)

70

(10) All permanent in ground outdoor swimming pools shall be enclosed by a fence or wall at least six (6) feet, but not more than eight (8) feet in height with a gate or gates which can be securely locked.

(11) In districts AG, C-1, C-2, I-1, I-2, R-3, and R-4, the three and one-half feet height restriction between the front set back line and the street right-of-way line may be waived if a special permit for the use has been obtained in accordance with §§ 152.075 and 152.076. No special use permit may allow a fence height in the area in excess of six feet.

(12) No fence shall be constructed in any district which is in violation of § 92.25, as amended from time to time.

(13) "A patio may have a privacy fence or railings that may raise a maximum of 6 feet from the floor of the patio, provided that the patio meets with the rear and side yard setbacks of the principal use".

(Ord. 850, passed 8-4-2009, § 617)

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

§ 152.058 MANUFACTURED HOMES.

All manufactured homes located outside mobile home parks shall meet the following standards. (Ord. 850, passed 8-4-2009, § 619)

(A) The home shall have no less than 900 square feet of floor area. (Ord. 850, passed 8-4-2009, § 619.01)

(B) The home shall have no less than an 18-foot exterior width. (Ord. 850, passed 8-4-2009, § 619.02)

(C) The roof shall be pitched with a minimum vertical rise of two and one-half inches of each for each 12 inches of horizontal run.

(Ord. 850, passed 8-4-2009, § 619.03)

(D) The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single-family construction.

(Ord. 850, passed 8-4-2009, § 619.04)

(E) The home shall have a non-reflective roof material which is or simulates asphalt or wood shingles, tile, or rock. (Ord. 850, passed 8-4-2009, § 619.05)

72



(F) The home shall have wheels, axles, transporting lights, and removable towing apparatus removed. (Ord. 850, passed 8-4-2009, § 619.06)

(G) Nothing in this section shall be deemed to supersede any valid restrictive covenants of record. (Ord. 850, passed 8-4-2009, § 619.07)

(H) The home must meet building, electrical, and/or mechanical code requirements adopted by the city. (Ord. 850, passed 8-4-2009, § 619.08)

#### § 152.059 TOWERS.

##### (A) Intent and applicability.

(1) The following regulations shall govern the locations, areas, heights, and types of towers permitted within the zoning jurisdiction of this chapter.

(2) All towers hereafter constructed, erected, or otherwise established, moved, altered or changed shall comply with these regulations.

(3) After the effective date of this chapter, no tower shall be erected, moved, enlarged, constructed, reconstructed, or otherwise installed without first obtaining a tower permit. A tower permit shall be legally issued only when in compliance with these regulations; provided, however, that the state, county, and city towers installed for public purposes are exempt from these requirements.

(4) Nonconforming towers existing at the time of enactment of this chapter may be repaired or maintained, but may not be otherwise established, moved, altered, or changed except in compliance with the provisions of this chapter.

(Ord. 850, passed 8-4-2009, § 620.1)

##### (B) District regulations.

(1) *AG Agricultural District.* Towers allowed under regulations as provided for in division (C) below.

(2) *AG-1 Agricultural Residential District.* Towers allowed under regulations as provided for in division (C) below.

(3) *R-1, R-2, R-3 and R-4 Residential Districts.* Towers shall not be allowed.

(4) *C-1 Central Business, C-2 Highway Commercial Districts.* Towers allowed under regulations as provided for in division (C) below.

(5) *I-1 and I-2 Industrial Districts.* Towers allowed under regulations as provided for in division (C) below.

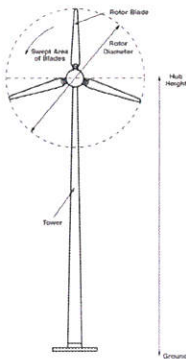
considered a small wind energy system only if it supplies electrical power for site use, except that when a parcel on which the system is installed also received electrical power supplied by a utility company, access electrical power generated and not presently needed for onsite use may be sold back to the utility company. *(25 Kilowatt limit approved by the Gothenburg Planning Commission to increase to a maximum of 100 Kilowatts with Nebraska State Legislature authorization by future amendment)*

(2) **Commercial Wind Energy Conversion System - (CWECS)** - a single wind conversion tower or multiple towers comprising a large conversion system or Wind Farm. (This CWECS is not permitted with the planning jurisdiction of the City of Gothenburg.

##### (B) Definitions.

(1) **Aggregated Project** - Those projects that are developed and operated in a coordinated fashion, but which have multiple entities separately owning one or more of the individual CWECS within a larger project. Associated infrastructure such as power lines and transformers that service the facility may be owned by a separate entity but are also included as part of the aggregated project.

(2) **Fall Zone** - The area, defined as the furthest distance from the tower base, in which a tower will collapse in the event of a structural failure.



(3) **Feeder Line** - Any power line that carries electrical power from one or more wind turbines or individual transformers associated with individual wind turbines to the point of interconnection with the electric power grid, in the case of interconnection with the high voltage transmission systems the point of the interconnection shall be the substation serving the WECS.

(4) **Height, hub** - The height above grade of the fixed portion of the tower, including the generation unit, measured to the hub or center point of the rotor blade diameter.

(5) **Height, total system** - The height above grade of the system, including the generating unit and measured the highest vertical extension of any rotor blades or rotors.

(6) **Meteorological Tower** - For the purposes of wind energy conversion systems, meteorological towers are those which are erected primarily to measure wind speed and direction plus other data relevant to locating a CWECS.

(6) *P Public Use Districts.* Towers allowed under regulations as provided for in division (C) below.

##### (C) Tower regulations.

(1) All radio, television, microwave, cellular, or other towers more than 50 feet shall not be constructed, erected, remodeled, relocated, or expanded without the receipt of a special use permit as provided for under §§ 152.075 and 152.076.

(2) All radio, television, or other towers less than 50 feet and for nonbusiness or personal use shall not be considered towers for the purposes of this chapter. Any tower less than 50 feet used for commercial purposes shall be considered a tower as provided for under division (C)(1) above.

(3) Freestanding towers over 50 feet shall be located so that the distance from the base of the tower to any adjoining property line or the supporting structure of a separate neighboring tower is a minimum of 100% of the tower height; except that any tower located adjacent to a residential area shall have a distance of 100% of the tower height, or 200 feet setback from the adjoining property, whichever is greater.

(4) The tower installation shall be designed to be aesthetically and architecturally compatible with the built environment of the city. The city encourages efforts to hide towers or restrict their visibility from public right-of-way or neighboring properties. Associated support building shall be designed with materials that are consistent with those in the surrounding neighborhood. Metal exteriors shall generally not be permitted for accessory support buildings.

(Ord. 850, passed 8-4-2009, § 620.3)

#### § 152.060 WIND ENERGY SYSTEMS.

**Intent.** In order to balance the need for clean, renewable energy resources with the protection of the health, safety, and welfare of the residents of Gothenburg, Nebraska, finds these regulations are necessary in order to ensure that all wind energy conversion systems (CWECS) are appropriately designed, sited, and installed.

These regulations pertaining to all wind energy conversion systems are intended to respond to equipment available at the time of adoption. The City of Gothenburg recognizes that this is an emerging technology and that new means of collecting wind energy, including but not limited to vertical axis wind turbine generators are under development. Accordingly, these standards will be reviewed and may be amended as technology advances.

##### (A) Types of Wind Energy Systems.

(1) **Small Wind Energy Conversion System - (SWECS)** - A wind energy conversion system which has a rated capacity of up to Twenty-Five (25) kilowatts and which is incidental and subordinated to another use of the same parcel. A system is

Meteorological towers do not include towers and equipment used by airports, the Nebraska Department of Transportation or other similar applications to monitor weather conditions.

(7) **Rotor Diameter** - The diameter of the circle created by the outer most point of the rotor blades of the windmill. (See Diagram #1)

(8) **Shadow flicker** - Strobe effect that occurs when sun is horizontal to rotor blades, which causes repetitive intermittent shadows that can affect people on nearby properties.

(9) **Substations** - Any electrical facility utilized to convert electricity produced by a Commercial Wind Energy Conversion System for interconnection with high voltage transmission lines.

(10) **Tower** - The vertical component of a wind energy conversion system that elevates the wind turbine generator and attached blades above the ground.

(11) **Transmission Line** - The electrical power lines that are High Voltage Transmission Lines carrying electricity over medium to long distances rather than directly interconnecting and supplying electric energy to retail customers.

(12) **Wind Energy Conversion System (WECS)** - An aggregation of parts including the base, tower, generator, rotor, blades, supports, and configuration as necessary to convert the power of wind into mechanical or electrical energy, e.g. wind charger, windmill, or wind turbine.

(13) **Wind Turbine Generator** - The component of a wind energy system that transforms mechanical energy from the wind into electrical energy.

##### (C) Small Wind Energy Conversion System

A Small Wind Energy Conversion System (SWECS) is a facility used for the production of a maximum of Twenty-Five (25) kilowatts of electrical energy supplied by the wind. The facility may include a tower, wind turbine(s) and any transmission lines. The SWECS is primarily used to generate energy for use by its owner. A small wind energy facility shall be sited and designed to minimize adverse visual impacts on neighboring properties. **To be used in conformance with Nebraska State Statutes 70-2001 through 70-2005, regarding Net Metering. (25 Kilowatt limit approved by the Gothenburg Planning Commission to increase to a maximum of 100 Kilowatts with Nebraska State Legislature authorization by future amendment)**

##### (1) General Site and Design Standards

(a) Located on a lot or parcel of at least one-half (1/2) acre;

- (b) Shall be permitted by an approved **Special Use Permit** to be issued in the AG, AG-1, R-1, R-2, R-3, or R-4, C-1 or C-2, I-1 or I-2, or "P" Zoning Districts.
- (c) SWECS shall maintain a minimum setback distance from any property line a distance equal to the height of the total system of the windmill. Adjoining property owners (second or third additional farm/ranch single dwelling units for the purpose of housing relatives or permanent agriculture workers) participating in the same or Aggregated Project shall have no setback requirements between adjoining properties.
- (d) SWECS shall maintain a minimum setback distance from any public road, or highway of at least one point one (1.1) times the total system height of the windmill from the public road or highway right-of-way.
- (e) In no case shall a WECS be located within any required setback or in any front yard area.
- (f) Turbines and towers shall be of tubular design and if painted or coated, shall be of a non-reflective white, grey, or other neutral color and shall not used to display advertising.
- (g) SWECS shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration (FAA).
- (h) All electrical wires associated with a small wind energy system other than the wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
- (i) The minimum distance between the ground and any part of the rotor blade system shall be thirty (30) feet.
- (j) All ground mounted electrical and control equipment must be labeled and secured to prevent unauthorized access. A tower may not have step bolts or a ladder within eight (8) feet of the ground that is readily accessible to the public.
- (k) The owner of a small wind energy facility shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by the facility.
- (l) Construction access must be re-graded and re-vegetated to minimize environmental impacts.
- (m) Any SWECS application must include an agreement that addresses decommissioning and abandonment of the facility. The agreement must at a

77

(Ord. 850, passed 8-4-2009, § 630.3)

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**§ 152.061 SALVAGE OR JUNK YARD.**

Salvage or junkyard operations and related facilities shall only be allowed by special permit in the AG and I-2 Zoning Districts under the following conditions:

- (A) Located on a tract of land at least one-fourth (1/4) mile from a residential or agricultural farm residence.
- (B) The operation shall be conducted wholly within a noncombustible building or within an area completely surrounded on all sides by a visual obscuring fence, wall or hedge. The fence, wall or hedge shall be of uniform height (at least eight (8) feet high) and uniform texture and color shall be so maintained by the proprietor as to insure maximum safety to the public and preserve the general welfare of the neighborhood. The fence, wall or hedge shall be installed in such a manner as to retain all scrap; junk or other material within the yard and no scrap, junk or other material shall protrude above the fence.
- (C) No junk shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge fence or wall, or within the public right-of-way.
- (D) Any other requirement deemed appropriate and necessary by the City Council for the protection of the general health, safety and welfare.

In making any decision granting a special use permit, the City Council shall impose such restrictions, terms, time limitations, landscaping, improvement of off-street parking lots, and other appropriate safeguards as required protecting adjoining property.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**§ 152.062 LANDFILLS AND SANITARY LANDFILLS.**

Private landfill operations shall only be allowed by special permit in the AG Agriculture District upon prior approval of the Nebraska Department of Health and Human Services and with conformance to the following conditions:

- (A) Located on a tract of land at least ¼ mile or (1,320) feet from a residential or agricultural farm residence.
- (B) The operation shall be conducted wholly within an area completely surrounded on all sides by a fence, wall or hedge. The fence, wall or hedge shall be of uniform

79

minimum provide for reuse or dismantlement of the facility at the owner's expense.

**(2) Application Requirements**

- (a) A survey map at an appropriate scale identifying:
  - Site boundary;
  - Adjacent public right-of-ways;
  - Existing structures;
  - Proposed small wind energy system and accessory structures; adjacent ownership and existing residences;
  - Any overhead utility lines.
- (b) A report from a licensed engineer containing:
  - (1) Small wind system specifications including manufacturer and model; rotor diameter, tower height, tower type (freestanding or guyed);
  - (2) Documentation to establish that the tower has sufficient structural integrity for the proposed use at the proposed location;
  - (3) Certification that the small wind energy system complies with all applicable state construction and electrical codes and the National Electrical Code.
- (c) Compliance with FAA Regulations, including any Documentation required by the FAA certifying approval of proposed location when located within the three (3) mile Planning Jurisdiction of any airport or within the approach path of any municipal airport runway extending a distance of ten (10) miles from the edge of the runway.
- (d) Signed letter of Notification by the property owner submitted to the Electrical Supplier/Purchaser, Dawson County Assessor's Office, and City of Gothenburg Zoning Administrator, signifying utility service is approved.
- (e) Require proof of insurance on application.

**(D) COMMERCIAL/UTILITY WIND ENERGY SYSTEM.** A wind energy conservation system consisting of a wind turbine, a tower, and associated control, or conversion electronics, which has a rated capacity equal to, or greater than 100 kW and which is intended to primarily supply on-site energy or for distribution into the electrical grid.

*(1) Requirements.* Commercial/utility grade wind energy systems shall not be allowed with the zoning jurisdiction of the city.

78

height (at least eight (8) feet high) and uniform texture and color shall be so maintained by the proprietor as to insure maximum safety to the public and preserve the general welfare of the neighborhood. The fence, wall or hedge shall be installed in such a manner as to retain all material within the yard and no material shall protrude above the fence.

(C) No material shall be loaded, unloaded or otherwise placed, either temporarily or permanently, outside the enclosed building, hedge fence or wall, or within the public right-of-way.

(D) Any other requirement deemed appropriate and necessary by the City Council for the protection of the general health and welfare.

(E) Special use permits granted under this section shall be subject to annual review and renewal by the City Council.

In making any decision granting a special use permit, the City Council shall impose such restrictions, terms, time limitations, landscaping, improvement of off-street parking lots, and other appropriate safeguards as required protecting adjoining property.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

**§ 152.063 RESIDENTIAL DESIGN STANDARDS.**

Applicable to all R-1, R-2, R-3 and R-4 zones.

(A) Primary entrance shall be on the street side, not a side yard.

(B) The cladding of the exterior walls shall use building materials, textures and colors appropriate to the architectural style of those structures generally used throughout the neighborhood. Allowable materials are brick, stone, or clapboard siding of wood, metal or vinyl. Synthetic materials manufactured to replicate the fore mentioned materials are also allowable upon review by the Zoning Administrator.

(C) No dwelling shall be constructed or converted from a pre-fabricated structure, metal building, pole barn or similar storage building, originally designed for use as an accessory building.

(D) A front porch may extend into the required front yard setback up to a maximum of six (6) feet. However, any portion of a front porch that extends into the required front yard shall not be enclosed by walls, windows or screens.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

80

§ 152.064 COMMERCIAL DESIGN STANDARDS.

Compliance with all codes and ordinances adopted by the City is required. All property located within the core of Downtown Gothenburg, defined as the area between Avenue "D" and Avenue "G", from 8<sup>th</sup> Street (Highway 30) to 11<sup>th</sup> Street, shall meet the following Design Standards. Street facing facades are limited to the following:

(1) **Facade Elements:** Materials used for street facing facades building shall be similar to those used on adjacent buildings. Primary construction materials historically used in the Downtown shall be used similarly in new construction as follows:

- (a) Brick – varying colors, sizes and textures of brick exhibited in existing buildings.
- (b) Wood – best utilized for architectural elements such as pilasters, cornices or decorative raised panels and trim. The use of wood as a general siding material is discouraged due to maintenance requirements.
- (c) Concrete block – is best utilized in combination with other materials such as brick or stone. The use of concrete block as the only building material is strongly discouraged.
- (d) Metal flashing and Architectural elements – Metal, painted or exposed, utilized as architectural elements such as "pressed tin" cornices and moldings.
- (e) Structural steel – Exposed structural pre-formed steel fulfills aesthetic purposes at lintels and columns in a manner similar to existing historic structures.
- (f) Stucco – Any materials similar in texture and perception are recommended only as an accent element to a facade. Although a couple of buildings are nearly 100 percent stucco covered today, it was not the historically accurate facade exterior. Modern buildings should utilize stucco in combination with other materials.

(2) All other areas in the C-1 District that are not located within the core of Downtown Gothenburg, as above, shall have at a minimum a three and one-half (3 ½) foot high base comprised of non-reflective exterior siding which is or simulates wood, stucco, or masonry. Non-reflective exterior siding comprised of metal, aluminum or vinyl siding or preformed panels can be utilized above the base on the exterior of street facing facades. However, metal siding shall utilize concealed fasteners to install the siding to the building.

(Ord. \_\_, passed \_\_\_\_\_ 2014, § \_\_\_\_\_)

- (3) Not be detrimental to adjacent property;
- (4) Not tend to depreciate the value of the surrounding structures or property;
- (5) Be compatible with the stated intended use of the district;
- (6) Not change the character of the district; and
- (7) Be in accordance with the comprehensive plan.

(Ord. 850, passed 8-4-2009, § 702.03)

(D) *Protest against the special use permit.* In case of a protest against the special use permit, signed by the owners of 20% or more either of the area of the lots included in the proposed change, or of those immediately adjacent on the sides and in the rear thereof extending 300 feet therefrom, and of those directly opposite thereto extending 300 feet from the street frontage of the opposite lots, the special use permit shall not become effective except by the favorable vote of three-fourths of all the members of the City Council.

(Neb. RS 19-905) (Ord. 850, passed 8-4-2009, § 702.04)

(E) *Expansion of nonconforming uses.* In all districts, a special permit may be granted to authorize the issuance of a building permit to permit the enlargement, extension, conversion, reconstruction, or structural alteration of any building located upon premises, uses of which constitute a nonconforming use. In consideration of applications for special permits, the following criteria shall be given specific consideration:

- (1) Effects on adjacent property, traffic, city utility service needs;
- (2) Density of land use zoning for the subject property and adjacent property; and
- (3) The degree of hardship upon the applicant which would be caused by failure to grant a permit. (Ord. 850, passed 8-4-2009, § 702.05)

(F) *Bed and breakfast guest houses.* The following additional regulations shall apply as minimum requirements for granting special use permits for bed and breakfast guest houses in the R-1 and R-2 Residential Districts:

- (1) Parking as required in § 152.047;
- (2) Signs as required in § 152.056;
- (3) A maximum of four rooms or suite of rooms are available for use as transient lodging; and
- (4) The remainder of the dwelling shall be used and occupied as a residence by the host family. (Ord. 850, passed 8-4-2009, § 702.06)

SPECIAL USE PERMIT

§ 152.075 GENERAL AUTHORITY.

The City Council may authorize, by special permit after public hearing, any of the following buildings or uses designated in this chapter as permitted special uses.

(Ord. 850, passed 8-4-2009, § 701)

§ 152.076 PROCEDURES.

(A) *General.* The application shall be in writing, filed with the City Clerk, state the proposed location and use of the property, and other relevant matters as may be requested by the City Council. Upon receipt of the application, the City Clerk shall forward the application to the Planning Commission for its recommendation. Upon hearing, the Planning Commission shall forward its recommendation to the City Council, as soon as is practicable. Upon hearing, the City Council may allow or deny the application in whole or in part, or prescribe conditions for the use of the property. No special use permit shall become effective until after separate public hearings are held by both the Planning Commission and the City Council in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of the purpose, time, and place of the hearing shall be given by publication thereof in a paper of general circulation.

(Neb. RS 19-904) (Ord. 850, passed 8-4-2009, § 702.01)

(B) *Notice.* In addition to the publication of the notice herein prescribed, a notice of the purpose, time, and place of the hearing shall be posted in a conspicuous place on or near the property on which the action is pending. The notice shall not be less than 18 inches in height and 24 inches in width with a white or yellow background and black letters not less than one and one-half inches in height. The posted notice shall be so placed upon the premises so that it is easily visible from the street nearest the premises, and shall be so placed at least ten days prior to the date of each hearing. If the record title owners of any lots included in the proposed change be nonresidents of the municipality, then a written notice of the hearing shall be mailed by certified mail to them addressed to their last known address at least ten days prior to the hearing.

(Neb. RS 19-905) (Ord. 850, passed 8-4-2009, § 702.02)

(C) *Criteria.* Except as otherwise provided herein, no special use permit shall be granted by the City Council, without an affirmative vote of a majority of all members of the City Council and unless the proposed use is found to:

- (1) Be compatible with and similar to the use permitted in the district;
- (2) Not be a matter which should require rezoning of the property;

(G) *Special use permits; expirations.* Every permit issued by the City Council under the provisions of this section shall expire, if the special use authorized by the permit is not commenced within 365 days from the date of the approval of the permit; or if the special use authorized by the permit is suspended or abandoned for a period of 365 days after the special use has commenced. For the purposes of commencement in regard to a new special use permit, this shall mean any work towards use of the permit (including the application for a building permit; construction of a new building and/or remodeling of an existing building; or any work that shows significant progress towards the use of the permit). This section shall apply to all special use permits issued after July 19, 2005.

(Ord. 850, passed 8-4-2009, § 702.07)

## BOARD OF ZONING ADJUSTMENT

### § 152.090 CREATION; MEMBERSHIP.

(A) The City Board of Zoning Adjustment is hereby continued, and members of the Board on the effective date of this chapter shall continue to serve for the remainder of their appointed terms. The members of the Board shall be appointed by the Mayor with the consent of the City Council.

(B) One member only of this Board shall be appointed from membership of the City Planning Commission and the loss of membership on the Planning Commission by the member shall also result in the immediate loss of membership on the City Board of Zoning Adjustment.

(C) The Board shall consist of five regular members, plus one additional member designated as an alternate who shall attend and serve only when one of the regular members is unable to attend for any reason, each to be appointed for a term of three years and removable for cause by the City Council upon written charges and after public hearings. Vacancies shall be filled for the unexpired terms of any member whose term becomes vacant.

(Ord. 850, passed 8-4-2009, § 801)

### § 152.091 MEETINGS.

Meeting of the Board of Zoning Adjustment shall be held at the call of the Chairperson and at times as the Board may determine. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating the fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the City Clerk and shall be a public record.

(Ord. 850, passed 8-4-2009, § 802)

### § 152.092 POWERS.

(A) The Board of Adjustment shall, subject to appropriate conditions and safeguards as specified in these regulations have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official or agency based on or made in the enforcement of any zoning regulation relating to the location or soundness of structures;

85

### § 152.093 VARIANCE REQUEST PROCEDURE.

The procedures to be followed by the Board of Zoning Adjustment shall be as follows.

(Ord. 850, passed 8-4-2009, § 804)

(A) Appeals to the Board may be taken by any person aggrieved or by any officer, department, governmental agency affected by any decision of the Zoning Administrator. The appeal shall be made within ten days from the date of decision by any city officer or department. The appeal filed in writing shall define the appeal being requested and the grounds therefor. The officer from whom the appeal is taken shall forthwith transmit to the Zoning Board of Adjustment all the paper constituting the record upon which the action appealed from was taken.

(Ord. 850, passed 8-4-2009, § 804.01)

(B) The Chairperson of the Board shall set a hearing within 30 days of receipt of the appeal. The time, date, place of the hearing, and description of the request shall be published in a local newspaper of general circulation ten days prior to the actual hearing. The Board shall also notify the interested parties in the case of the hearing date, time, and place.

(Ord. 850, passed 8-4-2009, § 804.02)

### § 152.094 APPEAL FROM DECISION.

Any person or persons, jointly or separately, aggrieved by any decision of the Board of Zoning Adjustment, or any officer, departments, board or bureau of the city, may seek review of the decision by the District Court for the city in the manner provided by the laws of the state, and particularly by Neb. RS 19-912.

(Ord. 850, passed 8-4-2009, § 805)

(2) To hear and decide, in accordance with the provisions of any regulation, requests for interpretation of any maps, or for decisions upon other special questions upon which the Board is authorized by any regulation to pass; and

(3) Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the chapter, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any enacted regulation under this chapter would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, to authorize, upon appeal relating to the property, a variance from strict application so as to relieve difficulties or hardships, if the relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of these zoning regulations, but no variance shall be authorized unless the Board finds that:

(a) The strict application of the regulation would produce undue hardship;

(b) The hardship is not shared generally by other properties in the same zoning district and the same vicinity;

(c) The authorization of the variance will not be of substantial detriment to adjacent property, and the character of the district will not be changed by the granting of the variance; and

(d) The granting of the variance is based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.

(Neb. RS 19-910) (Ord. 850, passed 8-4-2009, § 803.01)

(B) No variance shall be authorized unless the Board finds that the condition or situation of the property concerned or the intended use of the property is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this zoning chapter.

(C) In exercising the above-mentioned powers, the Board may, in conformity with the provisions of the sections, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make an order, requirement, decision, or determination as shall be proper, and to that end, shall have all the powers of the officer from whom the appeal is taken. The concurring vote of four members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any regulation or to effect any variation in the regulation.

(Ord. 850, passed 8-4-2009, § 803.03)

86

## ADMINISTRATIVE PROCEDURE AND ENFORCEMENT

### § 152.105 PROCEDURE FOR INTERPRETATION OF REGULATIONS.

(A) It is the intent of this chapter that all questions of interpretation and enforcement shall be first presented to the Zoning Administrator, and that the questions shall be first presented to the City Board of Zoning Adjustment only on appeal from the decision of the Zoning Administrator, and that recourse from the decisions of the City Board of Zoning Adjustment shall be to the courts as provided by law, except as provided in §§ 152.090 through 152.094.

(B) It is further the intent of this chapter that the duties of the City Council in connection with the chapter shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding the questions shall be as stated in this section and this chapter, the City Council shall have only the duties of considering and adopting or rejecting proposed amendments or the repeal of this chapter as provided by law, and of establishing a schedule of fees and charges as stated herein.

(Ord. 850, passed 8-4-2009, § 901)

### § 152.106 ZONING ADMINISTRATOR.

(A) An administrative official who shall be known as the Zoning Administrator and who shall be designated by the Mayor and approved by the City Council shall administer and enforce this chapter. He or she may be provided with the assistance of other persons as the Mayor and Council may direct.

(B) If the Zoning Administrator shall find that any of the provisions of this chapter are being violated, he or she shall notify in writing the person responsible for the violations, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall order discontinuance of illegal work being done, or shall take other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.

(Ord. 850, passed 8-4-2009, § 902)

### § 152.107 CERTIFICATE OF ZONING COMPLIANCE.

It shall be unlawful to use or occupy or permit the use or occupancy of any (nonfarm) building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure, until a certificate of zoning compliance shall have been issued therefore by the Zoning Administrator stating that the proposed use of the building or land conforms to the requirements of this chapter.

(Ord. 850, passed 8-4-2009, § 903) Penalty, see § 152.999

87

88

**§ 152.108 FINAL INSPECTION.**

(A) No permit for erection, alteration, moving or repair of any building shall be issued until an application has been made for a certificate of zoning compliance. Within three days after notification that a building or premises is ready for occupancy or use, it shall be the duty of the Zoning Administrator to make a final inspection.

(B) The Zoning Administrator shall maintain a record of certificates of zoning compliance and a copy shall be furnished upon request to any person. Failure to obtain a certificate of zoning compliance shall be a violation of this chapter and punishable under § 152.999.

(Ord. 850, passed 8-4-2009, § 904)

**§ 152.109 AMENDMENTS.**

(A) *General.* The City Council may, from time to time, supplement, change, or generally revise the boundaries or regulations contained in this chapter by amendment. A proposal for the amendment may be initiated by the City Council, Planning Commission, or upon application of the owner of the property affected. A filing fee established by the City Council is required for each application to be considered by the Planning Commission.

(Ord. 850, passed 8-4-2009, § 1001)

(B) *Submission to Planning Commission.*

(1) All proposed amendments shall first be submitted to the Planning Commission for recommendation and report. Upon the development of tentative recommendation, the Planning Commission shall hold a public hearing thereon and shall cause an accurate written summary to be made of proceedings, and shall give notice in like manner as that required for the original zoning recommendations. The notice shall fix the time and place for the hearing and contain a statement regarding the proposed changes in regulations or restrictions or in the boundary of any district.

(2) If the proposed amendment is not a general revision of an existing provision of this chapter, and will affect specific property, it shall be designated by legal description and general street location, and in addition to the publication notice, written notice of the proposed amendment shall be mailed to all owners of lands located within 300 feet of the area proposed to be altered and an opportunity granted to interested parties to be heard.

(Ord. 850, passed 8-4-2009, § 1002)

(C) *Amendment consideration and adoption.*

(1) The procedure for the consideration and adoption of any proposed amendments shall be in like manner as that required for the consideration and adoption of the chapter except herein before or herein after modified. For action on zoning amendments, a quorum of the Planning Commission is more than one-half of all the members. A vote either for or against an amendment by a majority of all the Planning Commission members present constitutes a recommendation of the Commission; whereas a vote either for or against an amendment by less than a majority of the Planning Commission present constitutes a failure to recommend.

(2) When the Planning Commission submits a recommendation of approval or disapproval of the amendment, the City Council, if it approves the recommendation, may either adopt the recommendation by chapter or take no further action thereof as appropriate. In the event the Planning Commission submits a failure to recommend, the City Council may take the action as it deems appropriate. Upon receipt of a recommendation of the Planning Commission which the City Council disapproves, the City Council shall return the recommendation to the Planning Commission with a statement specifying the basis for disapproval, and the recommendation shall be considered in like manner as that required for the original recommendation returned to the Planning Commission. If the amendment shall affect the boundaries of any district, the chapter shall define the change or the boundary as amended, shall order the Official Zoning Map to be changed to reflect the amendment, and shall amend the section of the chapter incorporating the same and reincorporate the Map as amended.

(Ord. 850, passed 8-4-2009, § 1003)

(D) *Protest.* Regardless of whether or not the Planning Commission approves or disapproves a proposed zoning amendment or fails to recommend, if a protest against the amendment be filed in the office of the City Clerk within 14 days after the date of the conclusion of the public hearing pursuant to the publication notice, duly signed and acknowledged by the owners of 20% or more of any real property proposed to be rezoned, or by the owners of 20% of the total area excepting public streets and ways, located within or outside the corporate limits of the city and located within 300 feet of boundaries of the property proposed to be rezoned, the ordinance adopting the amendment shall not be passed except by at least three-fourths vote of all members of the City Council.

(Ord. 850, passed 8-4-2009, § 1004)

**§ 152.110 COMPLAINT OF VIOLATION.**

Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. The complaint stating fully the causes and basis thereof, shall be filed with the Zoning Administrator. He or she shall record properly the complaint, immediately investigate, and take action thereon as provided by this chapter.

(Ord. 850, passed 8-4-2009, § 1101)

**§ 152.999 PENALTY.**

(A) (1) The owner or agent of a building or premises in or upon which a violation of any provisions of this chapter has been committed or shall exist or lessee or tenant of an entire building or entire premises in or upon which the violation shall exist, shall be guilty of a class V misdemeanor. Each and every day that the violation continues after notification shall constitute a separate offense.

(2) Nothing herein contained shall prevent the city from taking the other lawful action as is necessary to prevent or remedy any violation.

(Ord. 850, passed 8-4-2009, § 1102)

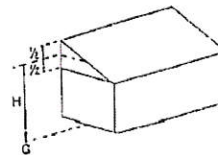
(B) In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure, or land is used in violation of this chapter the appropriate authorities of the city may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate the violation; to prevent the occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises.

(Ord. 850, passed 8-4-2009, § 1103)

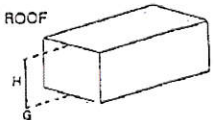
**APPENDIX A: ILLUSTRATIONS**

**BUILDING HEIGHT**

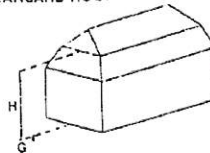
**SHED ROOF**



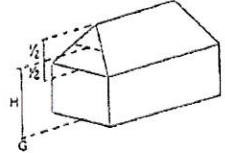
**FLAT ROOF**



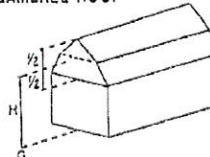
**MANSARD ROOF**



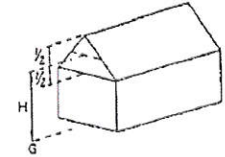
**HIP ROOF**



**GAMBREL ROOF**



**GABLE ROOF**

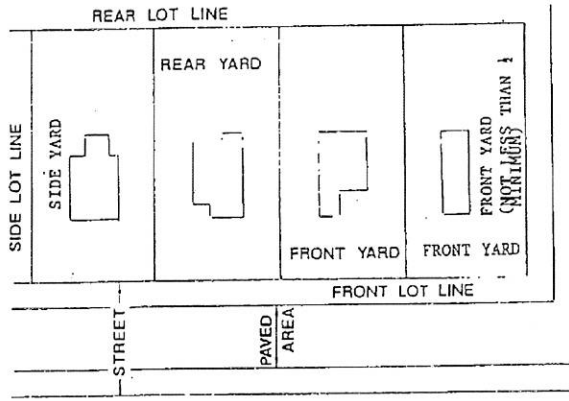
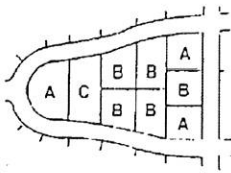


H = HEIGHT OF BUILDING

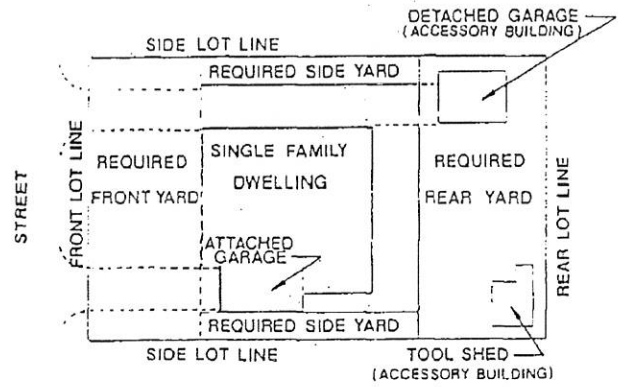
G = GRADE

REQUIRED YARDS - ILLUSTRATED

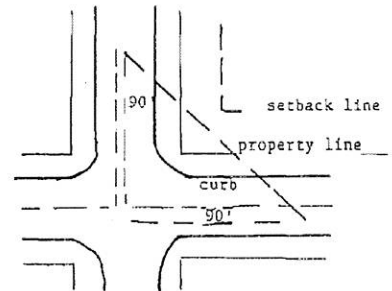
LEGEND: LOTS  
 A - CORNER  
 B - INTERIOR  
 C - DOUBLE FRONTAGE



BUILDINGS - PRINCIPAL AND ACCESSORY



SIGHT TRIANGLE MINIMUM STANDARD



(Ord. 850, passed 8-4-2009, Appendix)