



# City of Grand Island

Tuesday, May 24, 2022

Council Session

## Item E-5

### **Public Hearing on Changes to Chapter 36 of the Grand Island City Code Relative to 36-55; Secondary Agricultural District**

*Council action will take place under Ordinances item F-1.*

Staff Contact: Chad Nabity

# Council Agenda Memo

**From:** Regional Planning Commission

**Meeting:** May 24, 2022

**Subject:** Concerning proposed amendments to Section 36-55 Secondary Agricultural Zone

**Presenter(s):** Chad Nabity, AICP Planning Director

## Background

Stephen Mossman, on behalf of Mid America Truck LLC has submitted a request for the text amendment to the AG-2 Secondary Agriculture Zone to consider allowing Trailer Washouts as a conditional use in this zoning district. The stated reason for the request is “Trailer Washouts are vital to Hall County/Grand Island economy and compatible with the AG-2 uses.” A copy of the request to change the regulations and cover letter are attached.

The (AG-2) Secondary Agricultural Zoning District regulations are intended to provide for the preservation of lands best suited for agricultural uses of all types including feed lots and the commercial feeding of livestock to specific limits and accessory uses; to prevent encroachment of uses of land that could be mutually incompatible and continue to provide for agricultural uses as a major asset to the economy of the area of the use and conservation of agricultural land, to protect the value of such land, and to protect it from indiscriminate residential and urban development and other incompatible and conflicting land uses. The (AG-2) Secondary Agricultural Zoning District is also intended to conserve and protect the value of open space, wooded areas, streams, mineral deposits and other natural resources and to protect them from incompatible land uses and to provide for their timely utilization. The zoning district intends to provide for the location and to govern the establishment and operation of land uses that are compatible with agriculture and are of such nature that their location away from residential, commercial and industrial areas is most desirable. In addition, to provide for the location and to govern the establishment of residential uses which are accessory to and necessary for the conduct of agriculture and to provide the location and to govern the establishment and use of limited non-agricultural residential uses. Such non-agricultural residential uses shall not be so located as to be detrimental to or conflict with other uses that are named as permitted or conditional uses in this zoning district and are appropriate to other property in the area.

The nature of the (AG-2) Secondary Agricultural Zoning District and the uses allowed outright or by conditional use permit precludes the provision of services, amenities and protection from other land uses which are afforded to residential uses by the regulations of other zoning districts,

and it is not intended that the AG-2 Secondary Agricultural Zoning District regulations afford such services, amenities and protection to residential uses located therein.

The AG-2 District is generally located at the periphery of the Grand Island Zoning Jurisdiction and in most cases is separated from the more intense districts near the city by a Transitional Agriculture Zone. The AG-2 District was designed to be similar to the Hall County A-3 Agricultural Transitional District. The county A-3 District allows Truck Washes as a conditional use permit. Allowing a Trailer Washout, a similar but less intensive use in the Grand Island AG-2 District would be consistent with the intent of the district and the uses allowed in the typically adjacent district in the county jurisdiction.

## Discussion

The proposed changes are attached with this. ~~Strikeouts~~ will be removed from the regulation and underlined will be added to the regulations. All changes are shown in red typeface in the proposed ordinance. The only proposed change is to add Trailer Washout as a listed conditional use.

A complete copy of the proposed changes is included as an attachment to this memo and in a the ordinance.

### **From the May 17, 2022 Regional Planning Commission Meeting Minutes:**

- 3. Public Hearing – Zoning Text Amendment – Grand Island –** Public Hearing to consider amending section 36-55 Secondary Agriculture Zone to add Trailer Washout as a listed conditional use. (C-28-22HC)

O'Neill opened the public hearing.

Nabity stated the (AG-2) Secondary Agricultural Zoning District is the largest zoning district in the Grand Island jurisdiction. The AG-2 Zone was designed to be similar to the Hall County A-3 Agriculture Transitional District. The county A-3 District allows Truck Washes as a conditional use permit. Staff is recommending approval as it is consistent with the intent of the district and the uses allowed by conditional use permit in those County zoning that are typically adjacent district but within the county jurisdiction.

*Stephen Mossman*, an attorney representing Mid America Truck Wash LLC, Was available for questions.

*Chad S. Ruda* – 321 East Cathy Fremont, NE – owner of Mid America Truck Wash LLC - was available for questions

O'Neill closed the public hearing

A motion was made by Ruge and second by Olson to recommend approval of the zoning

text amendment section 36-55 Secondary Agriculture Zone to add Trailer Washout as a listed conditional use, with finding it is permitted by conditional use permit in the adjacent county zoning districts.

The motion was carried with nine members voting in favor (Nelson, O'Neill, Ruge, Olson, Monter, Rainforth, Rubio, Hendricksen and Randone) and no members voting no or abstaining.

### **Alternatives**

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Move to approve
2. Refer the issue to a Committee
3. Postpone the issue to future date
4. Take no action on the issue

### **Recommendation**

City Administration recommends that the Council approve the proposed changes as presented.

### **Sample Motion**

Move to approve as recommended.

**§36-55. (AG-2) Secondary Agricultural Zone**

*Intent:* The (AG-2) Secondary Agricultural Zoning District regulations are intended to provide for the preservation of lands best suited for agricultural uses of all types including feed lots and the commercial feeding of livestock to specific limits and accessory uses; to prevent encroachment of uses of land that could be mutually incompatible and continue to provide for agricultural uses as a major asset to the economy of the area of the use and conservation of agricultural land, to protect the value of such land, and to protect it from indiscriminate residential and urban development and other incompatible and conflicting land uses. The (AG-2) Secondary Agricultural Zoning District is also intended to conserve and protect the value of open space, wooded areas, streams, mineral deposits and other natural resources and to protect them from incompatible land uses and to provide for their timely utilization. The zoning district intends to provide for the location and to govern the establishment and operation of land uses that are compatible with agriculture and are of such nature that their location away from residential, commercial and industrial areas is most desirable. In addition, to provide for the location and to govern the establishment of residential uses which are accessory to and necessary for the conduct of agriculture and to provide the location and to govern the establishment and use of limited non-agricultural residential uses. Such non-agricultural residential uses shall not be so located as to be detrimental to or conflict with other uses that are named as permitted or conditional uses in this zoning district and are appropriate to other property in the area.

The nature of the (AG-2) Secondary Agricultural Zoning District and the uses allowed outright or by conditional use permit precludes the provision of services, amenities and protection from other land uses which are afforded to residential uses by the regulations of other zoning districts, and it is not intended that the AG-2 Secondary Agricultural Zoning District regulations afford such services, amenities and protection to residential uses located therein.

**(A) Permitted Principal Uses:** The following principal uses are permitted in the (AG-2) Secondary Agriculture Zoning District.

- (1) Agricultural operations, and the usual agricultural and farm buildings and structures, including the residences of owners and their families and any tenants and employees who are engaged in agricultural operations on the premises
  - (a) State agencies shall govern all use of farm chemicals, including application of pesticides and herbicides, and applicants using restricted-use pesticides shall be required to be certified as required by law
  - (b) The spreading of manure by a "farming" operation (as defined in §36-8 of this chapter)
  - (c) Agricultural operations having up to 300 animal units are considered a farm and are permitted by right, provided other requirements in this zoning district are met and submission of a no-fee livestock registration permit to the Hall County Regional Planning Director is done
  - (d) Operations having up to 300 animal units shall locate at least 300 feet from a platted residential area, public park, recreational area, church, cemetery, religious area, school, and residential district
- (2) Ranch and farm dwellings, subject to §36-55(e)
- (3) Recreational camps, parks, playgrounds, golf courses, country clubs, tennis courts, and other similar recreational uses
- (4) Single family dwelling subject to §36-55(e)
- (5) Utility substation, pumping station, water reservoir and telephone exchange
- (6) Fire stations
- (7) Churches, seminary and convent
- (8) Public and parochial school; college
- (9) Publicly owned and operated buildings and facilities such as community centers, auditoriums, libraries, museums
- (10) Private kennels and facilities, provided that all buildings and facilities be at least one hundred feet from the property line and three hundred feet from any neighboring residence
- (11) Roadside stands offering agricultural products for sale on the premises
- (12) Seed and feed sales, machine repair shop, livestock equipment construction and sales, as a primary occupation in conjunction with an agricultural operation and be operated on the premises
- (13) Farm and industrial equipment sales
- (14) Public and private riding academies provided that no stable, building or structure in which horses or other animals are kept are no closer than one hundred (100) feet from the property line
- (15) All other Permitted Uses as indicated as permitted within the Zoning Matrix [Attachment A hereto]

**(B) Conditional Uses:** The following uses are subject to any conditions listed in this chapter and are subject to conditions relating to the placement of said use on a specific tract of ground in the (AG-2) Secondary Agricultural Zoning District:

- (1) Bed and breakfast residence subject to the following conditions in addition to those imposed by the City Council
  - (a) The bed and breakfast residence shall be within a conforming single-family dwelling
  - (b) Guest rooms shall be within the principal residential building only and not within an accessory building
  - (c) Each room that is designated for guest occupancy must be provided with a smoke detector which is kept in good working order
  - (d) Two (2) off-street parking spaces shall be provided for each dwelling unit plus one (1) off-street parking space for each sleeping room designated for guests. Such parking areas shall not be within the required front or side yards
  - (e) One (1) identification sign on not more than four (4) square feet of sign area shall be permitted
- (2) Publicly and privately owned dude ranches, forest and conservation areas, and golf driving ranges, motorized cart tracks, or other outdoor recreational areas such as gun clubs, and archery, trap and skeet ranges
- (3) Industrial uses as provided in the Zoning Matrix [Attachment A hereto] and the following minimum conditions are met:
  - (a) Meets minimum lot requirements as established in this chapter
  - (b) Meets minimum off-street parking requirements as established by this chapter
  - (c) The lot(s) take access from an improved county road or highway or are along a developed public or private road that accesses an improved county road or highway
- (4) Commercial uses as provided in the Zoning Matrix [Attachment A hereto] and the following minimum conditions are met:
  - (a) Meets minimum lot requirements as established in this chapter
  - (b) Meets minimum off-street parking requirements as established by this chapter
  - (c) The lot(s) take access from an improved county road or highway or are along a developed public or private road that accesses an improved county road or highway
- (5) All other Conditional Uses as indicated within the Zoning Matrix [Attachment A hereto], provided the following minimum conditions are met:
  - (a) Meets minimum lot requirements as established in this chapter
  - (b) Meets minimum off-street parking requirements as established by this chapter
  - (c) The lot(s) take access from an improved county road or highway or are along a developed public or private road that accesses an improved county road or highway
- (6) Development of natural resources and the extraction of raw materials such as rock, gravel, sand, etc., including gas and oil extraction and exploration, and subject to the requirements of the Supplementary Regulations herein
- (7) Radio, cellular and television towers and transmitters and subject to the requirements of the Supplementary Regulations herein
- (8) Airports
- (9) Manufacture of light sheet metal products including heating and ventilation equipment
- (10) Manufacture and/or processing of agricultural products including but not limited to ethanol plants and mills
- (11) Truck and freight terminals
- (12) Commercial mining, quarries, sand and gravel pits and accessory uses
- (13) Storage of trucks, tractors, and trailers engaged in the transportation of explosives
- (14) Race tracks, drag strips and similar uses and associated accessory uses
- (15) Wind Energy devices
- (16) Community sewage disposal facilities
- (17) Sanitary landfill siting or expansion conducted in a manner and method approved by the City Council provided said landfill is not closer than one thousand (1,000) feet to a municipal well and/or one mile to any village or city limits or any subdivision, addition or residence. See the Supplementary Regulations herein
- (18) Lawn and garden nurseries
- (19) Commercial kennels and facilities for the raising, breeding and boarding of dogs and other small animals, including exotic, non-farm and non-domestic animals, provided that all buildings and facilities be at least one hundred (100) feet from the property line and three hundred (300) feet from any neighboring residence.
- (20) The spreading, stockpiling, or composting of dead livestock, sludge, by-products from manufacturing or any processing plant, and/or paunch manure on agricultural land by municipalities or operations inside or outside of the Grand Island jurisdiction
- (21) The application of livestock manure within the jurisdiction of Grand Island by operations located outside Hall County

(22) Livestock feeding operations, subject to the licensure requirements, waste disposal requirements and recommendations of the State of Nebraska and the Land Use specifications of the Grand Island Comprehensive Development Plan

**(23) Trailer Washout**

**(C) Standards for Livestock Feeding Operations:**

(1) The following setbacks and design standards are the minimum sanitation and odor practices for Grand Island and its extra territorial jurisdiction. In addition, the City Council of Grand Island, when considering the health, safety, and general welfare of the public, may impose more restrictive requirements. These requirements should consider such things as:

- (a) property values
- (b) dust
- (c) lighting
- (d) waste disposal
- (e) dead livestock

(2) A Conditional Use Permit may be approved after public notice has been given and public hearing is conducted as required by law

(3) Agricultural operations of 300 animal units and under are considered a farm as defined in these regulations and do not require a Conditional Use Permit, see §36-8 of this chapter

(4) All existing livestock feeding operations over 300 animal units shall be required to meet specific density requirements for a Class I facility. These density requirements are:

- (a) One (1) acre of ground for the first animal unit and one-half (1/2) acre for each additional animal unit.

Class II, III, IV facilities are not permitted in the (AG-2) Secondary Agricultural Zoning District

(5) All existing livestock feeding operations that have been granted a conditional use permit may expand within their designated level, as outlined in Table 1, without applying for another conditional use permit. All new livestock feeding operations and those expanding to the next level shall require a Conditional Use Permit and shall be located no less than at a distance from non-farm residences or other residences not on an owner's property in any affected zoning district as hereafter described:

(a) Livestock feeding operations (LFO) will be categorized either as Environmentally Controlled Housing (ECH) operations or Open Lot Operations. Livestock feeding operations having more than one type of feeding operation at one location shall be categorized according to the operation which constitutes the majority of the total operation. Each operation type shall be classified in one of four levels according to total number of animal units (A.U.) in the operation at any one time. Levels will include:

- Class I facility = 301 - 1,000 animal units
- Class II facility = 1,001 – 5,000 animal units
- Class III facility = 5,001 – 20,000 animal units
- Class IV facility = 20,001 or more animal units

Livestock feeding operations having more than one type of feeding operation at one location shall be categorized according to the total number of animal units

**TABLE 3: Livestock Feeding Operations Spacing and Distance (Distances given in feet)**

Size of Proposed LFO in Animal Units		Non-farm or Other Residence and Other LFOs (feet)
<b>Class I</b> <b>301-1000</b>	ECH	1,320
	OPEN	1,320
<b>Class II</b> <b>1001-5000</b>	ECH	Not allowed in the AG-2 Zoning District
	OPEN	Not allowed in the AG-2 Zoning District
<b>Class III</b> <b>5001-20,000</b>	ECH	Not allowed in the AG-2 Zoning District
	OPEN	Not allowed in the AG-2 Zoning District
<b>Class IV</b> <b>20,000+</b>	ECH	Not allowed in the AG-2 Zoning District
	OPEN	Not allowed in the AG-2 Zoning District

ECH = Environmentally Controlled Housing

OPEN = Open Lot Operations

(b) The applicant shall have a Pre-Submission meeting with the Hall County Regional Planning Director and the Grand Island Building Director or his/her designee to discuss tentative plans and layouts prior to formal submission of the Conditional Use Permit for Livestock Feeding Operations

(i) A proposed site plan and conditions or requirements of this regulation pending approval of application for a proposed operation and waste disposal plan from the Nebraska Department of Environmental Quality (NDEQ) or any other applicable state agency

(ii) The applicant shall submit all pertinent materials and designs, as per the Conditional Use Permit application for Livestock Feeding Operations

(iii) The applicant shall file a copy of the proposed Operation and Maintenance Plan and proposed Manure Management Plan. The approved plans shall be submitted after NDEQ approval if different from the proposed. Said plans shall be filed with the Hall County Regional Planning Director

(iv) The applicant shall file a copy of all approved NDEQ plans and permits with the Hall County Regional Planning Director within thirty (30) days after they are issued by the NDEQ

(v) An annual manure management plan shall be submitted to the Hall County Regional Planning Director which shall follow "best possible management practices" as specified by NDEQ in order to protect the environment, as well as the health, safety and general welfare of the public and their property values

(vi) If stockpiling of animal waste and/or composting of dead carcasses, as per state statutes, is part of the manure management plan, the waste shall be maintained in an area as outlined in Table 1 of this section. Said area shall also be located on the proposed site plan.

(vii) All ground surfaces within outside livestock pens shall be maintained to insure proper drainage of animal waste and storm or surface runoff in such a manner as to minimize manure from being carried into any roadway ditch, drainage area or onto a neighbor's property

(viii) In no event shall any manure storage unit or system be constructed where the bottom of the unit or system is either in contact with or below the existing water table where the unit or system is to be constructed. Application of manure in flooded areas of standing water shall be prohibited

(ix) All runoff or waste generated by a livestock feeding operation facility shall be contained within the associated farming operation, or, on the premises upon which the confined feeding facility or feedlot is located. The applicant must verify that all runoff control ponds, lagoons, methods of manure disposal and dust control measures are designed to minimize offal and air pollution, and avoid surface or groundwater contamination as regulated by the State of Nebraska

(x) The setbacks from a livestock feeding operation to any non-farm dwelling, other residence, or other livestock feeding operation are as follows in Table 3.

(5) Exceptions:

(a) Any Class I livestock feeding operation use in existence as of August 1, 2004, and which is located within the minimum spacing distance in Table 1 to any church, school, public use, other livestock feeding operation or single-family dwelling within the current class or to the next class may expand in animal units and/or land area under a Conditional Use Permit, provided the proposed expansion complies with all the following limitations:

(i) Such expansion will not decrease the distance from the livestock feeding operation use to any church, school, public use, other livestock feeding operation or single-family dwelling not of the same ownership and not on the same premises with said livestock feeding operation which is less than the minimum prescribed spacing distance

(ii) Any physical expansion of the existing livestock feeding operation shall be immediately contiguous with the facilities of the existing livestock feeding operation

(iii) Such expansion may occur in phases over time, but in no event shall such expansion(s) result in a livestock feeding operation that is more than fifty (50) percent larger in animal units than the one-time capacity of the use which existed as of August 1, 2004. Any expansion beyond this limitation is prohibited unless a Conditional Use Permit for expansion that meets all requirements is heard by and authorized by the City Council of Grand Island

(iv) If such expansion results in such livestock feeding operation being required to obtain a new construction permit from NDEQ, introduction of additional animals shall be prohibited until said permit is issued by NDEQ or other applicable or successor agency has been issued and such livestock



feeding operation shall be operated at all times in a manner consistent with the requirements of said permit and applicable regulations of this chapter

(D) Accessory Uses: The following accessory buildings and uses are permitted in the (AG-2) Secondary Agricultural Zoning District.

- (1) Buildings and uses customarily incidental to the permitted and conditional uses
- (2) Home occupation
- (3) Temporary buildings and uses incidental to construction work which shall be removed upon the completion or abandonment of the construction work

(E) Lot Requirements and Intensity of Use: The following table lists the minimum lot requirements and maximum building requirements in an (AG-2) Secondary Agricultural Zoning District. These requirements shall be followed unless otherwise modified by this chapter.

Uses	Min Lot Area (acres)	Setbacks					Max. Lot Coverage	Min Lot Area per dwelling unit (sq. ft.)	Max. Building Height (feet)
		A	B	C	D	E			
	Min. Lot Width (feet)	Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)	Street Side Yard (feet)				
<b>Permitted Uses</b>	20	100	35	35	20	20	10%	20,000	35 <sup>1</sup>
<b>Conditional Uses</b>	20	100	35	35	20	20	10%	20,000	35 <sup>1</sup>
<b>Agricultural Uses</b>	1	100	35	35	20	20	10%	20,000	35 <sup>1</sup>

<sup>1</sup> for structures intended for human occupancy, all others no restrictions.

<sup>2</sup> The following requirements are allowed in specific situations within the jurisdiction of Grand Island. These requirements are:

- (A) Any person or persons who:
  - (1) owns a tract of 80 acres or more may sell one tract per 80 acres for a single family dwelling, providing such sale has not been previously exercised on the large tract; and/or
  - (2) owns an existing ranch or farm dwelling excluding a single-wide manufactured home that is ten years old or more may sell a tract containing such dwelling;
  - (3) providing the following space limitations are complied with:

Min Lot Area (sq. ft.)	Min. Lot Width (feet)	Setbacks			Max. Lot Coverage	Max. Building Height (feet)
		Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)		
20,000	100	30	25	15	25%	35 <sup>1</sup>

<sup>1</sup> for structures intended for human occupancy, all others no restrictions.

(F) Prohibited Uses:

- (1) Any use not specifically listed as a permitted principal use, conditional use or permitted accessory use.

(G) Supplementary Regulations:

- (1) Residential dwelling units on non-agricultural land, may construct accessory structures, make repairs, replace, remodel, rebuild, or replace the residential structure in case of damage regardless of the percent of damage or extent of structural change provided the use does not change.
- (2) All new and existing livestock feeding operations and farms with livestock of 300 animal units or less shall require a no-fee livestock registration permit. In addition, all new or expanded livestock feeding operations of over 300 animal units shall require a Conditional Use Permit.
  - (a) New non-farm residences in the AG-1 or AG-2 zoning districts shall be located no less than at the following distances as those shown in Table 4: Non-farm Residence Spacing and Distance, from an

existing agricultural operation having between 50 and 300 animal units and a livestock feeding operation based upon the type of operation.

TABLE 4: NON-FARM RESIDENCE SPACING AND DISTANCE (Distances given in feet)

	Size of Existing Agricultural Operation and Livestock Feeding Operation in Animal Units				
	100-300	301-1,000	1,001-5,000	5,001-10,000	10,000+
<b>New Non-farm Residence</b>	0	1,980	3,960	3,960	5,940