

HASTINGS PLANNING COMMISSION

A meeting of the Hastings Planning Commission has been scheduled for Tuesday, July 19, 2022 at 4:00 PM in the City Building, 220 North Hastings Avenue.

AGENDA:

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Motion to adopt the current agenda for the Planning Commission Meeting
5. Public Notice - Official Notice of the Regular Meeting was published in the Hastings Tribune on Friday , July 8, 2022. Pursuant to Nebraska Revised Statute Section 84-1412, the public is advised that a copy of today's agenda and all reproducible written material which will be discussed at today's meeting is located at the back of the Council Chambers. Also, a current copy of the Nebraska Open Meetings Act is posted on the south wall of the Council Chambers which is accessible to members of the public.
6. Approval of Minutes
 - a. Meeting of June 21, 2022
7. Special Order of Business
8. Unfinished Business
 - a. Continued Applications - None
 - b. Tabled Applications - None
 - c. Postponed Applications - None
9. Public Hearings.
 - a. **2022-031.** Public hearing to consider an Ordinance to amend Hastings City Code section 34-302 to amend language for Home Occupations.

Motion to recommend approval for an ordinance to amend the Hastings City Code section 34-302 to amend language for Home Occupations.
10. Subdivisions
11. Reports
 - a. Committee Reports
 - b. Chairman Comments
 - c. Staff Reports

Adjourn

CITY OF HASTINGS, NEBRASKA
MINUTES OF PLANNING COMMISSION
Tuesday, June 21, 2022

Pursuant to due call and notice thereof, a meeting of the Hastings Planning Commission was conducted in the City Building, 220 North Hastings Avenue, on June 21, 2022.

The meeting was called to order at 4:00 p.m. in Regular Session by Chair Sinner with the following members present: Jody Stutzman, Ann Hinton, Greg Sinner, Michelle Lewis, Lou Kully, LaDaun Schoenhals, Brian Hoffman.

Absent: Shawn Rossi, Rakesh Srivastava.

3. Pledge of Allegiance

The Chair led the Commission in the recital of the Pledge of Allegiance to the United States of America.

4. Motion to adopt the current agenda for the Planning Commission Meeting

Moved by Lou Kully, seconded by Ann Hinton, to adopt the current agenda for the Planning Commission meeting.

Roll Call: Ayes: Ann Hinton, Greg Sinner, Michelle Lewis, Lou Kully, LaDaun Schoenhals. Nays: None. Abstain: Jody Stutzman.

Absent: Shawn Rossi, Rakesh Srivastava, Brian Hoffman.

5. Public Notice - Official Notice of the Regular Meeting was published in the Hastings Tribune on Friday, June 10, 2022. Pursuant to Nebraska Revised Statute Section 84-1412, the public is advised that a copy of today's agenda and all reproducible written material which will be discussed at today's meeting is located at the back of the Council Chambers. Also, a current copy of the Nebraska Open Meetings Act is posted on the south wall of the Council Chambers which is accessible to members of the public.

6. Approval of Minutes

a. Meeting of May 17, 2022

Moved by Ann Hinton, seconded by LaDaun Schoenhals, to approve the May 17, 2022 Planning Commission meeting minutes.

Roll Call: Ayes: Ann Hinton, Greg Sinner, Michelle Lewis, Lou Kully, LaDaun Schoenhals. Nays: None. Abstain: Jody Stutzman.

Absent: Shawn Rossi, Rakesh Srivastava, Brian Hoffman.

7. Special Order of Business

a. Discuss and approve map, preferred transportation and date for the Planning Commission / Comprehensive Plan Bus Tour of the City of Hastings.

Lisa Parnell-Rowe discussed the agenda item.

We are gearing up for our bus tour of the City of Hastings. Attached are the draft map, pricing and pictures of several options for a bus for this tour. We would like feedback on this information and a motion to approve the tour map, tour date and the preferred mode of transportation. The date and time Staff is looking at is July 21st from 8 to 11 AM. Though based on initial feedback from commissioners

there are a few that cannot attend at this date and time, this is the date and time where the maximum amount of all commissioners can attend based upon our initial assessment. It is important that the maximum number of commissioners can attend this event, if possible. This tour is necessary to enhance the knowledge of potential key stakeholders for the upcoming Comprehensive Plan, as well as to give Planning Commission a full-spectrum tour of our City, the areas where there is existing growth and buildout, as well as to discuss visions for future growth and opportunities. Many members of our Planning Commission are new and we desire to enhance their knowledge base on all aspects of planning and zoning.

Greg Sinner: Mr. Rosenberg, does that date and time work for you?

Chuck Rosenberg: Yes

Greg Sinner: I would like to ask Tony from the Tribune. I think it would be good to have some media coverage for us as well. Is that something you would be interested in as well?

Tony Hermann: Yes

LaDaun Schoenhals: I prefer forward-facing seats.

Ann Hinton: It looks like the Husker Bus of Columbus does have a few forward-facing seats.

Lisa Parnell-Rowe: That one does have a limited space, it looks like it holds 20 people.

Greg: Lisa and I will decide on the bus.

Moved by Ann Hinton, seconded by Michelle Lewis, to adopt July 21 at approximately 8-11 a.m., leave the decision of the bus to the chair along with input from the City.

Roll Call: Ayes: Ann Hinton, Greg Sinner, Michelle Lewis, Lou Kully, LaDaun Schoenhals, Jody Stutzman. Nays: None. Abstain: None.
Absent: Shawn Rossi, Rakesh Srivastava, Brian Hoffman.

8. Unfinished Business
 - a. Continued Applications - None
 - b. Tabled Applications - None
 - c. Postponed Applications - None

9. Public Hearings.

- a. 2022-032. Public hearing to recommend a request for a Conditional Use Permit (CUP) for a Commercial Kennel at a property commonly known as 815 West 22nd Street in the City of Hastings, Adams County, Nebraska

Motion to recommend approval for a CUP resolution for a Commercial Kennel at a property commonly known as 815 West 22nd Street in the City of Hastings, Adams County, Nebraska

Brian Hoffman joined the meeting at 4:22 p.m.

Brian Hurskainen explained the agenda item.

The proposed development will integrate compatibility with existing land uses and with permitted uses that may be established within any area to be affected by the proposed development.

Surrounding zoning is as follows:

North – R-1, Urban Single Family Residential (Church)

South – I-2, Heavy Industrial (Railroad Property)

East – I-2, Heavy Industrial, (Storage)

West – I-2, Light Industrial (City Park)

1-The use does not have a permanent negative impact that is substantially greater than the impact anticipated from development permitted in the base zone district.

-Pedestrian and vehicular traffic circulation and safety.

Applicant requested and was granted a portion of unimproved City right-of-way originally platted in Volland's 2nd Addition for Burlington Avenue. This was executed in Ordinance #4652 on December 14, 2020. This was done to help applicants meet the necessary off-street parking requirements and to better achieve appropriate circulation of traffic dropping off and picking up pets from this office. This use is for a commercial kennel, in conjunction with a veterinary office. The amount of traffic generated for this use can be handled by 22nd Street. This use is not considered to be a high-traffic use where there would be a specific "busy" time of day like you would see with a restaurant use.

-Reasonable and economic extension of public utilities and facilities

As this is within City limits and already serviced by the City, there is no extension of service required. Utilities has reviewed and approved this site plan.

-No noise, fumes and/or environmental pollution are anticipated.

Per the applicant narrative, there will be no outside kennels. There will be an outside exercise area for the animals but that will be in between the 2 buildings and should provide for adequate screening. Staff will pick up any waste multiple times a day and the applicant has contracted with a commercial trash hauler.

2-The maintenance of logical and efficient development patterns and land use mixtures.

In the I-2 district a veterinary office is a permitted use which already allows for boarding as an accessory for the care of domestic animals. This request is an extension of that permitted use to also allow people to board their animals without any congruent veterinary care (i.e., daycare, vacation boarding). In the surrounding area there are more typical industrial uses, such as a self-storage facility and an auto body repair shop. The church across 22nd Street is also setback about 300' from the property line and should not be adversely affected by this use. Churches are not residential in use, but the City of Hastings Zoning Map lacks a category for public and semi-public zoning so we often see public and non-profit entities placed in a residential zoning district.

3-The conditions imposed are necessary to ensure the maintenance of property values and the safety, health, comfort, and repose of the residents.

The use of a kennel should not evoke safety concerns and property values should remain the same. The animals will not be outside the enclosure to harm anyone. Adjacent property notice letters were sent out to all properties within 300 feet of this location and there has been no response as of the time of drafting this staff report.

4-That the use, subject to conditions, maintains compliance with the Comprehensive Plan and the purpose and intent of the zoning regulations.

The Future Land Use Plan for this property is Mixed-Use Neighborhood. This use fits within that designation as the use is locally focused and is less than 70,000 square feet. The applicant views their extension of this additional service as being more community-focused for their customers.

There are additional standards for kennels found in Section 34-404 (13) of the City Code.

(a) All points on the perimeter of any kennel facility, dog run or exercise area shall be at least 100 feet from any property line.

As mentioned in the applicants narrative, "Because the Hospital will serve only small family pets, there is a need to locate within the City so it will be convenient for clients. It is not feasible to have a 100-foot buffer for the exercise area, but because only a few dogs will be in the area at a time and because they will be supervised, they will not present a noise nuisance." Per their narrative, the proposed exercise area is between the two buildings and will be contained by the buildings on the north and south, as well as privacy fences that will be placed on both the east and west sides of this exercise area. The narrative goes on to discuss that the backs of industrial buildings are also located immediately east of the property, so there is additional screening to the east by these structures to screen vision of this area from the overpass or any customers to the neighboring business to the east. The applicant has operated a similar hospital and boarding facility at her previous location and has not had any complaints from neighbors. Additionally, they mention in this narrative that the dogs are let out to exercise on a rotating basis and, in such a manner, that no dogs from differing households are exercised at the same time.

This is an existing facility that has the ability to board dogs that require veterinary care without a CUP. The exercise area would be approximately 23' to the East property line with a 12' alley in between properties. There is 57' between the exercise area and the West property line and an additional 33' of ROW before the city park. This area of the park contains a few Frisbee golf locations, but is otherwise considered mostly open space. There are no areas in this portion of the park used for congregating groups of people like you would see in a picnic area.

(b) Outdoor exercise areas, runs, or yards, when provided for training or exercising, shall be restricted to use during daylight hours.

As stated in the applicants narrative, the use of this exercise area would occur during daylight hours between approximately 7 a.m. and 7 p.m.

(c) A site plan, drawn to scale shall be provided with the application showing all existing and proposed buildings and structures, fencing and landscaping.

Located in a packet, this is an existing facility and it has met all requirements for building permits and zoning with a condition for replatting within 180 days.

(d) A narrative statement shall be provided with the application. See attached narrative

(e) The total number of animals on the premises at any one time will be established as part of the conditional use permit process.

As stated in the narrative, it is anticipated that there would be spaces for 13 dogs in the south

building for convalescent and temporary boarding, with additional boarding for up to 32 dogs in the north building. Therefore, the maximum amount of boarding at this facility, at one time, shall be set as 45 animals.

(f) The applicant must demonstrate that: (i) The location and operation of the kennel is appropriate for housing multiple animals and will be consistent with the health and safety of the animals and of the neighbors. (ii) The location of the kennel on the property will have no significant adverse effect on the peace and quiet or sanitary conditions of the neighborhood. (iii) The kennel will be operated in a manner that it will cause no nuisance to the public. (iv) The kennel will be operated in a safe, sanitary, and humane condition.

The zoning district and uses that surround this property are compatible with the use of a kennel. The use of storage will have a less frequent clientele than many other businesses. Those enjoying the park will not be strangers to pets, as many people walk their pets in the park. The area owned by the church across the street is all open space; the church is located on the far left portion of this lot where noise or other nuisances that might occur as part of this use are not going to be an imposition. Additionally, the owner has demonstrated appropriate screening, waste elimination, noise reduction and safety measures as part of their development and discussed in their narrative.

Speaker: Daniel Pauley, 800 W 3rd Street speaking on behalf of Active Enterprise, Companion's Choice.

The replat requirement is not pertinent to the CUP and we did not know until today the replat would be a request. We are willing to look at that, but we haven't had the chance to think through what impact that has to the property tax or long-term plans. Also, the number of animals is stated as 45 animals. Dr. Winfield was going off the number of animals she had at her prior facility, and the number is more like 75 animals. The intent is not to make this a commercial kennel and we were originally told we would not need a Conditional Use Permit. The intent is not to make this a public boarding facility for a commercial kennel. This is a continued use of the veterinary hospital that sits there.

Speaker: Victoria Winfield, Companion's Choice Animal Hospital.

We do have a large number of enclosures, and stay is for situations that have to do with things like seizure watch, diabetes, six eye drops during the day, siblings of animals in our care, though we did apply for the commercial kennel permit. I am an inspector for a lot of the commercial kennels in our area, so I am very familiar with that process. To speak to the 45 animals, our prior building was 3,500 and the new building is 10,000 square feet. We have a larger clientele and patient base.

Lisa Parnell-Rowe:

Condition three is a specific condition for kennel use that we have to spell out. We got that number from the applicant's narrative, so if they would like to correct that to 75, that is fine. We have to give a number as part of that directive and that guidance.

On the lot lines, we have a lot of buildings and houses built over lot lines in Hastings and that is not a good thing. It should be that they are separated by a lot line and it has to do with building codes and the way that they are applied. We would appreciate making it all one piece. The use was originally in the Southern building, they bought both buildings but a lease was in the North building. I visited the site with the City Engineer and we talked with Dr. Winfield about the fact that the additional use of kenneling for vacationing or day care could be delayed. She could still have the kenneling as part of the hospital. The City Administrator and I went back and forth on whether to slate this use as veterinarian hospital or to slate it as veterinarian office. The confusion arises in our codes. When you look at kennel commercial the definition spells out a veterinarian clinic shall not be considered a kennel for purposes of this chapter, so that's where

that additional use kicks in. However, if you look at the definitions for veterinarian uses, there are only two, they're not veterinarian clinic. There's one for veterinarian office, and one for veterinarian hospital. The one for veterinarian office is really just for general care of animals and it talks about in the office environment and any boarding areas that are only accessorated primary use of the facility but when you get into the veterinarian hospital it spells out specifically that the care is provided by a doctor of veterinarian service. Knowing that we have a doctor of veterinarian service, that's where we were tossed between the two definitions initially. What we agreed was we would go ahead and slate their use initially, before the additional boarding, as a veterinarian office instead of a veterinarian hospital, even though Dr. Winfield is a doctor of veterinarian medicine. We sent them an email and said when you have any additional boarding above and beyond this for vacation or for day care, this is when it's not related to the primary use and that's when we have to fall back into the definition of the commercial kennel. It's actually a use of that kennel, in addition to the permitted use of the kennel. They're doing the right thing and they've gone through the CUP process, which we appreciate. That's some feedback on some of the confusion I think has been created.

Greg Sinner: What is city's position on the replat?

Lisa Parnell-Rowe: Since we are using both structures we are asking them to clean up the plat. We've got building lines going through the buildings. Now that we're using both structures, it makes more sense for it to be on one lot. We've asked this on many Conditional Use Permits, such as Pine Patch. We had a condition that they would need to administratively replat once they buy the house, and we are working on an administrative replat for them right now. You can make requirements and provisions that are in the best interest of that property because the use stays with the land. It does not go with the owner. Since both structures are used for one purpose we need to make it one piece of land.

Ann Hinton: It looks like there are four lots and you own all four.

Victoria Winfield: When I purchased the buildings, each building had two addresses, so there were four addresses for the two buildings.

Ann Hinton: The property at the North end looks like it's a vacant lot.

Victoria Winfield: There's a parking lot on the North side.

Ann Hinton: There's no way you would sell off one of the lots without the others?

Victoria Winfield: I have no intention of selling one without the others. I applied last year, it was returned to me and I had to resubmit. It would be more of a financial burden for me to replat.

Ann Hinton: Technically it has become one parcel that is not divisible at this point.

Lisa Parnell-Rowe: The parking on the North lot is part of the use. The parking lot is part of the North and West side. For the Conditional Use Permit Admin wanted to make it less of a burden and we decided not to go through the process and we refunded the money.

LaDaun Schoenhals: I've been a groomer for 46 years so my concern is the size of kennels, three feet wide doesn't seem large enough. I called three other kennels and your size is the smallest. I would like to see the kennels larger for your larger dogs or be able to make them larger.

Victoria Winfield: We have plans to make kennels larger. I brought them over from our old facility. The kennels we have for larger dogs are 3 feet by 6 feet, but we will get larger ones.

Lou Kully: It says the hospital will serve only small family pets. What about great Danes?

Victoria Winfield: That's considered a small family pet, when you compare it to a cow.

Lou Kully: It won't be difficult to sell the four lots as one but it is to your advantage to replat. Staff, is the zoning I-1 or I-2?

Brian Hurskainen: It's I-2

Lou Kully: So if someone wants to put up a residence they can't. You can't put up an R-1 next to an I-2.

Lisa Parnell-Rowe: The land to the North is R-1 and it is a church, however it is part of the church, there is no structure on it. The church is actually further to the East, sitting on the large lot so we're not expecting that to be actual residential properties to be zoned R-1. We do not currently have a semi-public/public zone but we plan to with the next Future Land Use map.

Brian Hoffman: In one of the maps you added more parking and completing one of the streets out to the side. What are your plans to facilitate additional parking in the area?

Victoria Winfield: We have already done that on the West side of the building, and have created parking for staff.

Brian Hoffman: With the expansion you don't see a need for additional parking?

Lisa Parnell-Rowe: The Right of Way she has now, she paid for. It was part of unimproved Right of Way planned for Burlington that was not going to be used. The Right of Way was vacated and provided to her for additional parking.

Brian Hoffman: Do you see any issue with fencing with the two properties being owned? There's some zoning issues along with property line. If it's in two pieces you can do it, but if it's under one lot it should be fine. If it's two separate lots putting a chain link fence between those, if you were to sell off that property--

Victoria Winfield: We have an 8 ft privacy fence for East and West sides.

Daniel Pauley: Those considerations were addressed with the City in getting the building permit. We don't disagree that it may be practical to make this one plot, but we have not had time to address that or evaluate. We have not looked at taxes or future intended uses for replat. It's an overreach to replat. We still need to hire a surveyor to replat and incur additional costs. It does not need to be tied to the Conditional Use Permit.

Lisa Parnell-Rowe: The Conditional Use Permit is tied to the land. Per condition number five, if there is more than one piece of land, more than one piece of land will be required four filings. I would prefer to file it with one piece of land. You have lot lines going through buildings, if you would like, I could have my building inspector explain to you why a plot line through a building is not a good practice.

Greg Sinner: Mr. Pauley, you are not in agreement with the one-lot concept. Mrs. Parnell-Rowe mentioned four filings would be required, but that burden is on us, but yes we are in objection to

that.

Greg Sinner: Dr. Winfield, would you consider in the future an administrative plat?

Victoria Winfield: I would consider it, yes.

Greg Sinner: I would like to clarify that today is the first time you heard that, is that correct?

Daniel Pauley: It is the first time I am aware of it, was today.

Victoria Winfield: I first heard about this at 3:00 p.m. this afternoon.

Greg Sinner: I want to move on to the 45 to 75 animals, and you agree with that? And I have heard about kennel size, and you could possibly change the size of some now that would accommodate larger animals.

Ann Hinton: What number do you want in number three, instead of 45? Is 75 what you want? As I understood, it's not tied to anything else, that's your number.

Lisa Parnell-Rowe: The guidance is that the number is spelled out as part of the Conditional Use Permit.

Greg Sinner: You based it on their old number?

Lisa Parnell-Rowe: It's the number that they want. It doesn't say how you base that number, it just says we have to put a number of how many animals are going to be in this kennel as part of this Conditional Use Permit. And I would also like for you, Brian, to review the plat condition.

Brian Hurskainen: This is something standard we've done in the past. In addition, I understand what was talked about, that it would be considered as one piece. Technically the Right of Way could be considered less than that and is not as one piece. The City would not like to take that back as they've already given it to Dr. Winfield. With an Administrative Plat we are looking two or three weeks. If you would like, we could extend that time up to 365 and if you decide you don't want to do that we could always come back before and erase that one. We're just trying to work out an equitable solution.

Greg Sinner: Mr. Pauley, what are your feelings on that?

Daniel Pauley: We don't object to that, we just haven't had the time to review. Just because it's been done before, doesn't make it right. If it is the right course, we will undertake that. As to Mrs. Hinton's question, that 75 number, it is probably larger.

Victoria Winfield: It is difficult to come up with a specific number due to emergency situations. We don't know what's going to happen I don't want to overreach my number so my number would be 120.

Brian Hoffman: Is there a standard on size and number?

Victoria Winfield: We have ferrets and Guinea pigs and cat condos that could hold ten cats.

Brian Hoffman: We have occupancy, is there anything like that for animals?

Victoria Winfield: Just enclosure size, enclosures have to be a certain size.

Note: there was a combined motion to amend and approve the Conditional Use Permit.

Amended conditions:

1) The applicants' Site Plan with inclusive dimensions of buildings, parking locations, access and easement location notes are hereby approved and applicant agrees to comply to all inclusive details.

~~2) Applicant must replat property into one piece within 180 days.~~

3) There will be no more than ~~45~~ 120 animals kenneled at one time.

4) There shall be compliance with any other applicable City, County, State or Federal regulations that shall apply.

5) This resolution shall be filed with the Registrar of Deeds so as to provide notice to any person examining the real estate records of the existence of this CUP. The recording costs incurred to comply with this section shall be paid by the applicant for the CUP.

Approved conditions:

1) The applicants' Site Plan with inclusive dimensions of buildings, parking locations, access and easement location notes are hereby approved and applicant agrees to comply to all inclusive details.

2) There will be no more than 120 animals kenneled at one time.

3) There shall be compliance with any other applicable City, County, State or Federal regulations that shall apply.

4) This resolution shall be filed with the Registrar of Deeds so as to provide notice to any person examining the real estate records of the existence of this CUP. The recording costs incurred to comply with this section shall be paid by the applicant for the CUP.

Moved by Lou Kully, seconded by Ann Hinton, to recommend an amended request for a Conditional Use Permit (CUP) for a Commercial Kennel at a property commonly known as 815 West 22nd Street in the City of Hastings, Adams County, Nebraska.

Roll Call: Ayes: Ann Hinton, Greg Sinner, Michelle Lewis, Lou Kully, LaDaun Schoenhals, Brian Hoffman, Jody Stutzman. Nays: None. Abstain: None.

Absent: Shawn Rossi, Rakesh Srivastava.

10. Subdivisions

11. Reports

a. Committee Reports- none

b. Chairman Comments

c.

Greg Sinner: Updates on Burt's building?

Kevin Kubo: Building is down. No plans yet. Next building is waiting for insurance, g and g dozer who put up the supports to contact us on next steps to remove supports and open road.

Greg Sinner: Updates on mall?

Lisa Parnell-Rowe: Working on air zoning permits. For each building in that zone, has to go through FAA, submission wasn't quite right, we've had many discussions and been on phone with FAA with them. Expect air zoning permits to start to be approved. Multi family unit has been approved for quite some time, road is in. Expecting flex building to be up as soon as is approved. Expecting permit for theater remodel. Not an easy process, doing what we can to help developers. Has to be vetted through more than just local entity and rely on FAA. They feel the same as us, want it done right. Will come up soon.

Greg Sinner: Commissioners please talk up Comprehensive Plan meetings to get everyone engaged to voice concerns. The bus trip is also important.

c. Staff Reports

Lisa: We settled on Museum theater as plan location. We would like to tape this, make a big deal.

Staff is working on new gateway sign on north end of town.

Adjourn

Chairman

Department: Development Services
Staff Contact: Brian Hurskainen
Planning Commission Meeting Date: 7/19/2022
File No: 2022-031
Prepared By: Clara McCully, Administrative Assistant

AGENDA ITEM SUMMARY SHEET

Description of Item:

Public hearing to consider an Ordinance to amend Hastings City Code section 34-302 to amend language for Home Occupations.

Motion to recommend approval for an ordinance to amend the Hastings City Code section 34-302 to amend language for Home Occupations.

Names of People/Business affected by this action:

The residents of Hastings, home occupation business owners and City of Hastings staff.

Why Planning Commission action is required:

Amendments to the zoning map, the text of Chapter 34 Zoning, or any part of the Comprehensive Plan may be made after a public hearing by the Planning Commission. Upon the final hearing of such application, the Commission shall approve or deny the same and a report of such action, together with a recommendation for final approval or denial, shall be made by the Commission to the City Council (34-801).

Type of action requested:

Motion

Suggested motion:

Motion to recommend approval for an ordinance to amend the Hastings City Code section 34-302 to amend language for Home Occupations.

Deadlines associated with action:

This code revision case will be presented for approval at the City Council Regular Meeting to be held on August 8, 2022.

Department head comments:

City Staff is trying to be proactive with the City Zoning Code, one amendment would be to the home occupation section. Remote work and small businesses within a home have increased over the last few years with changes to the labor market.

One of the significant changes is introducing language about having an actual permit that people

can apply for and be issued administratively. Currently there is no permitting process or tracking of any kind. It can lead to difficulties when there are code complaints for code enforcement to understand what is going on with the property.

Another one of the major changes is allowing some types of retail to be allowed as a home occupation. Currently, people are allowed to sell firearms from their house and staff would like to open them up to other items. The intent is to open it to people selling things online or things that they are able to make within their house, like crafts or jewelry.

Another change is to provide more clarity to the code. Currently, one of the provisions states that “Permitted home occupations shall be the following uses or uses substantial uses similar in impact and extent as determined by the Development Services Director.” Unfortunately, there are no uses listed in the current code. In the proposed code, we have listed several uses that will work as well as some uses that are prohibited. There is a provision to allow the Development Services Director to determine “uses similar in impact and extent”.

Overall, the intent of the code change is to relax the restrictions to allow for things we feel like meet the intent of the home occupation section as well as provide some much needed clarity for people trying to set one of these business up in their home.

Recommendation:

Staff recommends a motion to recommend approval for an ordinance to amend the Hastings City Code section 34-302 to amend language for Home Occupations.

Sec. 34-302. Home occupations.

Home occupations shall be subject to the following:

- (1) A home occupation is permitted as an accessory use by the resident(s) of a dwelling subject to the provisions in this article. The use shall be incidental or subordinate to the residential use of the dwelling. The expressed intent behind regulating home occupations is as follows:
 - a. To preserve the residential character of neighborhoods.
 - b. To preserve the residential rights of neighbors, while reasonably allowing residents to utilize their dwelling to enhance or fulfill personal economic goals.
 - c. To establish reasonable criteria for the operation of home occupations in dwelling units in order to keep the dwellings suitable for their intended residential purpose.
 - d. To preserve and protect municipal and utility services such as streets, sewers and water systems against increased utilization typical in commercial districts.
 - e. To preserve tranquility in neighborhoods by prohibiting activities that could reasonably impose a nuisance such that neighbors' residential utilization of their own properties is diminished.
 - f. To prevent activities usually conducted within commercial districts from being conducted in residential areas for safety reasons.
 - g. To recognize that many types of work can be done in a home with little or no effect on the surrounding neighborhood.
- (2) No person other than the permanent inhabitants residing in the dwelling unit shall be engaged in a home occupation.
- (3) No more than one home occupation per dwelling unit
- (4) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not account for more than 25 percent of the total gross floor area not to exceed 750 square feet of the dwelling for which will be used in the conduct of the home occupation.
- (5) Only one nameplate type of sign, not exceeding two square feet in area, non-illuminated, and mounted flat against the principal building will be allowed.
- (6) Display or storage of goods or material in the premises is limited to the area provided for the home occupation. There shall be no exterior displays or storage on the exterior of the home as part of this home occupation that would mismatch or detract from keeping with the residential character of the neighborhood.
- (7) Only products produced by residents of the dwelling residing on the premises or a business that sells products online shipped from a separate manufacturing location are permissible through this administrative permit. All other articles offered for sale that are not produced by the home owner or that are not shipped from a separate manufacturing location as part of an online retail business (and not specifically addressed in the table of uses) will require Conditional Use Permit approval from Planning Commission.
- (8) The home occupation shall not require internal or external alterations or construction features or equipment or machinery not customarily found in a residential dwelling.

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- (9) The receipt or delivery of merchandise, goods or supplies for use in the home occupation shall be limited to the United States mail, similar parcel delivery service or private vehicles with a gross vehicle weight rating (GVWR) of ten thousand pounds or less.
- (10) The home occupations shall have a valid license from the city and pay any relevant occupation tax or business license.
- (11) The home occupation activity shall be limited to the hours between 8:00 a.m. and 8:00 p.m.
- (12) ~~No home occupation shall be conducted in any accessory building.~~
- (13) ~~Except as otherwise provided herein, there shall be no wholesale or retail sale of merchandise nor any activities involving stock in trade on the premises.~~
- (12) No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall meet the off-street parking requirements as specified in Section 34-308 off-street parking and loading for that area of the dwelling unit employed for the home occupation. No required off-street parking spaces shall be located in a required front yard. The home occupation shall not unduly interfere with public use of adjoining streets, alleys or driveways.
- (13) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuation in line voltage off premises.
- (14) No commercial vehicles and equipment used to conduct the business shall be parked or kept on the premises except for one of the following: a car, pickup truck, station wagon or van belonging to the owner and identifying the business.
- ~~(15) Notwithstanding Subsection (5) above, persons possessing a valid permit issued by the Bureau of Alcohol, Tobacco, and Firearms, may, as a home occupation, buy, sell, or trade firearms at wholesale or retail, and engage in gunsmithing, the repair of firearms, and reloading and sale of ammunition.~~
- (15) An administrative home occupation permit from Development Services shall be obtained.
- a. *Application.* Applicants shall complete an application for an Administrative permit which is on the City of Hastings website. Applicants shall provide the following information:
- i. The name, address and contact information of the owner(s) and applicant, if not the same person. If the applicant is a firm, corporation or other legal entity, the registered agent of the corporation shall be identified on the application as such. An owner authorization form will be required if the owner is different from the applicant and this must be signed by both parties.
- ii. A site plan, drawn to scale showing where on this property you will be located and all of the following:
1. Existing zoning, area, lot size.
 2. North arrow, scale and date;
 3. Boundaries of the project site;
 4. Address and parcel number
- iii. Floor Plan, showing area used by home occupation with an accurate total of square feet
- iv. Location of all existing and proposed access and egress drives;

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- v. Location, design and size of all proposed signs
 - vi. Written description of the type, nature and extent of the proposed request.
 - vii. Such other information as deemed necessary by the Development Services Director or designee for purposes of evaluating the application.
- b. Prior to permit approval, the administrative home occupation permit application shall be reviewed by the Fire Marshall or designee, City Planner and may (depending on the use) consist of reviews from the following city departments: police, building, city clerk, finance, engineering and planning. Under special circumstances of use we may also ask for an outside public or semi-public expert to advise on the permit.
- ~~(16) Permitted home occupations shall be the following uses or uses substantial uses similar in impact and extent as determined by the Development Services Director.~~
- (16) Permitted home occupations include, but are not necessarily limited to the following:
- a. Artists and sculptors;
 - b. Authors and composers;
 - c. Home crafts for off-site sale;
 - d. Professional office facilities;
 - e. Individual tutoring;
 - f. Online Retail Sales or sales in a residence as a home occupation should showcase a limited inventory that only accounts for less than half of the 25% ratio of total gross square feet used for this business. Any in-house inventory must not be hazardous or create nuisance to surrounding areas and there shall be no outside storage of any inventory at all times.
 - g. Individual musical instrumental instruction, provided that no instrument may be amplified in such a way as to disturb the peace and quiet of the neighborhood;
 - h. Child care, home. A service use wherein there is provided for up to eight children, as a secondary use within a residential dwelling, any care, supervision, custody, control or other services in lieu of parental supervision, for compensation. This particular use must provide proof of any necessary State license or certifications to conduct this business according to State of Nebraska regulations found under Title 391.
 - i. Uses similar in impact and extent as determined by the Development Services Director.
- (17) Prohibited Home-Based Businesses/Home Occupations: The following activities are prohibited as home-based businesses, even if they meet the other requirements set forth in this section:
- a. Animal hospitals.
 - b. Mortuaries.
 - c. Repair shops or service establishments including major electrical appliance repair, motorized vehicle repair, and related uses.
 - d. Welding, vehicle body repair, or rebuilding or dismantling of vehicles.
- (18) Any home occupation business lawfully operating on the effective date of this ordinance XX/XX/XXXX, that is in violation of this chapter shall be deemed a nonconforming use in accordance with City Code Section 34-603. The nonconforming use will be permitted to continue unless sooner terminated for any reason or voluntarily discontinued for a period of 30 calendar days or more. Such

nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use upon application and issuance of a registration.

Sec. 34-302. Home occupations.

Home occupations shall be subject to the following:

- (1) A home occupation is permitted as an accessory use by the resident(s) of a dwelling subject to the provisions in this article. The use shall be incidental or subordinate to the residential use of the dwelling. The expressed intent behind regulating home occupations is as follows:
 - a. To preserve the residential character of neighborhoods.
 - b. To preserve the residential rights of neighbors, while reasonably allowing residents to utilize their dwelling to enhance or fulfill personal economic goals.
 - c. To establish reasonable criteria for the operation of home occupations in dwelling units in order to keep the dwellings suitable for their intended residential purpose.
 - d. To preserve and protect municipal and utility services such as streets, sewers and water systems against increased utilization typical in commercial districts.
 - e. To preserve tranquility in neighborhoods by prohibiting activities that could reasonably impose a nuisance such that neighbors' residential utilization of their own properties is diminished.
 - f. To prevent activities usually conducted within commercial districts from being conducted in residential areas for safety reasons.
 - g. To recognize that many types of work can be done in a home with little or no effect on the surrounding neighborhood.
- (2) No person other than the permanent inhabitants residing in the dwelling unit shall be engaged in a home occupation.
- (3) No more than one home occupation per dwelling unit
- (4) The use of the dwelling unit for the home occupation shall not account for more than 25 percent of the total gross floor area for which will be used in the conduct of the home occupation.
- (5) Only one nameplate type of sign, not exceeding two square feet in area, non-illuminated, and mounted flat against the principal building will be allowed.
- (6) Display or storage of goods or material in the premises is limited to the area provided for the home occupation. There shall be no exterior displays or storage on the exterior of the home as part of this home occupation that would mismatch or detract from keeping with the residential character of the neighborhood.
- (7) Only products produced by residents of the dwelling residing on the premises or a business that sells products online shipped from a separate manufacturing location are permissible through this administrative permit. All other articles offered for sale that are not produced by the home owner or that are not shipped from a separate manufacturing location as part of an online retail business (and not specifically addressed in the table of uses) will require Conditional Use Permit approval from Planning Commission.
- (8) The home occupation shall not require internal or external alterations or construction features or equipment or machinery not customarily found in a residential dwelling.
- (9) The receipt or delivery of merchandise, goods or supplies for use in the home occupation shall be limited to the United States mail, similar parcel delivery service or private vehicles with a gross vehicle weight rating (GVWR) of twelve thousand pounds or less.

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- (10) The home occupations shall have a valid license from the city and pay any relevant occupation tax or business license.
 - (11) The home occupation activity shall be limited to the hours between 8:00 a.m. and 8:00 p.m.
 - (12) No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall meet the off-street parking requirements as specified in Section 34-308 off-street parking and loading for that area of the dwelling unit employed for the home occupation. No required off-street parking spaces shall be located in a required front yard. The home occupation shall not unduly interfere with public use of adjoining streets, alleys or driveways.
 - (13) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuation in line voltage off premises.
 - (14) No commercial vehicles and equipment used to conduct the business shall be parked or kept on the premises except for one of the following: a car, pickup truck, station wagon or van belonging to the owner and identifying the business.
 - (15) An administrative home occupation permit from Development Services shall be obtained.
 - a. *Application.* Applicants shall complete an application for an Administrative permit which is on the City of Hastings website. Applicants shall provide the following information:
 - i. The name, address and contact information of the owner(s) and applicant, if not the same person. If the applicant is a firm, corporation or other legal entity, the registered agent of the corporation shall be identified on the application as such. An owner authorization form will be required if the owner is different from the applicant and this must be signed by both parties.
 - ii. A site plan, drawn to scale showing where on this property you will be located and all of the following:
 - 1. Existing zoning, area, lot size.
 - 2. North arrow, scale and date;
 - 3. Boundaries of the project site;
 - 4. Address and parcel number
 - iii. Floor Plan, showing area used by home occupation with an accurate total of square feet
 - iv. Location of all existing and proposed access and egress drives;
 - v. Location, design and size of all proposed signs
 - vi. Written description of the type, nature and extent of the proposed request.
 - vii. Such other information as deemed necessary by the Development Services Director or designee for purposes of evaluating the application.
 - b. Prior to permit approval, the administrative home occupation permit application shall be reviewed by the Fire Marshall or designee, City Planner and may (depending on the use) consist of reviews from the following city departments: police, building, city clerk, finance, engineering and planning. Under special circumstances of use we may also ask for an outside public or semi-public expert to advise on the permit.

(16) Permitted home occupations include, but are not necessarily limited to the following:

- a. Artists and sculptors;
- b. Authors and composers;
- c. Home crafts for off-site sale;
- d. Professional office facilities;
- e. Individual tutoring;
- f. Online Retail Sales or sales in a residence as a home occupation should showcase a limited inventory that only accounts for less than half of the 25% ratio of total gross square feet used for this business. Any in-house inventory must not be hazardous or create nuisance to surrounding areas and there shall be no outside storage of any inventory at all times.
- g. Individual musical instrumental instruction, provided that no instrument may be amplified in such a way as to disturb the peace and quiet of the neighborhood;
- h. Child care, home. A service use wherein there is provided for up to eight children, as a secondary use within a residential dwelling, any care, supervision, custody, control or other services in lieu of parental supervision, for compensation. This particular use must provide proof of any necessary State license or certifications to conduct this business according to State of Nebraska regulations found under Title 391.
- i. Uses similar in impact and extent as determined by the Development Services Director.

(17) Prohibited Home-Based Businesses/Home Occupations: The following activities are prohibited as home-based businesses, even if they meet the other requirements set forth in this section:

- a. Animal hospitals.
- b. Mortuaries.
- c. Repair shops or service establishments including major electrical appliance repair, motorized vehicle repair, and related uses.
- d. Welding, vehicle body repair, or rebuilding or dismantling of vehicles.

(18) Any home occupation business lawfully operating on the effective date of this ordinance XX/XX/XXXX, that is in violation of this chapter shall be deemed a nonconforming use in accordance with City Code Section 34-603. The nonconforming use will be permitted to continue unless sooner terminated for any reason or voluntarily discontinued for a period of 30 calendar days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use upon application and issuance of a registration.

Sec. 34-302. Home occupations.

Home occupations shall be subject to the following:

- (1) No person other than the permanent inhabitants residing in the dwelling unit shall be engaged in a home occupation.
- (2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25 percent of the floor area not to exceed 750 square feet of the dwelling shall be used in the conduct of the home occupation.
- (3) There shall be no change in the outside of the building or premises, nor shall there be other visible evidence of the conduct of such home occupation other than one sign not exceeding two square feet in area, non-illuminated, and mounted flat against the principal building.
- (4) No home occupation shall be conducted in any accessory building.
- (5) Except as otherwise provided herein, there shall be no wholesale or retail sale of merchandise nor any activities involving stock in trade on the premises.
- (6) No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall meet the off-street parking requirements as specified in Section 34-308 off-street parking and loading for that area of the dwelling unit employed for the home occupation. No required off-street parking spaces shall be located in a required front yard.
- (7) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuation in line voltage off premises.
- (8) No commercial vehicles or equipment used in the conduct of the business shall be parked or kept on the premises except for one of the following: a car, pickup truck, station wagon or van belonging to the owner and identifying the business.
- (9) Notwithstanding Subsection (5) above, persons possessing a valid permit issued by the Bureau of Alcohol, Tobacco, and Firearms, may, as a home occupation, buy, sell, or trade firearms at wholesale or retail, and engage in gunsmithing, the repair of firearms, and reloading and sale of ammunition.
- (10) Permitted home occupations shall be the following uses or uses substantial uses similar in impact and extent as determined by the Development Services Director.

(Ord. No. 3681-5/99 and 4233-11/2009)

Kearney City Code

46-112 SUPPLEMENTAL USE REGULATIONS: ACCESSORY USES

A. *Home-Based Businesses/Home Occupations.* Home-based businesses and home occupations are permitted as an accessory use in residential units subject to the following conditions:

1. *External Effects:*

- (a) There shall be no change in the exterior appearance of the building or premises housing the home occupation other than signage permitted within this section.
- (b) No noise, odors, bright lights, electronic interference, storage or other external effects attributable to the home occupation shall be noticeable from any adjacent property or public right-of-way.
- (c) The home occupation shall be carried on entirely within the principal residential structure.
- (d) Mechanical or electrical equipment supporting the home occupation shall be limited to that which is self-contained within the structure and normally used for office, domestic or household purposes.
- (e) No outdoor storage of materials or equipment used in the home occupation shall be permitted, other than motor vehicles used by the owner to conduct the occupation. Parking or storage of heavy commercial vehicles to conduct the home occupation is prohibited.
- (f) No home occupation shall discharge into any sewer, drainageway, or the ground any material which is radioactive, poisonous, detrimental to normal sewer plant operation, or corrosive to sewer pipes and installations.

2. *Employees:* The home occupation shall employ no more than one (1) full time or part time employee on site other than the residents of the dwelling unit, provided that one (1) off-street parking space is made available and used by that non-resident employee.

3. *Extent of Use:* For all residential and agricultural zoning districts, the lesser of twenty-five percent (25%) of the floor area of the dwelling or four hundred (400) square feet may be devoted to the home occupation, inclusive of any detached accessory buildings used for the home occupation.

4. *Signage:* Each home-based business shall be permitted to have one (1) non-illuminated wall sign not to exceed four (4) square feet in area.

5. *Traffic Generation and Parking.*

- (a) Home-based businesses may generate no more than ten (10) vehicle trips per day, corresponding to amount of traffic normally generated by a dwelling unit.
- (b) Deliveries or service by commercial vehicles or trucks rated at ten (10) tons gross empty weight is prohibited for any home-based business located on a local street.
- (c) Parking needs generated by a home-based business shall be satisfied with off-street parking. No more than one (1) vehicle used in connection with any home occupation shall be parked on the property. Such parking shall not be located in a required front yard. No more than two (2) on-street parking spaces shall be used by the home occupation at any one time.

6. *Prohibited Home-Based Businesses/Home Occupations:* The following activities are prohibited as home-based businesses, even if they meet the other requirements set forth in this section:

- (a) Animal hospitals.
- (b) Beauty and Barber Shops.
- (c) General retail sales.
- (d) Mortuaries.
- (e) Repair shops or service establishments including major electrical appliance repair, motorized vehicle repair, and related uses.
- (f) Stables or kennels.
- (g) Welding, vehicle body repair, or rebuilding or dismantling of vehicles.

Grand Island City Code

§36-99. Home Occupations

The following are the minimum standards required for a Home Occupation:

- (A) There shall be no external or externally visible evidence of the home occupation, business or profession whatsoever. There shall be no signage or advertising, linking the residential property with the home occupation.
- (B) No more than 25% of the floor area of any one story can be used for the home occupation
- (C) There shall be no machinery other than that normally found in a home
- (D) There shall be no contact at the premises with customers or clients other than by telephone or mail, except that music lessons may be given to one pupil at a time, and cultural, art, or dance instruction may be given to four pupils at one time
- (E) No one other than the resident(s) can work from that site
- (F) No retail sales are permitted from the site other than incidental sales related to services provided
- (G) No exterior storage (including storage within detached buildings/garage) is permitted
- (H) No offensive noise, vibration, smoke, odor, heat or glare shall be noticeable at or beyond the property line
- (I) The above listed characteristics of a home occupation shall not be construed to restrict the sale of garden produce grown on the premises, provided, this exception shall not extend to allow the operation of a commercial greenhouse or nursery, or the existence of stands or booths for display of said produce

All businesses related to Child Care Homes and Child Care Centers shall be in accordance with Neb. R.R.S. 1943, Sec. §71-1902.

Amended by Ordinance No. 8947, effective 1-5-2005