

CHAPTER 152: ZONING

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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.

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

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 Social 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 Social Services as a family day care home under Neb. RS 71-1908-1918.

CITY. City of Gothenburg, Nebraska.

CITY COUNCIL. City Council of Gothenburg, Nebraska.

CONDITIONAL USE PERMIT. A written permit issued by the Zoning Administrator with the written authorization of the City Council. The **CONDITIONAL USE PERMIT**

provides permission under specific conditions to make certain conditional uses of land in certain zoning districts as stipulated under exceptions in each of the zoning district regulations.

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, 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 30 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.

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.

FEEDLOT. The feeding of animals in an open or confined environment an enhanced ration for the purposes of commercial or private harvest.

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.

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.

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.

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).

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.

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.

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.

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 SYSTEM. A wind energy conservation system consisting of a wind turbine, a tower, and associated controls for the purpose of the generation of electricity.

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.

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

§ 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.

(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) *Continuance of nonconforming uses.* Any lawful use of land or structure existing at the time of enactment or subsequent amendment of this chapter, but not in conformity with its provisions, may be continued subject to the following conditions.

(Ord. 850, passed 8-4-2009, § 206)

(1) *Alterations and restoration.* A building arranged, designed, or devoted to a nonconforming use at the time of the passage of this chapter may not be reconstructed or

structurally altered to an extent exceeding in aggregate cost, during any ten year period, of 75% of its assessed fair market value, unless the use of the building be changed to a conforming use;

(Ord. 850, passed 8-4-2009, § 206.01)

(2) *Any nonconforming use.* Any nonconforming use of a structure, or structure and premises, may, as a special permit, be changed to another nonconforming use, provided that the City Council either by general rule or by making findings in the specific case, shall find that the proposed use is more appropriate to the district than the existing nonconforming use. In permitting the change, the City Council may require appropriate conditions and safeguards in accord with the provisions of this chapter. When a nonconforming use has been changed to a conforming use, it shall not be changed subsequently to any nonconforming use.

(Ord. 850, passed 8-4-2009, § 206.02)

(3) *Restoration.* If a nonconforming use or structure or a portion of the nonconforming use or structure is destroyed due to natural or other unintentional causes, it may be reconstructed to its original design, location, and use.

(Ord. 850, passed 8-4-2009, § 206.03)

(4) *Discontinuance of nonconforming use.* When a nonconforming use or structure is discontinued or abandoned for a period of two years, provided that the owner or tenant, lessee, or sublessee of the owner is not unlawfully detained or prohibited from continuing the nonconforming use for the stated period or when governmental action impedes access to the premises, the use or structure shall thereafter conform to the uses permitted in the district in which it is located.

(Ord. 850, passed 8-4-2009, § 206.04)

(5) *Enlargement.* No nonconforming use shall be enlarged so as to make use of more land area than used at the time of becoming nonconforming, unless authorized under the provisions of § [152.076\(E\)](#).

(Ord. 850, passed 8-4-2009, § 206.05)

(6) *Unlawful at time of inception.* No nonconforming use shall be allowed to continue if it was unlawful at the time of its inception.

(Ord. 850, passed 8-4-2009, § 206.06)

(7) *Alteration in plans, construction, or designated use.* Nothing in this chapter shall require any change in plans, construction, or designated use of a building or structure for which a building permit has been issued and the construction of which shall have been diligently pursued within six months of the date of the permit, or the effective date of this chapter, whichever is later.

(Ord. 850, passed 8-4-2009, § 206.07)

(8) *Unsafe conditions.* Nothing in this chapter shall prevent the strengthening or restoration to a safe condition of any portion of a building or structure declared to be unsafe by a proper authority.

(Ord. 850, passed 8-4-2009, § 206.08)

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.

(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)

§ 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 feedlot;
- (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)

(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;
- (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)

(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;
- (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 land fills; gravel plants and asphalt or concrete batch plants;
- (9) Expansion of nonconforming uses;
- (10) Irrigation wells, waste retention pits, and silage bunkers;
- (11) 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; and
- (12) Small wind energy systems.

(Ord. 850, passed 8-4-2009, § 501.04)

(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)

(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 acres.

(2) The minimum lot area for uses prescribed as special uses shall be ten acres, subject to approval of the City Council.

(Ord. 850, passed 8-4-2009, § 501.07)

(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.

(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.

(Ord. 850, passed 8-4-2009, § 501.09)

§ 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 one acre.

(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) Minimum 1,500 square feet single-family dwellings;

(2) Minimum 1,500 square feet manufactured homes which otherwise 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)

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

(3) Expansion of nonconforming uses;

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

(5) Small wind energy systems.

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

(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 uses	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)

(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 confinement facility, or feedlot, 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)

§ 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.* 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)

(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, § 502.03)

(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) Expansion of nonconforming uses;

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

(5) Inconspicuous home occupation; and

(6) Bed and breakfast guest houses.

(Ord. 850, passed 8-4-2009, § 502.04)

(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	35 feet

					20% of depth	
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(Ord. 850, passed 8-4-2009, § 502.06)

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

(Ord. 850, passed 8-4-2009, § 502.07)

§ 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.* 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)

(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, § 503.03)

(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) Expansion of nonconforming uses;
- (5) Electrical distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and/or elevated pressure tanks;
- (6) Home occupations;
- (7) Child care center;
- (8) Bed and breakfast guest houses; and
- (9) Mortuaries.

(Ord. 850, passed 8-4-2009, § 503.04)

(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:

	<i>Lot Area (sq. ft.)</i>	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 ⁽¹⁾	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)

§ 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.* 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;
- (5) Manufactured homes which comply with the provisions of § [152.058](#); and
- (6) Group homes.

(Ord. 850, passed 8-4-2009, § 504.02)

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

(Ord. 850, passed 8-4-2009, § 504.03)

(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) Expansion of nonconforming uses;

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

(6) Home occupation;

(7) Child care center;

(8) Mortuaries; and

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

(Ord. 850, passed 8-4-2009, § 504.04)

(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)

(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	45 feet

					depth	
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)

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

(Ord. 850, passed 8-4-2009, § 504.07)

§ 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.* 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;
- (5) Mobile home parks;
- (6) Manufactured homes which comply with the provision of § [152.058](#); and
- (7) Group homes.

(Ord. 850, passed 8-4-2009, § 505.02)

(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 uses and structures and to uses and structures permitted as exceptions; and
- (2) Home occupations and home professional offices.

(Ord. 850, passed 8-4-2009, § 505.03)

(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;
- (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) Expansion of nonconforming uses;
- (5) Electrical distribution substations, gas regulator stations, communications equipment buildings, public service pumping stations, and/or elevated pressure tanks;
- (6) Home occupation;
- (7) Child care center; and/or
- (8) Private garage or nonresidential building and other local commercial establishments providing services and supplies to the community and local trade area.

(Ord. 850, passed 8-4-2009, § 505.04)

(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.

(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 § [152.021](#)(F).

(Ord. 850, passed 8-4-2009, § 505.08)

§ 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.* 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)

(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, § 506.03)

(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.

(Ord. 850, passed 8-4-2009, § 506.04)

(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) *Metal buildings.*

(1) All street exposed exteriors of metal buildings in the C-1 District that are in the core business district area, which is from Avenue D to Avenue G, and 8th Street (Highway 30) to 11th Street, shall provide a nonreflecting exterior siding which is or simulates wood, stucco, or masonry.

(2) All other areas in the C-1 District that are not listed as above shall have at a minimum a three and one-half foot high nonreflective exterior siding which is or simulates wood, stucco, or masonry.

(Ord. 850, passed 8-4-2009, § 506.08)

§ 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.* 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)

(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.

(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.

(Ord. 850, passed 8-4-2009, § 507.04)

(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)

§ 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 feedlots;

(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 uses and structures, and to uses and structures permitted as exceptions; and
- (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;
- (4) Expansion of nonconforming uses; and
- (5) Electrical distribution substations, gas regulator stations, communications equipment buildings, utility facilities, and grounds.

(Ord. 850, passed 8-4-2009, § 508.04)

(E) *Conditions for granting 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 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 unlandscaped 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)

§ 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, except feedlots; and

(3) Industrial and manufacturing uses which comply with appropriate state and federal regulations.

(Ord. 850, passed 8-4-2009, § 509.02)

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

(1) Accessory uses and structures normally appurtenant to be the permitted uses and structures, and to uses and structures permitted as exceptions; and

(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) *Minimum lot requirements.* No limitations.

(Ord. 850, passed 8-4-2009, § 509.04)

(E) *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)

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

(Ord. 850, passed 8-4-2009, § 509.06)

§ 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)

(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.

(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)

§ 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)

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 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.

(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) 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.

(F) (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.)

(G) 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.

(Ord. 850, passed 8-4-2009, § 603)

§ 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.

(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)

§ 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.

(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)

§ 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 TRUCK PARKING.

(A) No unattached trailer or semi-trailer designed to be attached to and propelled or drawn by mechanical power and used in the transportation of passengers or property shall be parked on any street in the city. A temporary permit may be obtained for a business or property in the C-1 and C-2 zoning districts for parking an unattached trailer in front of the business or property for a limited time as established by the City Clerk or City Administrator.

(Ord. 850, passed 8-4-2009, § 613.01)

(B) Except as provided hereafter, no semi-truck and trailer combination, licensed or unlicensed, shall be parked on the city streets in R-1, R-2, R-3 and R-4 Districts, except for purposes of repair or service at a commercial repair facility.

(Ord. 850, passed 8-4-2009, § 613.02)

(C) No semi-truck, truck, or other motor vehicle, licensed or unlicensed, or any power unit on any trailer designed to be attached to, propelled or drawn by mechanical power may be parked on any street with a power unit in operation at any time in the R-1, R-2, R-3 and R-4 Districts, except to load or unload or for repair or service at a commercial repair facility.

(Ord. 850, passed 8-4-2009, § 613.03)

(D) Notwithstanding any other revisions of this chapter, no semi-truck and trailer combination used in the transportation of passengers or property, may be parked on any street designated by the City Council as an emergency route within the corporate limits, except for purposes of loading and unloading, and except for repair or service at a commercial repair facility.

(Ord. 850, passed 8-4-2009, § 613.04)

(E) The City Council shall have the power, by resolution, to allow parking of semi-truck and trailer combinations in portions of Districts R-1, R-2, R-3, and R-4.

(Ord. 850, passed 8-4-2009, § 613.05)

§ 152.054 OTHER VEHICLES.

(A) No major recreational vehicles, and farm equipment and trucks (over one-ton rated capacity) shall be parked or stored on any street in the R-1, R-2, R-3, R-4 and C-1 Districts, except for loading and unloading.

(B) No recreational vehicle or camper shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot or in any location not approved for the use.

(Ord. 850, passed 8-4-2009, § 614)

§ 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.

(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 a 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)

§ 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 Agriculture District.* No regulations apply other than those outlined herein.

(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) 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.

(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)

§ 152.057 FENCES, WALLS, AND HEDGES.

Fences, walls, and hedges may be permitted as accessory uses in accordance with the following limitations.

(A) No fence, wall, or hedge in any district shall exceed six feet in height.

(B) Partition fences on lot lines between two lots may be erected to a maximum height of six feet; provided, further, that the total height of that portion of the fence between the front yard setback line and street line shall not exceed three and one-half feet. 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.

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

(D) A fence exceeding six feet in height 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, § 617)

§ 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 nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock.

(Ord. 850, passed 8-4-2009, § 619.05)

(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.

(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.

(A) *Intent and applicability.*

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

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

(3) After the effective date of this chapter, no wind energy system shall be erected, moved, enlarged, constructed, reconstructed, or otherwise installed without first obtaining a

special use wind energy system permit. A wind energy permit shall be legally issued only when in compliance with these regulations provided, however, that the state, county and municipal energy systems installed for public purposes are exempt from these requirements.

(4) Nonconforming wind energy systems 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, § 630.1)

(B) *Small wind energy systems.*

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

SMALL 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 of not more than 100 kW and which is intended to primarily reduce on-site consumption of utility power.

TOWER HEIGHT. The height above the grade of the first fixed portion of the tower, excluding the wind turbine itself.

(2) *Requirements.* Small wind energy systems shall be permitted as a permitted special use within any district where the use is listed and allowed. Certain requirements as set forth below shall be met.

(a) *Tower height.*

1. For property sizes between one-half acre and one acre, the tower height shall be limited to 80 feet.

2. For property sizes of one acre or more, there is no limitation on tower height, except as imposed by FAA regulations.

(b) *Setbacks.* No part of the wind system structure, including guy-wire anchors, may extend closer than ten feet to the property lines of the installation site.

(c) *Noise.*

1. Small wind energy systems shall not exceed 60 dBA, as measured at the closest neighboring inhabited dwelling unit.

2. The noise level may be exceeded during short term events such as utility outages and/or severe wind storms.

(d) *Approved wind turbines.* Small wind turbines must have been approved under the emerging technologies program of the California Energy Commission or any other small wind certification program recognized by the American Wind Energy Association.

(e) *Compliance with Building and Zoning Codes.*

1. Applications for small wind energy systems shall be accomplished by standard drawings of the wind turbine structure, including the tower base, and footings.

2. An engineering analysis of the tower showing compliance with official Building Code of the governing body and/or the state and certified by a licensed professional engineer shall also be submitted. (The manufacturer frequently supplies this analysis.)

3. Wet stamps shall not be required.

(f) *Compliance with FAA regulations.* Small wind energy systems must comply with applicable FAA regulations, including any necessary approvals for installations close to airports.

(g) *Compliance with the National Electric Code.* Permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electric Code. (The manufacturer frequently supplies this analysis.)

(h) *Utility notification.*

1. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator.

2. Off-grid systems shall be exempt from this requirement.

(3) *Setbacks.* All wind energy conservation systems shall adhere to the following setbacks: property line; the distance of the fall zone, as certified by a professional engineer, plus ten feet.

(4) *Special safety and design standards.* All WECS shall adhere to the following safety and design standards.

(a) *Clearance.* Clearance of rotor blades or airfoils must maintain a minimum of 12 feet of clearance between their lowest point and the ground.

(b) *Sign.* A sign shall be posted on the tower warning of high voltage and emergency contact information.

(c) *Lighting.* Lighting shall adhere to but not exceed requirements established by the FAA permits and regulations. Red strobe lights shall be used during nighttime illumination to reduce impacts on neighboring uses and migratory birds.

(d) *Power lines.* All feeder lines shall be buried and shall be equal to or less than 34.5 kV in capacity.

(e) *Discontinuation and decommissioning.* A WECS shall be considered a discontinued use after one year without energy production, unless a plan is developed and submitted to the Zoning Administrator outlining the steps and schedule for returning the WECS to service. All WECS and accessory facilities shall be removed to ground level within 90 days of the discontinuation of use.

(f) *Interference.* The applicant shall minimize or mitigate interference with electromagnetic communications, such as radio, telephone, microwave, or television signals caused by any WECS. The applicant shall notify all communication tower operators within five miles of the proposed WECS location upon application to the city for permits.

(Ord. 850, passed 8-4-2009, § 630.2)

(C) *Commercial/utility grade wind energy systems.*

(1) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

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.

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

(Ord. 850, passed 8-4-2009, § 630.3)

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;
- (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)

(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 terms 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;

(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)

§ 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)

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](#)

§ 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)

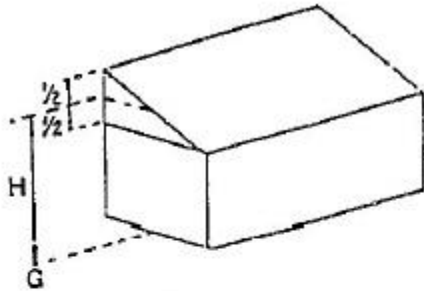
(B) In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure, or land is used in violation of this chapter the appropriate authorities of the city may institute any appropriate action or proceedings to prevent the 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)

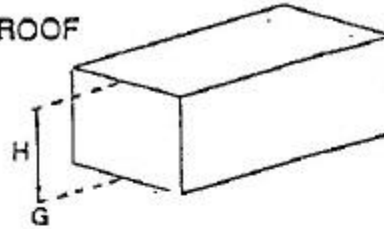
APPENDIX A: ILLUSTRATIONS

BUILDING HEIGHT

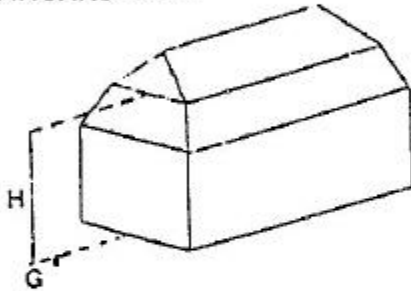
SHED ROOF



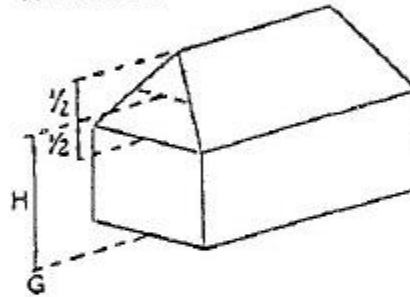
FLAT ROOF



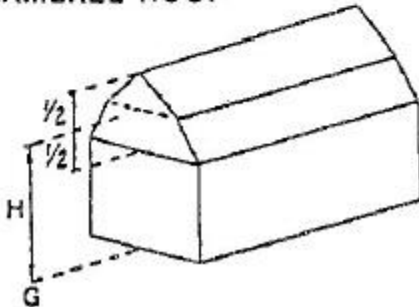
MANSARD ROOF



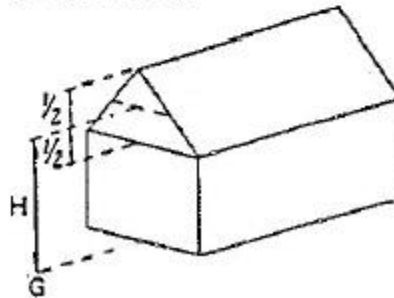
HIP ROOF



GAMBREL ROOF

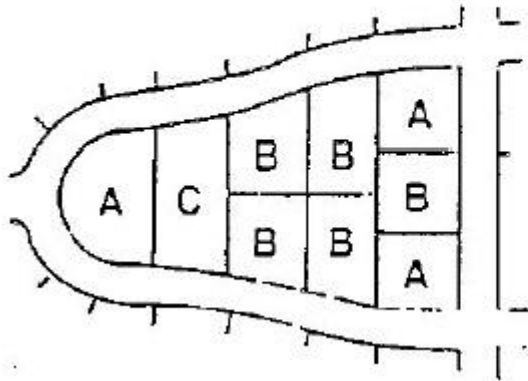


GABLE ROOF



H = HEIGHT OF BUILDING

G = GRADE



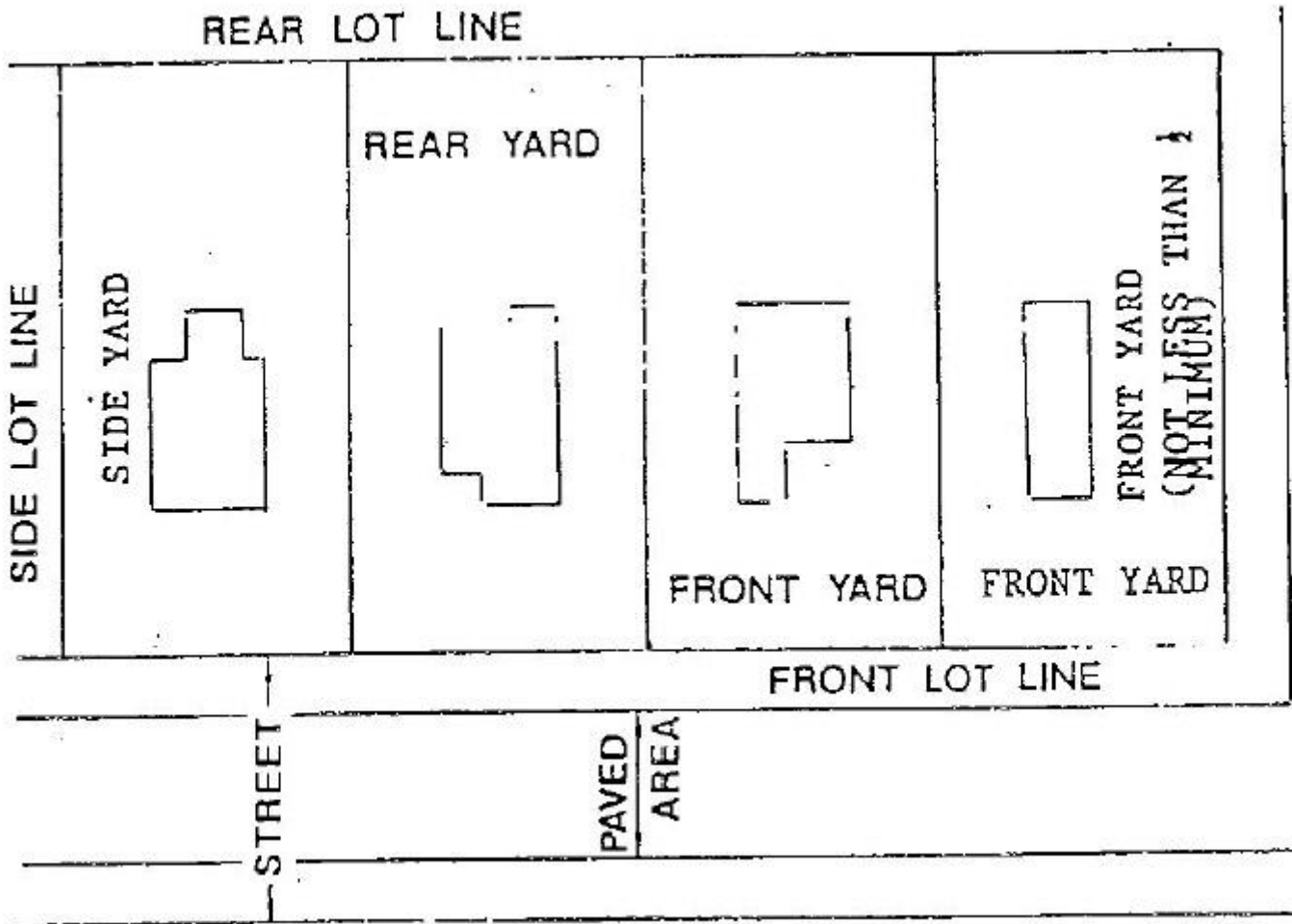
LEGEND: LOTS

A - CORNER

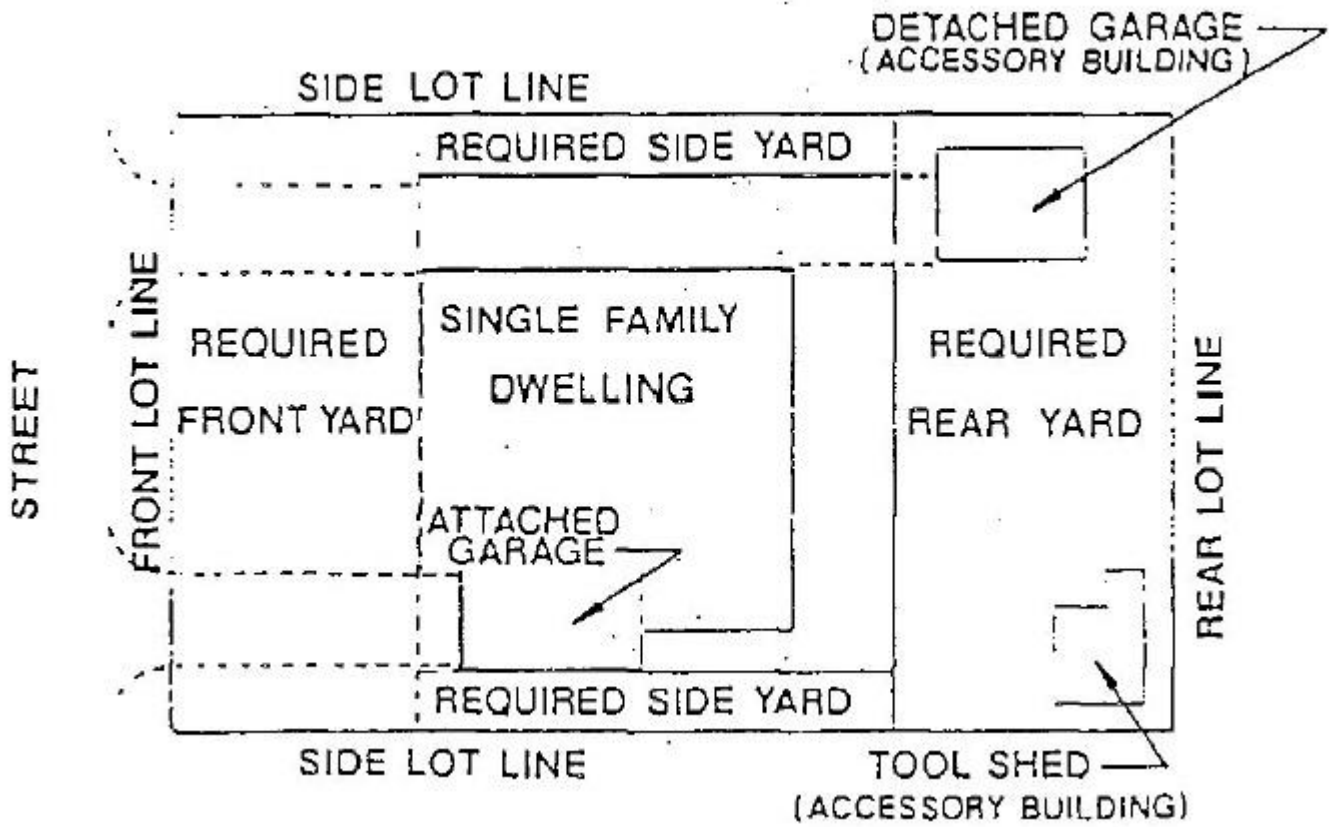
B - INTERIOR

C - DOUBLE FRONTAGE

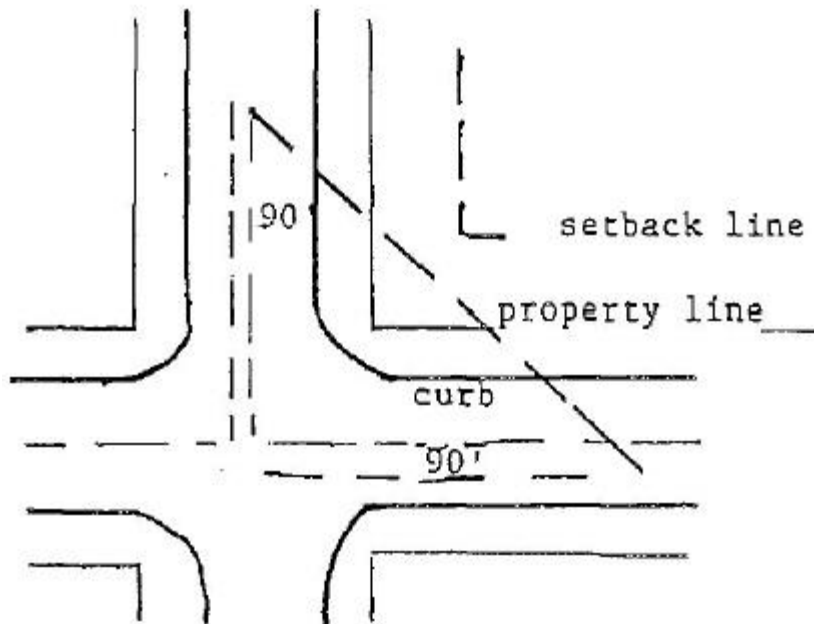
REQUIRED YARDS — ILLUSTRATED



BUILDINGS — PRINCIPAL AND ACCESSORY



**SIGHT TRIANGLE
MINIMUM STANDARD**



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

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