

## CHAPTER 154: ZONING REGULATIONS

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**GENERAL PROVISIONS****§ 154.001 SHORT TITLE.**

This chapter shall be known and may be cited as the zoning regulations of the city.  
(1999 Code, § 11-101)

**§ 154.002 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense include the future; words in the singular form include the plural; and words in the plural number include the singular; the word **BUILDING** includes the word **STRUCTURE**; the word **SHALL** or the word **MUST** is mandatory; the term **USED FOR** includes the meaning **DESIGNED FOR** or **INTENDED FOR**.

**ACCESSORY USE, BUILDING OR STRUCTURE.** A subordinate use or subordinate detached building or structure customarily incidental to, and located on the same lot occupied by the principal use or main building.

**AGRICULTURE.** The planting, cultivating, harvesting and storage of grains, hay or plants, commonly grown in the vicinity. The raising and feeding of livestock and poultry shall be considered an **AGRICULTURAL VENTURE** if the area in which the livestock or poultry is kept is ten acres or more in the area and if the raising of livestock and poultry is incidental or supplemental to the raising of crops.

**ALTERATION, STRUCTURAL.** Any change in the supporting members of a building such as bearing walls, columns, beams or girders.

**APARTMENT.** A room or suite of rooms within a multiple dwelling, arranged, intended or designed for a place of residence of a single family or a group of individuals living together as a single housekeeping unit.

**APARTMENT HOUSE.** A building arranged, intended or designed to be occupied by three or more families living independently of each other.

**BASEMENT.** A story having part of its height below grade. A **BASEMENT** is counted as a story for height regulations if subdivided and used for dwelling purposes.

**BLOCK.** A parcel of land entirely surrounded by public highways, streets, railroads or unplatted land.

**BLOCK FRONT.** All of the property on one side of a street between two intersecting streets.

**BOARDING HOUSE.** A private dwelling in which at least three but not more than six rooms are offered for rent and tabled board is furnished only to roomers, and in which no transients are accommodated.

**BUILDING.** Any structure, including a roof supported by walls, designed or intended for the support, enclosure, shelter or protection of persons, animals, chattels or property and forming a construction that is safe and stable.

**BUILDING, HEIGHT OF.** The vertical distance from the grade (elevation of the curb, sidewalk or average of the ground around the structure) to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or the mean height level between the eaves and ridge for gable, hip, gambrel roofs.

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

**DWELLING, MULTIPLE.** A building designed for or occupied exclusively by more than two families.

**DWELLING, SINGLE-FAMILY.** A building designed for or occupied by one family.

**DWELLING, TWO-FAMILY.** A building designed for or occupied exclusively by two families.

**DWELLING UNIT.** A room or group of rooms within a dwelling and forming a single habitable unit with facilities for living, sleeping and cooking.

**FAMILY.** One or more persons living together and occupying a single housekeeping unit with single kitchen facilities.

**FARM.** An area which is used for growing of the usual farm products such as vegetables, fruit and grain, and the storage on the area, as well as for the raising thereon of the usual farm poultry and farm animals. The term **FARMING** includes the operating of the area for one or more of the above uses with the necessary accessory uses for treating or storing the produce; provided, however, that the operation

of any accessory uses shall be secondary to that of the normal farming activities and the accessory uses do not include the feeding of garbage or offal to swine or other animals.

**GARAGE, PRIVATE.** An accessory building or portion of a main building used for the storage only of motor vehicles owned and used for the occupants of the building to which it is accessory.

**GARAGE, PUBLIC.** A building or portion thereof, designed or used for the storage, sale, hiring, care or repair of motor vehicles.

**GROUP HOUSING PROJECT.** A dwelling project consisting of three or more buildings, to be constructed on a plot of ground which is not subdivided into customary streets or lots, or where the existing or contemplated street or streets or lot layouts make it impractical to apply the requirements of these regulations to the individual building units in the housing projects.

**HOME OCCUPATION.** An occupation or a profession which;

- (1) Is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit;
- (2) Is carried on by a member of the family residing in the dwelling unit;
- (3) Is clearly incidental and secondary to the use of the dwelling unit for residential purposes;
- (4) Does not employ more than one person outside of the immediate family;
- (5) Has no exterior display, no exterior sign, no exterior storage and no other exterior indications of the home occupation or variations from the residential character of the principal building; and
- (6) Produces no offensive noise, vibration, smoke, dust, odors, heat or glare.

**INSTITUTION.** A building occupied by a non-profit corporation or a non-profit establishment for public use.

**JUNK YARD.** Any area where waste, discarded or salvaged are bought, sold, exchanged, baled or packed, disassembled or handled, including the dismantling or wrecking of automobiles or other vehicles or machinery, house-wrecking yards, used lumber yards and places or yards of storage of salvaged house-wrecking and structural steel materials and equipment; but not including areas where those uses are conducted entirely within a completely enclosed building.

**LOT.** A parcel of land having its principal frontage upon a street and occupied or intended for occupancy by a use permitted in these regulations, including one main building or unit group of buildings, together with accessory buildings, open spaces and parking spaces required by these regulations.

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

**LOT, DEPTH OF.** The mean horizontal distance between the front and rear lot lines.

**LOT, DOUBLE FRONTAGE.** A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.

**LOT, INTERIOR.** A lot other than a corner lot.

**LOT OF RECORD.** A lot or parcel of land, the deed to which has been recorded in the office of the County Recorder.

**LOT WIDTH.** The width of a lot measured at the building line and at right angles to its depth.

**NONCONFORMING USE, BUILDING OR YARD.** A use, building or yard which does not, by reason of design, use or dimensions, conform to the regulations of the district in which it is located.

**NURSING HOME.** A home for the aged, chronically ill or incurable persons in which three or more persons not of the immediate family are received, kept and provided with food or shelter and care for compensation; but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis, treatment or care of the sick and injured.

**PARKING SPACE.** A surfaced area, enclosed in the main building or in an accessory building, or unenclosed, having an area of not less than 180 square feet exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by a surface driveway which affords satisfactory ingress and egress for automobiles.

**SIGN.** Any structure or part thereof or device attached thereto or painted, or represented thereon, 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 announcement, direction or advertisement. The word **SIGN** includes the word billboard but does not include the flag, pennant or insignia of any nation, state, city or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event.

**STORY.** The portion of a building, other than a basement, included between the surface of any floor and the surface of the floor above it or if there is no floor above it, the space between the floor and the ceiling next above it.

**STORY, HALF.** A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than 60% of the floor area is finished off for use.

**STREET.** A right-of-way, dedicated to public use, which affords a primary means of access.

**STRUCTURAL ALTERATION.** Any change in the structural members of a building, such as walls, columns, beams, roof or girders.

**STRUCTURE.** Anything constructed or erected, which requires location on the ground, or attached to something having a location on the ground; including, but not limited to, signs and excepting utility poles, fences and retaining walls.

**TRAILER.** Any structure used for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses or skirting and which has been, or reasonably may be equipped with wheels or other devices for transporting the structure from place to place. The term **TRAILER** shall include trailer coaches, house or camp cars or other portable or mobile shelters.

**TRAILER COURT.** Any lot or parcel used for one or more trailer coaches, houses or camp cars or other portable or mobile shelters used for living purposes.

**VARIANCE.** Relief from or variation of the provisions of these regulations, other than use regulations, as applied to specific pieces of property, as distinct from rezoning of the Board of Adjustment.

**YARD.** An open space on the same lot with a building unobstructed from the ground upward and measured as the minimum horizontal distance between the lot line and the main building.

**YARD, FRONT.** A yard extending across the front of a lot between the side yard lines and measured between the street line and the main building or any projection thereof, other than the ordinary projection or steps, terraces, uncovered porches or entrance ways. On corner lots, the **FRONT YARD** shall be considered as parallel to the street upon which the lot has its least dimension.

**YARD, REAR.** A yard extending across the rear of the lot between the side lot line and measured between the rear lot line and the rear of the main building or any projections other than steps, uncovered porches or entrance ways. On all lots, the **REAR YARD** shall be at the opposite end of the lot from the front yard.

**YARD, SIDE.** A yard between the main building and the side line of the lot and extending from the front lot line to the rear yard.  
(1999 Code, § 11-102)

## ZONING DISTRICTS

### § 154.015 DISTRICTS AND GENERAL REQUIREMENTS.

(A) (1) For the purpose of this chapter, the city is hereby divided into seven zoning districts to be known as follows:

A-1	Agriculture District
R-1	Residence District
R-2	Multiple Dwelling District
B-1	Highway Business District
B-2	Business District
M-1	Light Industrial District
M-2	Heavy Industrial District

(2) The boundaries of these districts are shown on the official zoning district map which made part of this chapter, and shall be identified by the signature of the Mayor, attested by the City Clerk under the following statement:

“This is to certify that this is the official zoning district map referred to in § III, of Ordinance 344 of the City of Friend, Nebraska, passed June 22, 1967.”

(3) The official zoning district map shall be on file in the office of the City Clerk and shall be final authority as to the current zoning status of the land.

(4) No changes shall be made on the zoning district map except as may be required by amendments to this chapter. These changes shall be promptly indicated on the zoning district map with the ordinance number, nature of change and date of change noted on the map.

(B) No building shall be erected, enlarged, moved or structurally altered except in conformity with the use, height, yard, area per family, parking and other regulations prescribed herein for the district in which the lot is located. Every part of the required yard shall be open to the sky unobstructed, except as provided, and no yard or lot area shall be reduced so as to be smaller than the applicable district requirement.

(C) Every building hereafter erected or structurally altered shall be located on a lot as defined as in § 154.002, and in no case shall more than one residential building be located on a lot except as provided herein.  
(1999 Code, § 11-103)

**§ 154.016 A-1 AGRICULTURAL DISTRICT.**

(A) *Permitted uses.* The following uses are permitted in the A-1 Agricultural District:

(1) Agriculture or truck gardening, except for feeding and raising of livestock; provided that any building for the enclosure for the shelter of animals shall be at least 50 feet from all street and lot lines;

## Friend - Land Usage

- (2) Single-family dwellings;
- (3) Church, school or library;
- (4) Public park, playground or community center;
- (5) Golf courses or private club not operated for profit;
- (6) Colleges;
- (7) Educational, religious or philanthropic institutions, but not including penal or mental institutions;
- (8) Nursing homes;
- (9) Home occupation;
- (10) Parking for permitted uses as required by § 154.036; and
- (11) Accessory building or use customarily incidental to the above uses, including a church, school or similar bulletin board or sign not exceeding ten-square feet in area, pertaining to the lease, hire or sale of the building or premises or the sale of products grown only on the premises; provided that any accessory building is not constructed prior to beginning construction of the main building.

(B) *Lot and building height regulations.* The following are permitted in this district except as provided in § 154.035.

Height	2.5 stories or 35 feet maximum
Lot area	Average within a block of 15,000 square feet, but no less than 10,000 square feet per family
Lot width	60 feet minimum
Yards	
Front	30 feet minimum
Rear	35 feet
Side	7 feet minimum for one-story dwellings
	8 feet minimum for two- or more story dwellings

(1999 Code, § 11-104)

**§ 154.017 R-1 RESIDENCE DISTRICT.**

(A) *Permitted uses.* The following uses are permitted in the R-1 Residence District:

- (1) Any uses permitted in the A-1 Agricultural District except for the feeding and raising of livestock;
- (2) Two-family dwellings;
- (3) Office of a resident physician, dentist, attorney or similar professional person when located within his or her residence, including one name place not over one-square foot in area;
- (4) Parking for permitted uses as required in § 154.036; and
- (5) Accessory building or use customarily incidental to the above uses.

(B) *Lot and building height regulations.*

(1) The following are permitted in this district except as provided in § 154.035.

Height	2.5 stories or 35 feet maximum
Lot area	Average within a block of 7,500 square feet, but no less than 6,000 square feet per family
Lot width	60 feet minimum
Yards	
Front	30 feet minimum
Rear	35 feet
Side	7 feet minimum for one-story dwellings
	8 feet minimum for two- or more story dwellings

(2) This section does not apply to accessory buildings which are specifically covered under § 154.035(D).  
(1999 Code, § 11-105)

**§ 154.018 R-2 MULTIPLE DWELLING DISTRICT.**

(A) *Permitted uses.* The following uses are permitted in the R-2 Multiple Dwelling District:

- (1) Single-family dwellings;
- (2) Multiple dwellings;

## Friend - Land Usage

- (3) Boarding and lodging houses;
- (4) Group housing projects;
- (5) Fraternities and sororities;
- (6) Parking for permitted uses as required by § 154.036; and
- (g) Accessory building or use customarily incidental to the above uses.

(B) *Lot and building height regulations.* The following are permitted in this district except as provided in § 154.035.

Height	2.5 stories or 35 feet maximum
Lot area	3,000 square feet per family, but in no case less than 6,000 square feet
Lot width	60 feet minimum
Yards	
Front	30 feet minimum
Rear	35 feet
Side	7 feet minimum for one-story dwellings
	8 feet minimum for two- or more story dwellings

(1999 Code, § 11-106)

**§ 154.019 B-1 HIGHWAY BUSINESS DISTRICT.**

(A) *Permitted uses.* The following uses are permitted in the B-1 Highway Business District:

- (1) Agriculture or truck gardening; provided that any building for the enclosure or the shelter of animals shall be at least 50 feet from any street and lot lines;
- (2) Billboard, when at least 50 feet from any R District boundary;
- (3) Filling station;
- (4) Motels or hotels;
- (5) Laundries or dry cleaning establishments;
- (6) Commercial green house;

(7) Farm implement display or sales room;

(8) Barber shops and beauty parlors;

(9) Professional offices;

(10) Business offices;

(11) Antique sales;

(12) Veterinarian or animal hospital; provided any such building, kennel or exercise runway is located at least 100 feet from any R District boundary; and

(13) When located at least 100 feet away from any R District boundary: bowling alley, drive-in restaurant or similar establishment, drive-in theater other similar places of entertainment or amusement.

(B) *Lot and building height regulations.* The following are permitted in this district except as provided in § 154.035.

Height	3 stories or 45 feet maximum
Lot area	No minimum required
Lot width	No minimum for commercial purposes
Yards	
Front	25 feet minimum
Rear	No minimum except for a lot abutting an R District in which case 25 feet shall be provided
Side	No minimum except along the side of a lot abutting a lot in an R District in which case 10 feet shall be provided

(1999 Code, § 11-107)

**§ 154.020 B-2 BUSINESS DISTRICT.**

(A) *Permitted uses.* The following uses are permitted in the B-2 Business District:

(1) Any use permitted in the B-1 Highway Business District;

(2) Stores or shops where goods are sold primarily at retail or where personal services are rendered, including a grocery, drug store, meat market, bank, beauty parlor, electrical repair or similar retail sales, services or repair shops;

## Friend - Land Usage

- (3) Public garage, when located at least 50 feet from any R District boundary;
- (4) Business or commercial school or dancing or music academy;
- (5) Clinic;
- (6) Printing shop;
- (7) Automobile or trailer display or sales room or when located at least 50 feet from any R District, an automobile or trailer sales or storage lot;
- (8) Lumber yard;
- (9) Frozen food locker;
- (10) Milk distributing station;
- (11) Undertaking establishment or mortuary;
- (12) Painting, plumbing, tinsmithing, upholstering or similar general service shop;
- (13) Off-street parking as required in § 154.036; and
- (14) Accessory building or use customarily incidental to a permitted use, including an advertising sign or bulletin board.

(B) *Lot and building height regulations.* The following are permitted in this district except as provided in § 154.035.

Height	3 stories or 45 feet maximum
Lot area	No minimum required
Lot width	No minimum for commercial purposes
Yards	
Front	No minimum
Rear	No minimum except for a lot abutting an R District in which case 25 feet shall be provided
Side	No minimum except along the side of a lot abutting a lot in an R District in which case 10 feet shall be provided

**§ 154.021 M-1 LIGHT INDUSTRIAL DISTRICT.**

(A) *Permitted uses.* The following uses are permitted in the M-1 Light Industrial District:

- (1) Any use permitted in the B-2 Business District;
- (2) Bottling works;
- (3) Carting, express or storage yard;
- (4) Coal or coke yard;

(5) Any other business, industry or manufacturing use where the process of manufacture or treatment or other activity is such that only a nominal amount of dust, odor, gas, smoke or noise is emitted and not more than 10% of the lot or tract is used for the open storage of products, materials or equipment; and

- (6) Off-street parking.

(B) *Lot and building height regulations.* The following are permitted in this district except as provided in § 154.035.

Height	3 stories or 45 feet maximum
Lot area	No minimum required
Lot width	No minimum required for industrial purposes
Yards	
Front	25 feet minimum
Rear	No minimum except for a lot abutting an R District in which case 25 feet shall be provided
Side	No minimum except along the side of a lot abutting a lot in an R District in which case 10 feet shall be provided

(1999 Code, § 11-109)

**§ 154.022 M-2 HEAVY INDUSTRIAL DISTRICT.**

(A) *Permitted uses.* The following uses are permitted in the M-2 Heavy Industrial District:

- (1) Contractors yard;
- (2) Grain elevator;

## Friend - Land Usage

(3) Livestock auction or sales barn;

(4) Auto wrecking yard or junk yard only when located inside a building or when wholly enclosed by a well-maintained wooden fence not less than eight feet in height and in which the openings or cracks are less than 15% of the total area;

(5) (a) Any other use not in conflict with local or state enacted laws regulating nuisances; provided that no use emitting or likely to emit substantial amounts of dust, odor, gas, smoke or noise and none of the following specific uses shall be permitted without approval of the Mayor and City Council after a review and report of the Planning Commission subject to those requirements as it may deem necessary to protect adjacent property and prevent objectionable, deteriorating or offensive conditions:

1. Acid or chemical manufacture;
2. Distillation of bones;
3. Explosives, manufacture or storage;
4. Fat rendering;
5. Fertilizer manufacture;
6. Garbage, offal or dead animals reduction or dumping;
7. Glue manufacture;
8. Stock yards or retail bulk storage of gas and propane;
9. Any similar use that would be hazardous to the public health, safety or welfare;

and

10. Feed lots.

(b) In authorizing any of the uses in this division (A), there may be imposed reasonable requirements as to the landscaping, screening and other features of the development as may be deemed necessary to protect adjacent property and prevent objectionable or hazardous conditions.

(B) *Lot and building height regulations.* The following are permitted in this district except as provided in § 154.035.

Height	3 stories or 45 feet maximum
Lot area	No minimum required
Lot width	No minimum required for industrial purposes
Yards	
Front	No minimum required
Rear	No minimum except for a lot abutting an R District in which case 25 feet shall be provided
Side	No minimum except along the side of a lot abutting a lot in an R District in which case 10 feet shall be provided

(1999 Code, § 11-110)

**GENERAL REGULATIONS**

**§ 154.035 EXCEPTIONS AND MODIFICATIONS.**

(A) *Lot area and width.* Any lot of record at the time of the passing of these regulations having less than area width than herein required may be used provided that all yard requirements are met.

(B) *Front yard.*

(1) Where 30% or more of a block front is improved with buildings, no part of any new building shall project beyond the front line of the two nearest buildings, except that no building shall be required to provide a front yard greater than 50 feet. Any new structure constructed upon any lot or lots in an A-1, R-1 or R-2 District which is occupied by an existing structure located within the required front yard setback shall not be constructed so as to project beyond the front line of the existing structure, but may be located within the front yard setback required for that district under the following conditions:

(a) The new structure is permanently attached to the existing structure; and

(b) The existing structure is not subsequently demolished by voluntary action of the owner or occupant.

(2) A corner lot shall have a front yard on each street, except that on a lot of record the building width shall not be reduced to less than 40 feet and no accessory buildings shall project beyond either required front yard, except as provided above.

(C) *Side yard.* The side yard may be reduced to 10% of the lot width on lots of record less than 60 feet in width; provided, however that no side yards shall be less than five feet.

(D) *Rear yard.*

(1) On lots of record, the rear yard may be reduced to 20% of the depth of the lot.

(2) An accessory building may be built within a required rear yard when located at least five feet from the rear and two feet from the side lot and when occupying not more than 30% of the area of the required rear yard.

(E) *All yards.*

(1) The ordinary projections of sills, belt courses, cornices and ornamental features may be permitted not to exceed 18 inches into any required yard.

(2) An open, uncovered porch or paved terrace may not extend more than ten feet into any required yard.

(F) *Height.*

(1) Chimneys, cooling or water towers, elevators, bulk heads, fire towers, monuments, stacks, stage towers, tanks, spires, church steeples, radio towers or necessary mechanical apparatus may be erected to any safe height not in conflict with any other local ordinances.

(2) Public, semi-public or public service buildings, hospitals, institutions, churches and schools, when permitted in the district, may be erected to a height of not exceeding 60 feet; provided all required yards are increased one foot for each foot a building height above the height limit otherwise provided.

(1999 Code, § 11-111) (Ord. 02-583, passed 8-2-2002)

#### **§ 154.036 OFF-STREET PARKING REQUIREMENTS.**

No building shall be erected, enlarged or changed in use unless there is provided on the lot or tract of land space for the parking of automobiles or trucks together with drives, entrances and exits, and in accordance with the following minimum requirements:

Dwellings	One parking space for each dwelling unit
Commercial uses	One parking space for each 200 square feet of gross floor area, except in the B-2 Business District, where no minimum is required
Industries	One parking space for each 3 employees
Places of public assembly	One space for each 10 seating capacity in the main auditorium

(1999 Code, § 11-112)

**§ 154.037 SPECIAL USES.**

(A) The Mayor and City Council may, by special permit, after a public hearing and after a review and recommendation of the Planning Commission and imposing those conditions and protective restrictions that are deemed necessary, authorize the following special uses in any district in which they are otherwise prohibited:

- (1) Cemetery or mausoleum;
- (2) Green house or a nursery, not less than 100 feet from all property lines;
- (3) Hospital, clinic or institution, except for the mentally ill or those with contagious diseases; provided that less than 40% of the total land area is occupied by buildings and that all the required yards are increased by one foot for each foot of building height;
- (4) Landing field or strip for aircraft;
- (5) Radio tower or broadcasting station;
- (6) Removal of gravel, top soil or similar natural materials, with safeguards for protection of the adjoining property and the community as a whole;
- (7) Riding stable;
- (8) Road-side stand, commercial amusement or recreational development for temporary or seasonal periods;
- (9) Sanitary fill for the disposal of garbage and trash;
- (10) Trailer camp observing all appropriate state and county regulations; provided there is at least 2,000 square feet of lot area per trailer, no trailer or service building is closer than 25 feet to any side or rear lot line, and the hard surface drives, landscaping and other similar improvements as may be

deemed necessary for its proper development and for the protection of the surrounding area are provided; and

(11) Housing projects.

(a) The owner or owners of any tract of land comprising an area of not less than three acres in the A-1, R-1 or R-2 Districts may submit to the Planning Commission a plan for the use and development of all the tract of land for residential purposes, and shall present specific evidence and facts showing whether or not the proposed plan meets the following conditions:

1. The property adjacent to the area included in the plan will not be adversely affected;
2. The plan is consistent with the intent and purpose of these regulations to promote the public health, safety, morals and general welfare;
3. The building shall be used only for single-family dwellings and the usual accessories, such as garages, storage space or community or administrative activities;
4. The average lot area contained in a site will not be less than 2,000 square feet per family; and
5. The buildings do not exceed two stories in height.

(b) The plan need not provide for the customary street and lot layout, or the normal application of the yard and area requirements to individual building units.

(B) If the Planning Commission and the City Council approve the plans, after public hearing thereon, building permits may be issued even though the location of the building to be erected in the area, and the yards and open spaces contemplated by the plan do not conform in all respects to the district regulations or the district in which it is located.

(1999 Code, § 11-113)

**§ 154.038 NONCONFORMING USES.**

(A) The lawful use of a building existing at the time of adoption of this chapter or of a change in the district classifications may be continued even though the use does not conform with the provisions thereof. If no structural alterations are made, a nonconforming use of the building may be changed to another nonconforming use of the same or more restricted classification but whenever a nonconforming use, it shall not thereafter be changed to a less restricted use.

(B) The nonconforming use of a building may be extended throughout these parts which were manifestly arranged or designed for prior to the adoption of these regulations.

(C) No building which has been damaged by fire, explosion, act of God or the public enemy to the extent of more than 60% of its reproduction value shall be restored except in conformity with the district regulations.

(D) In the event that the nonconforming use of a building or premises is discontinued for a period of two years or more, the building or premises shall be thereafter used only in conformity with the regulations of the district of which it is located.

(1999 Code, § 11-114)

**§ 154.039 MANUFACTURED HOMES; STANDARDS.**

(A) A manufactured home may be used as a residential structure in any zone in which residential uses are permitted if the manufactured home bears an appropriate seal which indicates that it was constructed in accordance with the standards of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, the Nebraska Uniform Standards for Modular Housing Units Act or the United States Department of Housing and Urban Development.

(B) Manufactured homes permitted pursuant to this section shall be located and installed according to the following standards which are applicable to site-built, single-family dwellings:

(1) The home shall be located and installed on a permanent perimeter foundation;

(2) The home shall be installed with permanent utility connections;

(3) The home shall comply with all setback and lot requirements of the residential zone in which it is located; and

(4) The home shall comply with the minimum square footage requirements of the residential zone in which it is located.

(C) Manufactured homes shall also meet the following standards:

(1) The home shall have no less than 900 square feet of floor area;

(b) The home shall have no less than an 18-foot exterior width;

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

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

(e) The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile or rock; and

(f) The home shall have wheels, axles, transporting lights and removable towing apparatus removed.

(D) Nothing in this section shall be deemed to supersede any valid restrictive covenants of record.

(E) For purposes of this section, **MANUFACTURED HOME** shall mean:

(1) 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 in compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. parts 3280 et seq. promulgated by the United States Department of Housing and Urban Development; or

(2) A modular housing unit as defined in Neb. RS 71-1557, bearing a seal in accordance with the Nebraska Uniform Standards for Modular Housing Units Act.

(F) The locating or placement of any manufactured home within the corporate limits of the municipality for any use, including use as a residential structure, shall not be allowed, unless the manufactured home meets all of the standards and requirements set forth above and herein. (1999 Code, § 11-119) (Ord. 538, passed 1-4-2000; Ord. 03-667, passed 11-4-2003)

**Statutory reference:**

*Authority or similar provisions, see Neb. RS 19-902*

**§ 154.040 RECREATIONAL VEHICLES AND BOATS.**

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

**BOAT.** Any waterborne vessel, and its trailer designed for transporting a boat to and from bodies of water.

**RECREATIONAL VEHICLE.** Any vehicular, portable structure built on a chassis, either self-propelled or pulled, which is designed to be used as a temporary dwelling for travel, recreation, and vacation usage and is permanently identified as a travel trailer or motor home by the manufacturer.

(B) *Parking and storage of recreational vehicles and boats.*

(1) A recreational vehicle or boat may be parked or stored as hereafter provided in an R-1 or R-2 Zoning District, as determined from time to time by the then most current zoning map and ordinances of the city; provided that the owner of the recreational vehicle or boat is also the owner of or rents the residence of the property as his or her permanent residence where the recreational vehicle or boat is parked or stored.

(2) A recreational vehicle or boat may be parked outside of an enclosed structure in the required front yard on a concrete driveway or its equivalent so long as no portion of the recreational vehicle or boat extends over the public sidewalk or other public right-of-way.

(3) Parking of a recreational vehicle or boat is allowed in the rear yard, outside of an enclosed structure.

(4) Parking of a recreational vehicle or boat is allowed in the side yard, except when the side yard to be used is contiguous to a city street.

(5) A recreational vehicle or boat may be parked on a city street for the limited purpose of loading or unloading in preparation of its use, however at no time may a recreational vehicle equipped with a "slide-out" section, open the slide out while on a city street or right-of-way.

*(C) Recreational vehicle, use as residence.*

(1) Parking of a recreational vehicle or boat is permitted only for storage, and shall not be used for residential dwelling purposes for more than 21 calendar days in a calendar year.

(2) A recreational vehicle or boat may not be permanently connected to sewer lines, water lines or electricity other than within the confines of a trailer court or trailer park zoned by the city for those purposes.

(3) Recreational vehicles or boats may be temporarily connected to electricity or water only for charging batteries and when preparing the vehicle for use.  
(1999 Code, § 11-120) (Ord. 05-677, passed 2-1-2005)

**SEXUALLY ORIENTED BUSINESSES**

**§ 154.055 DEFINITIONS.**

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

**ADULT ARCADE.** Any place to which the public is permitted or invited wherein coin-operated, slug-operated or for any form of consideration, or electronically, electrically or mechanically controlled still or motion picture machines, projectors, video or laser disc players, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

***ADULT BOOKSTORE, ADULT NOVELTY STORE or ADULT VIDEO STORE.***

(1) A commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:

(a) Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes or video reproductions, compact discs, digital video discs, slides or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or

(b) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities.

(2) A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as ***ADULT BOOKSTORE, ADULT NOVELTY STORE or ADULT VIDEO STORE***. These other business purposes will not serve to exempt the commercial establishments from being categorized as an ***ADULT BOOKSTORE, ADULT NOVELTY STORE or ADULT VIDEO STORE*** so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

***ADULT CABARET.*** A nightclub, bar, restaurant or other commercial establishment which features:

(1) Persons who appear in a state of nudity or semi-nude; or

(2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

***ADULT MOTEL.*** A hotel, motel or similar commercial establishment which:

(1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions;

(2) Offers a sleeping room for rent for a period of time that is less than ten hours; or

(3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten hours.

***ADULT MOTION PICTURE THEATER.*** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, compact discs, digital video discs, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description

of specified sexual activities or specified anatomical areas. This shall not include hotels or motels which offer adult movies for viewing as part of a selection of available movies that includes non-adult movies, on a pay-per-view basis.

**ADULT THEATER.** A theater, concert hall, auditorium or similar commercial establishment which features persons who appear in a state of nudity or semi-nude or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

**EMPLOYEE.** A person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not the person is paid a salary, wage or other compensation by the operator of the business. **EMPLOYEE** does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

**ESCORT.** A person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**ESCORT AGENCY.** A person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

**ESTABLISHMENT.** Any of the following:

- (1) The opening or commencement of any sexually oriented business as a new businesses;
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- (3) The addition of any sexually oriented business to any other existing sexually oriented business; or
- (4) The relocation of any sexually oriented business.

**NUDE MODEL STUDIO.** Any place where a person who appears semi-nude, in a state of nudity, or who displays specified anatomical areas and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. **NUDE MODEL STUDIO** shall not include a proprietary school licensed by the state or a college or junior college.

**NUDITY or A STATE OF NUDITY.** The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

**PERSON.** An individual, proprietorship, partnership, corporation, association or other legal entity.

**SEMI-NUDE or IN A SEMI-NUDE CONDITION.** The showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit or other wearing apparel; provided the areola is not exposed in whole or in part.

**SEXUAL ENCOUNTER CENTER.** A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex;

or

(2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

**SEXUALLY ORIENTED BUSINESS.** An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

**SPECIFIED ANATOMICAL AREAS.**

(1) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or

(2) Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

**SPECIFIED SEXUAL ACTIVITIES.** Any of the following:

(1) The actual or simulated fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;

(2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation or sodomy; or

(3) Excretory functions as part of or in connection with any of the activities set forth in division (1) through (2) above.

(Ord. 06-685, passed 2-24-2006)

**§ 154.056 CLASSIFICATION.**

Sexually oriented businesses are classified as follows:

- (A) Adult arcades;
  - (B) Adult bookstores, adult novelty stores or adult video stores;
  - (C) Adult cabarets;
  - (D) Adult motels;
  - (E) Adult motion picture theaters;
  - (F) Adult theaters;
  - (G) Escort agencies;
  - (H) Nude model studios; and
  - (I) Sexual encounter centers.
- (Ord. 06-685, passed 2-24-2006)

**§ 154.057 LOCATION OF SEXUALLY ORIENTED BUSINESSES.**

(A) A sexually oriented business may only be located in the M-2 District as defined and described in § 154.022. A person violates this chapter and is subject to the penalty as provided herein if that person locates or operates or causes to be located or operated a sexually oriented business in any zoning district other than the M-2 District.

(B) A person commits an offense if the person operates or causes to be operated a sexually oriented business within 400 feet of:

(1) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;

(2) A public or private educational facility including, but not limited to, child daycare facilities, nursery schools, preschools, kindergarten, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, colleges and universities; school includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school;

(3) A boundary of a residential district as defined in these zoning regulations;

(4) A public park or recreational area which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas or other similar

public land within the city which is under the control, operation or management of the city park and recreation authorities;

(5) The property line of a lot devoted to a residential use as defined in these zoning regulations;

(6) An entertainment business which is oriented primarily towards children or family entertainment;

(7) A licensed premises, licensed to serve and/or sell alcoholic beverages by the Nebraska Liquor Control Commission; or

(8) Any publicly-owned facility, including, but not limited to, fire stations, police stations, city offices or structures which are periodically used by members of the general public for private or public gatherings.

(C) For the purpose of division (B) above, measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a use listed in division (B) above. Presence of a city, county or other political subdivision boundary shall be irrelevant for the purposes of calculating and applying the distance requirements of this section.

(Ord. 06-685, passed 2-24-2006) Penalty, see § 154.999

### ***ENFORCEMENT AND ADMINISTRATION***

#### **§ 154.070 ENFORCEMENT AND ADMINISTRATION.**

(A) It shall be the duty of the person designated by the Mayor and confirmed by the City Council as an administrative official to take force and administer the regulations contained in this chapter.

(B) (1) No building shall be constructed or altered without a building permit as required by this section. Application for a building permit shall be accompanied by a plat in duplicate, drawn to scale, showing the name of the applicant, the actual dimensions of the lot to be built upon as shown by a survey, the size, shape and location as may be necessary for the enforcement of these regulations.

(2) A record of building permits shall be kept on file in the office of the administrative official. (1999 Code, § 11-115) Penalty, see § 154.999

**§ 154.071 AMENDMENT.**

(A) This chapter may from time to time be amended by the City Council after a public hearing and a recommendation of the Planning Commission in accordance with the codes of the state.

(B) Before any final action is taken on any amendment to these regulations and district map it shall be submitted to the Board of Education in writing, and the Board shall within 30 days recommend in writing to the governing body that the amendment be approved or disapproved in whole or in part or with the changes as may be desirable. This recommendation shall be advisory, and failure of the Board of Education to make written recommendation within 30 days shall be construed as an approval of the proposal as submitted.

(C) The Planning Commission shall hold one public hearing on every amendment to these regulations. If no report is received from the Commission in 60 days, it may be assumed that the Commission has approved the amendment. Before any action shall be taken as provided in this section, the party or parties proposing a change in the zoning ordinance or district boundary, shall deposit to the City Treasurer the sum of \$15 to cover the approximate cost of this procedure, and under no condition shall the sum or part thereof be refunded for failure of the change to be adopted by the City Council. (1999 Code, § 11-116)

**§ 154.072 INTERPRETATION.**

(A) In interpreting and applying the provisions of these regulations, they shall be held to be the minimum requirements for the promotion of public safety, health, convenience, comfort, moral, prosperity and general welfare. It is not intended by these regulations to interfere with or abrogate or annul any easements, covenants or other agreements between the parties, except that if these regulations impose a greater restriction, these regulations shall control.

(B) In respect to the boundaries of a district as shown on the district map, if uncertainty exists, the following rules shall apply.

(1) The district boundaries are either streets or alleys unless otherwise shown, and where the district designated on the map is bounded approximately by a street or alley line, the street or alley shall be construed to be the boundary.

(2) Where the district boundary is not otherwise indicated, and where the property has been or may hereafter be construed to be the lot lines, and where the district designated on the district map is bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the districts unless otherwise indicated on the map.

(3) In unsubdivided property, the district boundaries shall be determined by use of the scale appearing on the district map. (1999 Code, § 11-117)

**§ 154.999 PENALTY.***(A) Generally.*

(1) Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this chapter shall be deemed guilty of an offense and shall be fined not more than \$100 for each offense. Each day that a violation continues shall constitute a separate offense.

(2) In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or a building, structure or land is used in violation of these regulations, the city, in addition to other remedies, may institute appropriate action or proceedings to prevent the unlawful erection, alteration, maintenance or use, or to correct or abate the violation, or to prevent the occupancy of the building, structure or land.  
(1999 Code, § 11-118)

*(B) Sexually oriented businesses.*

(1) A person commits a misdemeanor if that person causes or permits the operation, establishment, substantial enlargement or transfer of ownership or control of a sexually oriented business within 400 feet of another sexually oriented business.

(2) Any person found guilty of any violation of §§ 154.055 through 154.057 shall be subject to a fine of not less than \$100 per violation. A separate offense and violation shall be deemed committed on each day of which a violation occurs or continues. In the alternative, the city may enjoin the activities which are in violation of §§ 154.055 through 154.057.

(3) Any sexually oriented business lawfully operating on January 1, 2006, that is in violation of §§ 154.055 through 154.057 shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed one year, unless sooner terminated for any reason or voluntarily discontinued for a period of 30 days or more. These nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use.  
(Ord. 06-685, passed 2-24-2006)