

ORDINANCE 932

AN ORDINANCE AMENDING TITLE XV, CHAPTER 152, AMENDING SECTION 152.041 OF THE GOTHENBURG CODE OF ORDINANCES RELATING TO ACCESSORY BUILDINGS LARGER THAN 120 SQUARE FEET AND PROVIDING FOR A SPECIAL USE PERMIT; AMENDING SECTION 152.003 OF THE GOTHENBURG CODE OF ORDINANCES CHANGING DEFINITIONNS AND AMENDING SECTION 152.063 OF THE GOTHENBURG CODE OF ORDINANCES RELATING TO RESIDENTIAL DESIGN STANDARDS; REPEALING ALL ORDINANCES OR PARTS OF ORDINACES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Section 1. Title XV, Chapter 152, Section 152.041 of the Gothenburg Code of Ordinances is hereby amended to read as follows:

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 feet to any side or rear lot line. A garage which is entered from an alley should not be located closer than ten 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 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 acre or less:

(a) There shall be a maximum of three accessory buildings.

(b) The area allowed for each detached accessory structure is 720 total square feet, or 75% of the total lot coverage of the permitted principal use, whichever is greater; up to the maximum allowable lot coverage.

(c) Maximum height of any part of the detached accessory structure shall not exceed that of the principal structure, or twenty (20) feet, whichever is higher.

(2) For lots larger than one acre:

(a) There shall be a maximum of three accessory buildings.

(b) The cumulative building area allowed for all detached accessory structures is 1,200 total square feet, or 75% of the total lot coverage of the permitted principal use, whichever is greater; up to the maximum allowable lot coverage.

(c) Maximum height of the detached accessory garage shall not exceed one and one-half times the height of the principal structure, or the height requirement within the applicable district, whichever is less.

(F) Accessory buildings larger than 120 square feet shall comply with §152.063 Residential Design Standards and shall be built to match or closely resemble the principal structure's exterior finish in roofing materials and pitch.

(G) No roll-offs, trailers, vehicles, shipping or storage containers. Commercial boxes, or similar structures shall be permitted or modified to be used as accessory buildings in the R-1 and R-2 Zones.

(H) A temporary POD/Temporary Storage Permit shall be required in the R-1 and R-2 Zones and may be permitted by application to the City Clerk. Fees for the permit shall be established by City Council resolution. Permits shall be for a period not to exceed thirty (30) days, however the permit may be renewed for a second thirty (30) day period upon approval of the Building Inspector.

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

(J) (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.)

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

(L) The restrictions set forth in subsection E and subsection F of this section may be waived by the granting of a special use permit.

Section 2. Title XV, Chapter 152, Section 152.063 of the Gothenburg Code of Ordinances is hereby amended to read as follows:

§ 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) An attached garage shall not exceed fifty percent (50%) of the square footage of the main level of the residence, or up to one thousand square feet, whichever is greater.

(C) 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, stucco, log or wood, metal or vinyl siding. All metal siding shall be non-reflective and shall be altered to have a brick, stone, stucco, log or wood grain or similar appearance. Synthetic materials manufactured to replicate the fore mentioned materials are also allowable upon review by the Zoning Administrator.

(D) 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.

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

Section 3. Title XV, Chapter 152, Section 152.003 of the Gothenburg Code of Ordinances is hereby amended to read as follows:

§ 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.

(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.

ATTACHED GARAGE. The area included within a dwelling that is not used for Living Space, but commonly used for automobile storage.

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.

BUILDING HEIGHT. Vertical distance above the existing 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.

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 through 71-1918

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.

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

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.

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.

FARMSTEAD. An area ten 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.

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.

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 or more dogs or cats, or any combination thereof, shall meet the definition of a commercial kennel.

KENNELS, DOMESTIC. The raising and boarding of no more than four 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 animals may be housed on the premises for a period not to exceed 90 days.

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.

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 ongoing confined raising, feeding or management of animals for more than 180 consecutive days.

LIVING SPACE. Space within a dwelling unit utilized for living, sleeping, eating, cooking, bathing, washing and sanitation purposes.

LOT. A parcel of land occupied or intended for occupation by a use permitted in this chapter, and fronting on 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.

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 or more units that can be telescoped when towed and expanded later for additional capacity, or two or more units, separately towable but designed to be joined as one 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.

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 or more mobile homes, connected to utilities and used by one 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.

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 Neb. RS 71-1557.

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.

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.

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

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.

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.

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.

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

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.

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 § 152.075 for the procedure and criteria to be considered when reviewing an application for a SPECIAL USE PERMIT.

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

STREET, CENTERLINE. 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.

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.

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.

TOWNHOUSE. One of a group of row of not less than two 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.

WIND ENERGY CONVERSION SYSTEM (SMALL). A wind energy conversion system which has a rated capacity of up to 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 Planning Commission and City Council may be increased to a maximum of 100 kilowatts with Nebraska State Legislature authorization by future amendment.)

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.

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.

ZONING MAP. A map or maps officially enacted by the governing body as part of this chapter 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.

Section 4. A copy of prior Section 152.041 is attached hereto as Exhibit A and incorporated herein by this reference.

Section 5. A copy of prior Section 152.063 is attached hereto as Exhibit A and incorporated herein by this reference.

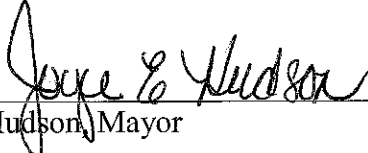
Section 6. A copy of prior Section 152.003 is attached hereto as Exhibit A and incorporated herein by this reference.

Section 7. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 8. This ordinance shall become effective after its posting and publication as provided by law.

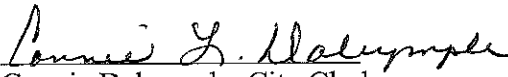
Passed and approved this 1st day of November, 2016.

City of Gothenburg,



Joyce Hudson, Mayor

ATTEST:



Connie Dalrymple, City Clerk

APPROVED AS TO FORM:

Michael L. Bacon, City Attorney

Exhibit A

Exhibit B

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.

(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.

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**.

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.

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.

CITY. City of Gothenburg, Nebraska.

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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.

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

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.

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.

FARMSTEAD. An area ten 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.

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.

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 or more dogs or cats, or any combination thereof, shall meet the definition of a commercial kennel.

KENNELS, DOMESTIC. The raising and boarding of no more than four 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 animals may be housed on the premises for a period not to exceed 90 days.

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.

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.

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.

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 or more units that can be telescoped when towed and expanded later for additional capacity, or two or more units, separately towable but designed to be joined as one 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.

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 or more mobile homes, connected to utilities and used by one 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.

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 Neb. RS 71-1557.

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.

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.

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

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.

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.

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.

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

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.

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 § 152.075 for the procedure and criteria to be considered when reviewing an application for a **SPECIAL USE PERMIT**.

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

STREET, CENTERLINE. 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.

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.

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.

TOWNHOUSE. One of a group of row of not less than two 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.

WIND ENERGY CONVERSION SYSTEM (SMALL). A wind energy conversion system which has a rated capacity of up to 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 Planning Commission and City Council may be increased to a maximum of 100 kilowatts with Nebraska State Legislature authorization by future amendment.)

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.

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.

ZONING MAP. A map or maps officially enacted by the governing body as part of this chapter 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. 905, passed 1-20-2015)