

HASTINGS PLANNING COMMISSION

A meeting of the Hastings Planning Commission has been scheduled for Tuesday, August 16, 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, August 5th, 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 July 19, 2022
7. Special Order of Business
8. Unfinished Business
 - a. Continued Applications - None
 - b. Tabled Applications
 - i. **2022-031.** Public hearing to consider an Ordinance to amend Hastings City Code sections 34-302 to amend language for Home Occupations and 34-104 regarding definitions of child care and drop shipping.

Motion to recommend approval for an ordinance to amend the Hastings City Code sections 34-302 to amend language for Home Occupations and 34-104 regarding definitions of child care and drop shipping.
 - c. Postponed Applications - None
9. Public Hearings.
 - a. **2022-052.** Public hearing to recommend a request for Randy Chick regarding Plan Modification No. 2022-2 to Redevelopment Area Number #1, Corner Building Project, for the following collective property, to wit: Lot 1-3, Block 27, Original Town, Hastings, Adams County Nebraska

Motion to recommend approval for Plan Modification No. 2022-2 to Redevelopment Area Number #1, Corner Building Project, for the following collective property, to wit: Lot 1-3, Block 27, Original Town, Hastings, Adams County Nebraska
10. Subdivisions

Planning Commission Agenda

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11. Reports

- a. Committee Reports
- b. Chairman Comments
- c. Staff Reports

Adjourn

CITY OF HASTINGS, NEBRASKA
MINUTES OF PLANNING COMMISSION
Tuesday, July 19, 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 July 19, 2022.

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Motion to adopt the current agenda for the Planning Commission Meeting

Moved by Brain Hoffman, seconded by LaDaun Schoenhals, to adopt the current agenda for the Planning Commission meeting.

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

Absent: Rakesh Srivastava

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

Moved by Lou Kully, seconded by LaDaun Schoenhals, to approve the minutes of the June 21, 2022 Planning Commission meeting.

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

Absent: Rakesh Srivastava

7. Special Order of Business
8. Unfinished Business
 - a. Continued Applications - None
 - b. Tabled Applications - None
 - b. 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.

Brian Hurskainen explained the agenda item.

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 businesses up in their home.

Lisa Parnell-Rowe: There are several home occupations throughout the city. Having been here 2.5 years we get a lot people wanting to do things in the home. Some of them fit the identity of the neighborhood with small retail. People are doing these things in their homes anyway and with Covid people have moved more toward doing work in their home. When they have these home ventures we need to make sure they are assessing the impacts to traffic, parking, and we have to do that on an individual case-by-case basis. This section of the code was here but it didn't have a permit attached to it so there was no way for us to require them to give us a site plan, to give us a description of what they were doing, we couldn't require them to do that, we can only say, here's what you can and can't do. We have a lot of home occupations, and some of them don't fit the guidelines. We never had a way to review that because we didn't have a permit attached to it.

With us getting a full-time code enforcement, we've found that there are some home occupations that, if they had been assessed through a permit, they might or might not exist, or we might have changed a couple of aspects through conditions that we would have required or asked to meet this code. We didn't have the staff to enforce it. That's why we have that last clause that talks about allowing the ones that are in existence but we don't want to see is that they get to where they might add on to that business.

Clint Schukei: There might be a few things in here you might have questions about, think otherwise, or embrace.

Lou Kully: I will comment on number three: It says in one of the regulations, from 8 a.m. to 8 p.m. If it's going to be a home business like accounting, attorney fees, or wealth management, there are a lot of people who would work from 8-5. I don't think 7 am is too early to start working in a work office behind a desk. This morning at 7 they were redoing the roof next door to us. I have no complaints, but what is the difference? Instead of 8 a.m. I suggest 7 a.m. for a start time.

Second, only residents of the home can be in that home office. There's a lot of people that come in. Space is limited in an in-home office. You should allow 3-4 people according to size and space.

Third, accessory buildings: for example, there's a 2.5 car garage with office overhead. They need 3-4 people for the business. They have the room and the parking.

Brian Hoffman: Number two: I would like to see us model Kearney. For example, if you have home cleaning service or you have a discussion with someone in the room, maybe have a part time person as well.

Number three: no more than one home occupation per dwelling. You might have three different people with three businesses. Could cut down on business. put at a higher cap.

For seven, I need more information.

Number ten: What does it mean for them to have a valid license?

Brian Hurskainen: Some occupations require business licenses with the city, so whatever is applicable. We can include that list.

Brian Hoffman: Number 11, I would strike it since people work late at night. Really it would come to disturbing the peace.

Lisa Parnell-Rowe: To address seven, retail is a sensitive thing. People approached us with properties quite capable and in an area that could sell small things. I had someone interested in selling bike parts. She also has classes and was thinking of buying property by the trail. Biking was going to be a part of that. This is part of the intent of doing case by case review. If you are producing bird houses, pillows you can do that. Mary Kay, Scentsy and online sales ship online from separate locations. If you are going to have large items like cars, that's not going to work. That's the intent of having a permit review process. We added if anything is not specifically online, that it would require a Conditional Use Permit process, then you can make that decision. A lot of people are working from home and wanting to work from home. To say they can't do that, we can't. The question is where to set that bar. This was just our first stab for how to segregate that.

Brian Hoffman: There could be language to better clarify that. I get where you're coming from, we don't want someone with a lot of mowers in their garage.

Greg Sinner: This might have to be something to readdress, to come back and see how it works.

Lisa: That's why we have the CUP in there.

Brian Hoffman: Number 14: We don't want a whole bunch of big trucks in driveways but that's part of the business as well. You've limited to a pickup truck but I would limit it by weight.

LaDaun Schoenhals: This might be an ordinance already.

Brain Hoffman: I am concerned about the application process. We're having a hard time getting people to do inspections. Fire Marshall inspections are at 3 percent and we are adding on inspections.

Lisa Parnell-Rowe: It's a site visit, not necessarily going into the home, but we do a lot on GIS. There is usually an inspection process which gives Code Enforcement the ability to enforce. With no permit, there's no way to double-check. You may look at setbacks or the lay of the land as a City Planner, but it's more like code enforcement. This would be something if we got complaints from neighbors, we could go back to the conditions that are set and the approved permit. Code Enforcement has the ability to look at that and say there is a permit and you need to follow the permit.

Brian Hoffman: This is like a fix-it ticket type policy. You are only going to get 10 percent of people who are going to apply.

Lisa Parnell-Rowe: This happens but we do have people who call and ask us about home occupations. There is no vehicle for us to work with them and assess that. We can see a lot by looking at a site plan or narrative that we are not doing right now because we do not have a permit with this language.

Brian Hoffman: Grand Island and Hastings do not have a permit process for home occupations.

Lisa Parnell-Rowe: Benchmarking is great and there are times that we do that, but we are going to do our Comprehensive Plan and learn about what makes Hastings, Hastings. It's important we have our own identity. I think you are saying this is too regulatory. I understand your concern but it's already in our code so we can get rid of it altogether. There are some occupations that don't follow our code and the updates would add more leniency.

Brian Hoffman: Number 18: The language can be cleared up, the "nonconforming will be permitted" is confusing.

Clint Schukei: The definition with the statute for nonconforming use is that if something is there, that has been there, can stay but if you expand it, then it's got to go away. The statute in 19904.01, and this is the state statute, says if you have a nonconforming use, and you have a cessation of use for a one-year period it has to go away. The city code here, 34603, if you look at which comes next, says two years, it's not consistent. If I discontinue something for 30 calendar days, it's pretty fast. It could be 30 days, one year, or two years.

The other thing, when I look at home occupation, and I'm not really sure when you talk about somebody that's bringing their car home for work if that's a home occupation. They're not running a business out of there, they are coming home and parking their company vehicle. In this community, a neighbor called and said somebody is bringing their vehicle home from work and it's six inches too long. I want you to go give him a ticket. By the same token, the kinds of points I think have real validity in regard to home occupations are when they get too successful and they really need to move someplace else and you've got lots of activity that makes it turn into a nonresidential because of the frequency that the people are coming and going and stopping and dropping stuff off or if you get too successful that you've got multiple employees coming to your house and are parking there every day and so on and so forth.

We had one where the garage was full of lawn mowers. He did repairs for people. He tried to keep the neighbors happy by fixing their lawnmowers for free. That wasn't in this community. The folks that were in the business of doing that had all sorts of life safety issues that they

needed to comply with, about combustible stuff and fire things and all sorts of things and were put at a disadvantage economically and couldn't compete with that because of what this guy was doing. That's the hard row, where is the sweet spot? It's easy to ask that question, much harder to answer it. Those are the ones that I think back on over the years that were compelling to me and challenge the Commission and ultimately the City Council for something like this.

Shawn Rossi: How does this apply to people who don't run a business out of their house but from their house, that have multiple construction vehicles? We might be getting to the line where they are getting too successful and shouldn't have six vehicles on the street. Is that addressed in here?

Clint Schukei: If they report to work and go somewhere else it is running a commercial business and not home occupation.

Brian Hurskainen: Storing construction equipment for example would be difficult to hide and against code. The goal is you want the residences to look like residences.

Lisa Parnell-Rowe: My dad was a contractor who worked out of the home, and that was really a long time ago. He had a large vehicle that was parked at our house and he had to find a more commercial location to store the equipment. That's the purpose of the permit, we can't assess that right now because they're not giving it to us. If they come to us or if we get a complaint Taylor can assess and we can work through process of fitting in home occupation code or tell them to find industrial area to store equipment. It gives us an avenue to review these things because right now we have a code but we don't have a permit to allow us to assess it.

Taylor Smith: I am the Code Enforcement Officer. This is more of an avenue for some of these businesses to stay as of now some of those don't meet the codes. The complaints I get are the bigger more in the open businesses that are in residential.

Jody Stutzman: I attended an event where a woman sold repurposed furniture and it grew into a large event with music and was loud. My concern is being disruptive, for example, kids doing schoolwork from home. For Mary Kay and those types, how many of them might know the process to get a permit. Is staff available to help with that?

Lisa Parnell-Rowe: This would be under Planning and Zoning, and we can help. It is like any permit, like our Temporary Use Permit, it's been in our code for a long time but the permit is new and we can do that through enforcement. We also have LeAnn Doose, Public Information Manager, who can communicate it through a press release and on the website. We've got Tony, we have lots of resources for educating the public. Educational is a continual thing. The Temporary Use Permit is up and going for mobile vendors. We are making sure they have safe propane tanks so we don't have an explosion. They do improve and people learn about them and you can't educate enough.

Ann Hinton: Number 16.h regarding childcare it refers to state license. I would like that number to reflect the state. I don't think that I what the state requirement is. I did childcare in my home and I was licensed by the state. There's a difference in toddlers versus school age children and if they are above a certain age, summer numbers are different from school year numbers.

Brian Hoffman: Grand Island says we will follow state statutes of whatever guidelines are for childcare.

LaDaun Shchoenhals: I had dog grooming business out of my home and 8 a.m. -8 p.m. did not fit my schedule. I'm not sure if we need it because if it is a noise issue, you already have a noise

issue in the city.

Lisa Parnell-Rowe: Yes, but the noise we have in Chapter 34 only addresses noise in public spaces and distances that it would disturb. The time frame is there because we are trying to get a grasp on what is an acceptable time frame? It's probably based on the type. We could just slash it and have it be a discretionary thing that we look at as part of the permit and we could ask them specifically what times they are running their business. If you have something that is going to be disturbing noise-wise or impact the traffic, or parking, anything like that, you would want rights to set some controls. As part of that administrative permit review, police and fire would look at that too. We would make discretionary calls of who is going to review each permit based on the use. They would have comments and they would just say we don't want this going on after 7 p.m. or 8 p.m. We could just slash this altogether and this could be something we review for in the permit.

LaDaun: Number three, no more than one occupation per dwelling, I agree with Brian. Number five, the sign must be mounted on a flat surface on the building? Does that mean it has to be or doesn't have to be?

Brian Hurskainen: I would say it has to be. I pulled that from the existing home occupation code.

LaDaun Schoenhals: I'm not sure I would want to put a sign on my house.

Lisa Parnell-Rowe: I think we would have to consider the character and the residential neighborhood. It is under current home occupation for the sign to be two square feet. So, we could just take that part off and say two square feet. Anthony, is there any fire code requirement?

Anthony Murphy: None that I can think of.

Lisa Parnell-Rowe: It should be under existing home occupation, that original requirement. You would prefer it to not be on the house, you are open to it being something else? We will look at current sign ordinances. We are making notes for our Comprehensive Plan consultants.

LaDaun Schoenhals: Number 13 my dad used to do radios. Do things really interfere with radios anymore?

Brian Hurskainen: That is part of original and I kept it in there. We don't want interference with radio communication.

Brian Hoffman: You don't want people running microwave signals out of their house.

Erik Nielson: You still have HAM operators and amateur radio that could have interference that could cause issues.

LaDaun Schoenhals: Is there a charge for the permit?

Lisa Parnell-Rowe: Administrative permits are \$40.00

LaDaun Schoenhals: Childcare takes more than 25 percent of your house.

Clint Schukei: Looking at the Department of Health and Human Services, we have a family childcare home 1 provision that allows up to ten children one provider in the provider's home

then the only other thing we have before childcare centers is the family child care home 2, which will allow up to 12 children, two providers, either in the primary provider's home or in a separate building. Those are the various requirements and licenses that the state of Nebraska issues permits for.

LaDaun Schoenhals: I did that a long time ago and I know those kids didn't take up 25 percent, it was 100 percent.

Lou Kully: I still like the hours, such as 7 a.m.-8 p.m., 7 a.m. -10 p.m. but CPAs may work from 3 a.m. to 1 a.m. We need a provision that whatever hours we sign are waivable for CPAs. There will be individuals up all night doing stuff.

Lisa Parnell-Rowe: The more I hear feedback, time frame isn't necessary to spell out but it can be something we review for as part of the permit. We will have the discretion to make decisions and judgement calls on whether we want to cap that and limit that time frame based on the use.

Jacque Cranson: My business took up 75 percent of my house and my parents had home businesses as well. The neighbors didn't know. Friends and family working for me would pull up in my driveway and load their cars with laundry baskets of clothes and take them to tournaments. I was worked until 3 a.m. folding clothes and ordering for the next week. There shouldn't be regulation for what you do in your own home. I understand if it grows too big. For permits, to get started in a business, the red tape, sales tax permits, I don't know at what point does a home occupation need a permit, a month, six months, at what point do I want to pay the permit? Do I need a home occupation permit if I even know this is going to go on? How long does this last? I am not going to start my business right away.

Lisa Parnell-Rowe: To me \$40.00 doesn't seem unreasonable for review and to send it out to all of the experts that are going to look at the site plans and give their feedback.

Jacque Cranson: The other thing for me is how long does this last? I can sell these headbands, I need money, I'm not going to wait for a review.

Lisa Parnell-Rowe: Home occupations we would allow them to go, but conditions are key. In your home occupation permit review, we will be looking at that and there may be even a candid statement that, if we are getting to the point where we have complaints about traffic and parking, it may be that they need a storefront. You are going to know that, though. You inherently knew that too. The fee is to cover costs for review. I know this is a hot topic.

Jacque Cranson: I didn't have money or time to wait for a permit.

Lisa Parnell-Rowe: This would also be educational. A lot of people won't realize they need to do it. Some people do right now and some people don't know that we even have home occupation code. We are in a time with covid and more people doing more home-based business that we have to have something in place to ensure traffic is running smooth and parking in neighbors' driveways and to prevent code issues.

Clint Schukei: In Kearney garage sales are allowed provided frequency at any location shall not exceed one in a continuous two-month period or four in any twelve-month period.

Greg Sinner: Some people have made garage sales into a business every weekend Friday through Sunday. I'm ok with not putting in any other hours for starters, we may reevaluate down the road. The grandfather clause is a good thing within reason. We need communication and to use our Public Information Officer and all the tools we have to get the information out so people

will know what this is.

Brian Hoffman: Home occupation, should it be tied to an LLC or an S-corp?

Clint Schukei: When talking about this zoning issue, we are not concerned with whether you are operating your home business as a corporation, an LLC, or whatever. The key to this is, if you are going to regulate it, it's a matter of how much activity, and what sort of imposition on the neighborhood do you want to allow? I don't think anybody is concerned with whether you are operating as an individual or an LLC. If you keep inside your house, you keep inside your house. It's only when it goes beyond that and it's infringing and bothering other people is when you have a problem, so I don't think it matters.

Brian Hoffman: Number 1.e, we want people to not be disturbed by others. That's a very big umbrella, is that 1.e in that coverage? So if you get enough noise complaints or owner complaints of a business that 1.e should cover a lot of stuff in there that we talked about that's further down, which are the parameters. Maybe that covers previous complaints or bigger violations, but that really covers it. Also thirteen covers a lot of that too with the neighborhood nuisance that we're taking about.

Lisa Parnell-Rowe: So 1.e explains the intent of the permit which is different from the ones that are further down, which are the parameters you must meet, the regulations that you must meet. I don't know if I would just leave it to the one in 1.e because that's really just expressing the intent. It's still something to point out and to say this is the reason why we are doing the home occupation permit. We want to make sure that we're in line with not violating any nuisance codes that are also already in another chapter.

Anthony Murphy: I have a question on 17, paintless dent repair is a big thing with the hailstorms, would that be prohibited? It is a quiet thing, just asking for clarification as I've seen it around town.

Brian Hurskainen: I don't think is an issue to write around.

Moved by Lou Kully, seconded by Ann Hinton, to table recommended approval for an ordinance to amend the Hastings City Code section 34-302 to amend language for Home Occupations

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

Absent: Rakesh Srivastava

10. Subdivisions

11. Reports

a. Committee Reports

c. Chairman Comments

Greg Sinner: There's a lot of activity at the old middle school, what's happening?

Lisa Parnell-Rowe: The Peace Center is owned by Presbyterian church. They are looking to improve the parking lot. That section is owned by them and they are doing improvements. There have been some curbs and ADA ramps that have been improved as well by the city through the CBDG grant. The current work is being done by Ben Engel Construction.

Clint: Related to that, in the 1960s when middle school addition was added, 6th street was vacated and continues to be owned by the city. The CRA bought it for taxes, got a treasurer's deed for the taxes. They are trying to make that available to show to people are willing to develop it. They have digitized the inside and have dimensions so people can look at it. They are working through title insurance because people are scared of the title. A federal quiet title action is being done and we are working through that.

Greg Sinner: Is there and update on the Burt's building?

Lisa Parnell-Rowe: I have not heard any updates form Kevin Kubo. Last I heard we were waiting on adjacent property owners and insurance. The steel foundation that's holding up the rest of that building, if it is removed, may be bad for the adjacent building. They've hired engineers to assess what can be done to either save the building or determine it also needs to come down. Some decisions are being worked through with the gentleman who owns that building and the insurance company.

Jacque Cranson: Did they have any sort of timeline on that?

Lisa: I think we were wanting them to make those decisions already. It's out of our hands. As soon as that happens, we can get some movement. It all comes down to insurance companies' architects that have been utilized to make those decisions.

Jacque Cranson: So they can indefinitely block off that part of the street? Is there any sort of tome frame or deadline?

Lisa Parnell-Rowe: At some point we are going to be giving ultimatums.

Clint Schukei: In the international property maintenance code. Are they making an effort to do this, are they not making an effort? There is the possibility if nothing happens, at some point in time, the city can give order to demolish it and say you have so much time to demolish it and if it's not demolished it's punishable by a fine. I heard discussion with the BID meeting this morning that there may be someone in the process of being hired to shore up that corner to take that beam down and it's sounding positive.

Greg Sinner: Lisa, can you talk about the bus trip?

Lisa Parnell-Rowe: We will meet here at 8 a.m., and the Bus Tour went out as a Public Notice since we will have most of the Planning Commission going on the tour. Chuck Rosenberg, Tony Hermann, LeAnn Doose, Anthony Murphy, Kevin Kubo, and Lee Vrooman will also be going. Each of us will have our own map. We are going on a bus with forward-facing seats, and it is going to be a couple of hours. It will be a really worthy exercise and it also fits in with kicking off Comprehensive Plan as well. The trip was planned on the same day as the kickoff because we are flying in consultants. To be conscientious of money we are spending and to maximize their time here the decision was to get that kickoff meeting that same night.

At 7 p.m. on Thursday in the museum theater we will have the comprehensive plan. Everyone is welcome. It will be structured on what comprehensive plan is and engage a little bit in feedback as well.

A couple of you have brought up lunch with the consultants after the tour at 11 a.m. We did not put a time at the end of that tour, but what would be best is if we had something here in the chambers rather than going somewhere. If you desire us to do that we can do some box

lunches. I think it would be better if we did it on location here instead of going independently.

Greg Sinner: Commissioners what are your thoughts for lunch? It looks like you are getting positive feedback.

Lisa Parnell-Rowe: We will speak with the consultants and make sure they are available and make sure that they can plan on that. If they can, we will have something available.

Greg Sinner: It would be excellent if the consultants can be here but if they are not we can have some good discussion amongst ourselves as well.

c. Staff Reports

Adjourn

Chairman

Department: Development Services
Staff Contact: Brian Hurskainen
Planning Commission Meeting Date: 8/16/2022
File No: 2022-031
Prepared By: Brian Hurskainen, City Planner

AGENDA ITEM SUMMARY SHEET

Description of Item:

Public hearing to consider an Ordinance to amend Hastings City Code sections 34-302 to amend language for Home Occupations and 34-104 regarding definitions of child care and drop shipping. Motion to recommend approval for an ordinance to amend the Hastings City Code sections 34-302 to amend language for Home Occupations and 34-104 regarding definitions of child care and drop shipping.

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 sections 34-302 to amend language for Home Occupations and 34-104 regarding definitions of child care and drop shipping.

Deadlines associated with action:

This code revision case will be presented for approval at the City Council Regular Meeting to be held on September 12, 2022.

Department head comments:

This code change was originally presented last month on 7/19; we have made changes based on feedback from the commissioners.

City Staff is trying to be proactive with the City Zoning Code; one necessary 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. The recent event of COVID showed us that many businesses are choosing to close their storefront and continue business from home in a home-based business fashion. City wants to be sensitive to this change and adapt this code to better fit these situations. This will also lend value to our code enforcement processes and procedures. By better vetting each home occupation here forward in a more formal permit fashion and approving with appropriate conditions that meet our code here forward, there is less burden on code enforcement to decide what can be done after it has already occurred. This code change will ultimately make those that have occurred to this point in time legal nonconforming home-based businesses and allow code enforcement to focus on those that are new or expand and grow.

One of the significant changes is introducing language to have an actual permitting process that people can apply for administratively. Currently there is no permitting process or tracking of any kind. This means that when we are approached about a home-based business, we give them the code requirements and leave it to them to comply; we do not assess a site plan or inspect the use to ensure it meets the codes. This has led to difficulties to enforcing uses that do not comply when there are code complaints.

Another one of the major changes is allowing certain types of retail to be allowed as a home occupation. The intent is to open it to people selling things online that are drop-shipped or things that they are able to made within their home and still meet home occupation square footage limitations; some examples of this might be 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 for the following uses or 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 meet the intent of the home occupation section, as well as provide some much needed clarity for people trying to set one of these businesses up in their home.

After our discussion with Planning Commission last month on July 19, 2022, staff have made additional changes as shown in the attached Home_occupations. Proposed 8.10.22 document. We have also included some proposed definitions based on this feedback, that will be necessary to better clarify some of the uses that we have amended and added to be permitted. A summary of these changes follows:

1. Parameters to add for employees were added. This was benchmarked from the Kearney Home Occupation codes.
2. Removed language limiting premises to one home occupation.
3. Altered the language to include accessory structures and opened up the signage requirements to not be limited to principal building.

4. Clarified Item #7, making the type of retail that is permitted by administrative permit more specific and added a definition for this type of retail.
5. Removed times allowable for businesses
6. Clarified Item #16f and 16h with language changes regarding child care and retail types, and ensured that it would comply to State directives.
7. Clarified nonconformity language Item #18 and ensured that it would comply to State directives.

Recommendation:

Staff recommends a motion to recommend approval for an ordinance to amend the Hastings City Code sections 34-302 to amend language for Home Occupations and 34-104 regarding definitions of child care and drop shipping.

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) 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) 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 of primary and accessory buildings 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 retail products produced by residents of the site dwelling ~~residing on the premises~~ or a retail business that sells products in a drop shipping business model are permissible through this administrative permit. All other articles offered for sale that are not produced by the home owner or drop-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 drop shipping sales or sales in a residence as a home occupation will be allowed to 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. Family Child Care Homes shall be in accordance with Neb. R.R.S. 1943, Sec. §71-1902. 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 1 year 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. 34-104. Descriptions and categories of uses.

The following categories and descriptions of specific uses of land and buildings correspond to the Use Table 34-200. Where a use appears to meet two or more descriptions or where a use is not described, the Director shall make a determination of the most comparable use. In making this determination, the Director shall compare: (a) the intensity and scale of the use relative to the site; (b) the typical site and building designs associated with the use; (c) the functional or operational characteristics and the potential impacts the use on adjacent property; and (d) the potential contribution of the use to the overall character of the district or districts in which the comparable use is allowed. All other uses which cannot be interpreted in this manner are different from the described uses, are not anticipated by these regulations, and may only be allowed by a zoning text amendment.

- (1) *Residential uses.* The residential use category is for all types of dwelling units used for permanent residence, including a variety of lot types, building types, and unit types, that may vary in the kind and classes of buildings based on the character of the neighborhood.

Detached dwelling. A residential use in a detached building designed as a single principal dwelling unit and situated on its own fee simple lot.

Detached dwelling, accessory. A detached single family dwelling located a lot developed with a detached dwelling as the principal use, and accessory to the principal detached dwelling.

Semi-attached dwelling ("duplex"). A residential use in detached building designed as two principal dwelling units. It may be designed as a "paired house," matching the appearance of a house, or it may be designed as a "flat-over-flat," matching the appearance of a small apartment building. A duplex is situated on its own fee simple lot, but each unit of a side-by-side paired house may be platted on an individual lot if party walls are used.

Attached dwelling ("townhouse"). A residential use in a building designed with a series of attached principal dwelling units separated by a single common wall. Each unit is typically situated on its own fee simple lot where party walls are used, but buildings or grounds may be owned in common. Each unit has the same orientation and front façade, and has its own private entrance to the exterior of the structure.

Multi-dwelling building ("apartment"). A residential use in a building designed for more than two principal dwelling units and situated on a single fee simple lot. This building type includes a number of variations based on the permitted building scale, including "stacked flats" (three-story/tri-plex), "six-plex" (paired stacked flats), or larger apartment buildings.

Live/work. A primarily residential use in a building designed for two principal uses, where a portion is designed for residential dwelling use, and a portion is designed for a limited non-residential use to support the occupation or vocation of the resident of the dwelling unit. The non-residential portion is limited to the first story and less than 50 percent of the total floor area of the building. The building is situated on its own fee simple lot but may be attached or detached based on zoning district standards and context.

Mixed-use dwelling. A residential use in a building designed for a mix of uses with office or retail on the first story/street-front and residential uses on the upper stories where the dwelling units are not accessory to the non-residential uses. Mixed-use buildings may be either small- or large-scale, with larger scale buildings, depending on the context and zoning district standards, and typically being broken into multiple fee simple lots with party walls, but the dwelling units may be owned in fee simple, as condominiums, or apartments.

Group housing. The grouping or clustering of living units (dwelling units) on a suitable site in such a manner that the amount of usable open space per unit is equal to or exceeds the open space

requirements for conventional development under the pertinent use district standards. Group housing developments are only allowed by conditional use permit.

Type A manufactured housing. 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, as promulgated by the United States Department of Housing and Urban Development, or any successor regulations thereto. See the provisions of Section 34-312 for additional regulations relating to Type A and Type B Dwellings.

Type B manufactured housing. A modular housing unit as defined in Section 71-1557 of the Nebraska Revised Statutes 1943 which bears the seal of the Nebraska.

Department of Health. See the provisions of Section 34-312 for additional regulations relating to Type A and Type B dwelling.

Mobile home court. Any mobile home court, trailer park, trailer court or tract of land designated, maintained or tended for the purpose of supplying a location or accommodation for any mobile home or Type A or Type B manufactured dwelling and upon which one or more mobile homes or Type A or Type B manufactured dwelling are parked, and shall include all building used or intended for use as part of the equipment thereof, whether a charge is made for the use of the mobile home court and its facilities or not. 'Mobile home court' shall not include automobile or trailer sales lots on which unoccupied mobile homes are parked for purposes of inspection or sale or storage or a tract of land used to park trailers temporarily for overnight stays for a maximum period of one week where the mobile home trailer is parked for recreational purposes or for stopping by migrating persons while passing through the City.

Mobile home, accessory. A detached, single or two family dwelling which was originally designed for long-term human habitation and which was constructed and fabricated into a complete unit at a factory and capable of being transported to a location for use on its own chassis and wheels, identified by model number and serial number by its manufacturer, and designed primarily for placement on an impermanent foundation, when used for residential or any other purposes, but not including any structure which meets the definition of a Type A or Type B manufactured dwelling.

- (2) *Civic uses.* The civic use category includes uses serving a broad and general public and community interest to enhance daily cultural, social or recreation opportunities for area landowners and residents. This category is based on the need of different kinds and classes of buildings in close proximity with other uses, which can be integrated in to these areas with the appropriate level of civic design. The civic use category may contain uses that are either public and accessible to all citizens; common and accessible by rights associated with ownership; or private and accessible by membership or general association.

Neighborhood assembly (< 350 maximum occupancy). A civic use that conducts organized services, assemblies, or programs on a periodic or occasional basis, primarily for the convenience, entertainment, education, and social or spiritual welfare of nearby residents. Neighborhood assemblies typically have buildings and supporting facilities designed for a capacity of no more than 350 people for any one event. Common examples include meeting halls, neighborhood association club houses, or smaller neighborhood churches.

Community assembly (350—700 maximum occupancy). A civic use that conducts organized services, assemblies, or programs on a periodic or occasional basis, primarily for the convenience, entertainment, education, and social or spiritual welfare for citizens in the general vicinity. Community assemblies typically have buildings and supporting facilities designed for a capacity of no more than

750 people for any one event. Common examples include community centers, museum, or large churches. For larger facilities see entertainment venue.

Eleemosynary or philanthropic institution. A private, non-profit organization which is not organized or operated for the purpose of carrying on a trade or business, no part of the net earnings of which inures to the benefit of any member of said organization or individual, and which either (a) provides volunteer aid to the sick and wounded of the armed forces in time of war and natural relief in case of a national calamity or emergency or (b) provides all or any of the following: religious, social, physical, recreational, and benevolent services. In addition, such term shall include such an organization providing housing and related facilities for elderly or physically handicapped families. This definition shall not be construed to include supervised homes, halfway houses, or supervised home for the mentally handicapped.

Golf course/clubhouse (non-business). A civic use engaged in the management and operation of a golf course as an outdoor recreation activity, and any accessory sales or businesses associated with the operation of the golf course and which are intended solely for patrons of the golf course.

Public park/playground. A civic use where an area of land is used for structured or unstructured outdoor recreation.

Public museum or library. A building used for the artistic, cultural, educational or other exhibition of materials, artifacts, and resources which are presented or made available to the public.

School, elementary or middle. A civic use where buildings and facilities are used for the education and instruction of K through 8 students.

School, secondary. A civic use where buildings and facilities are used for the education and instruction of 9 through 12 students.

School, college or university. A civic use where buildings and facilities are used for the education and instruction of post secondary.

- (3) *Service uses.* The service use category is for businesses engaged in the exchange of professional skills, advice, personal care or other resources, and the nature of the exchange generally requires frequent interactions with the clients, customers or patrons on the premises, and where lots or buildings may require access or exposure to the public-at-large.

Adult care, home. A residence or facility wherein adult day services are provided for less than four adults.

Adult care facility. A program of structured and monitored social, manual, physical, and intellectual services and activities provided in a supervised, ambulatory (including wheelchairs) setting outside an individual's own home, directed toward adults who do not require 24-hour institutional care but who, because of physical or mental impairment (including social isolation) require services in a group setting for the purpose of achieving or maintaining self-sufficiency, preventing or remedying neglect, abuse, or exploitation, and preventing or reducing inappropriate institutional care. Adult day services will constitute a home occupation if conducted in a residence, and in accordance with Hastings City Code Section 34-302.

Automobile service station—Limited. A service use engaged in the retail sale of fuel, and may include accessory sales of lubricants, accessories, repair services, or maintenance services. This use is limited to no more than two fuel pump islands and no more than eight fueling stations.

Automobile service station—General. A service use engaged in the retail sale of fuel, and may include accessory sales of lubricants, accessories, repair services, or maintenance services, or accessory convenience retail. This use is limited to no more than four fuel pump islands and no more than 16 fueling stations.

Automobile service station—Large-scale. A service use engaged in the retail sale of fuel, and may include accessory sales of lubricants, accessories, repair services, or maintenance services, or accessory convenience retail. This use may have more than four fuel pump islands and more than 16 fueling stations.

Automobile repair—Limited. A service use engaged in the repair, maintenance, or condition of motor vehicles and including the accessory sales of lubricants, parts, or accessories, where the scale of the business and design of the site is such that no outside overnight storage of vehicles or equipment is required.

Automobile repair—General. A service use engaged in the repair, maintenance, or condition of motor vehicles and including the accessory sales of lubricants, parts, or accessories. Where outside overnight storage of vehicles or equipment may be required.

Bank. A service use providing financial services to the general public, including associated office and customer service facilities.

~~*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.~~

~~*Child care facility.* A service use wherein there is provided for children, as a principal or as an accessory use of non-residential buildings, any care, supervision, custody, control or other services in lieu of parental supervision, for compensation.~~

~~*Child Care Center* A facility licensed to provide child care for thirteen (13) or more children. In addition to these regulations, Child Care Centers shall meet all requirements of the State of Nebraska.~~

~~*Family Child Care Home I* A child care operation in the provider's place of residence which serves between four (4) and eight (8) children at any one time. A Family Child Care Home I provider may be approved to serve no more than two (2) additional school-age children during non-school hours. In addition to these regulations, a Child Care Home shall meet requirements of the State of Nebraska.~~

~~*Family Child Care Home II* A child care operation either in the provider's place of residence or a site other than the residence, serving twelve (12) or fewer children at any one time. In addition to these regulations, a Child Care Home shall meet requirements of the State of Nebraska.~~

Halfway house, quasi-institutional use. Shall be described as a licensed home by the State of Nebraska or the United States Government, for individuals on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, living together as a single housekeeping unit, wherein supervision, rehabilitation, re-employment and counseling are provided to mainstream residents back into society, enabling them to live independently.

Kennel, commercial. An establishment where any combination of more than four dogs or cats are bred, boarded, trained, or sold. Any dog or cat which is younger than four months old, shall not be counted towards the four-animal limit. A veterinary clinic shall not be considered to be a kennel for purposes of this chapter.

Lodging, bed and breakfast. A service use where up to six guest rooms are rented, generally for short-term occupancy for sleeping, together with limited facilities for the accommodations of guest in a home-like atmosphere.

Lodging, rooming house. A service use where more than six guest rooms are rented, generally for short-term occupancy for sleeping, together with limited facilities for the accommodations of guest in a home-like atmosphere.

Lodging, hotel. A building occupied or used as a more or less temporary abiding place of individuals or groups of individuals who are lodged, with or without meals.

Lodging, motel. A building containing one or more sleeping rooms to be rented on a daily basis, primarily to the motoring public, together with recreation space, restaurants, clubs, or other related accessory uses including meeting room and banquet facilities.

Medical office. A service use where physicians, dentists, or other health care professionals carrying on their professions. A medical office may include a dental or medical laboratory, but may not include in-patient care or operating rooms for major surgery and may not be open for after-hours emergency care.

Medical clinic. A service use where physicians, dentists, or other health care professionals are associated for the purpose of carrying on their professions. A health clinic may include a dental or medical laboratory, after hours emergency care, but it may not include in-patient care or operating rooms for major surgery.

Medical hospital. A service use providing health services, primarily for inpatients, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, outpatient departments, training facilities, central service facilities and staff offices.

Nursing home/assisted living. Any structure used or occupied by persons recovering from illness or suffering from infirmities of old age in a group care setting.

Professional services office. A service use where individuals with specialized knowledge provide planning, advice, technical aid to the general public. Examples include doctor of medicine, engineer, lawyer, accountant, insurance agent or other similar professional services.

Self storage. A self-service storage facility designed to provide dead storage for families and small businesses only.

Veterinary office. A Service use where domestic animals are cared for in an office environment and any boarding areas is only accessory to the primary use of the facility for ordinary care and treatment of domestic animals.

Veterinary hospital. A service use where animals are admitted for examination, treatment, or health care by a doctor of veterinary medicine, which may include boarding and other facilities associated with longer term care or extraordinary treatments.

- (4) *Employment uses.* The employment use category is for businesses engaged in administrative, clerical, and professional operations and support, where products or services are of the nature that generally do not require daily on-premises interactions with the clients, customers or patrons, and where lots and buildings are not primarily designed to maximize exposure to the public-at-large.

Home occupation. Any occupation or activity carried on within a dwelling unit by a member(s) of the family residing on the premises, which occupation or activity is incidental and secondary to the residential occupancy and does not change the residential character thereof. The regulations pertaining to home occupations can be found in Section 34-302.

Office—Limited. An employment use which is limited and associated with another use, and generally involves less than 2,000 square feet of office space, and where each owner or tenant typically employs less than ten employees on premises.

Office—Small. An employment use which is not an accessory to another use, but limited individual units of gross leasable area are less than 3,500 square feet, and where each owner or tenant typically employs less than 20 employees on premises. Examples include small-scale professional service offices

such as accountants, architects, insurance, law, real estate, or other similar businesses which can operate within the unit square footage and employee limits of this category.

Office—General. An employment use where individual units of gross leasable area are between 3,500 and 20,000 square feet, and where each owner or tenant typically employs between 20 and 100 employees on premises. Examples include large professional service offices such as accountants, architects, insurance, law, real estate, or other similar businesses which exceed the office—limited category, or other moderate size business or corporate employment operations.

Major office or office complex. An employment use where individual units of gross leasable area may be more than 20,000 square feet in a single building or group of buildings, and each owner or tenant may typically employ more than 100 employees on premises. Examples include major professional service firms or large corporate offices.

- (5) *Commercial and retail uses.* The commercial use category is for businesses engaged in the exchange of merchandise for general consumers, and nature of the exchange generally requires frequent interactions with the clients, customers or patrons on the premises, where lots or buildings are primarily designed for exposure to the public-at-large.

Convenience retail, automobile (< 5K). A commercial use primarily engaged in the small-scale sale of household merchandise and general consumer products and involving less than 5,000 square feet of gross leasable area. Convenience retail, automobile uses are characterized by a target market based on high-traffic roadways, or are an associated accessory to an employment or service business.

Convenience retail/corner store (< 2K). A commercial use primarily engaged in the small-scale sale of household merchandise and general consumer products and involving less than 2,000 square feet of gross leasable area. Convenience retail/corner store uses are characterized by a target market area of less than ½ mile radius for most of its on-premises sales or are associated accessory to an employment or service business.

Neighborhood retail (< 5K). A commercial use primarily engaged in the small-scale sale of household merchandise and general consumer products and involving less than 5,000 square feet of gross leasable area. Neighborhood retail uses are characterized by a target market area of less than ½ mile radius for most of its on-premises sales.

General retail (5K—20K). A commercial use primarily engaged in the sale of household merchandise, specialty merchandise, and consumer products and involving between 5,000 and 20,000 square feet of gross leasable area. General retail uses are characterized by a target market area of less than one-mile radius for most of its on-premises sales.

Large-scale retail (20K—100K). A commercial use primarily engaged in the sale of household merchandise, specialty merchandise or general consumer products and involving between 20,000 and 100,000 square feet of gross leasable area. Large-scale retail uses are characterized by a target market area that may be greater than one-mile radius for its on-premises sales.

Warehouse retail (> 100K). A commercial use primarily engaged in the sale of household merchandise, specialty products, general consumer products, or wholesale products and involving greater than 100,000 square feet of gross leasable area. Warehouse retail uses are characterized by a target market area more than one-mile radius for most of its sales.

Grocery store (< 45,000K). A commercial use engaged in the retail sale of a broad range of food products and limited household products for consumption off premises, although some limited areas may be dedicated to the on-premises sale and consumption of food. A grocery store involves less than 45,000 square feet of gross leasable area and is characterized by a target market of less than one-mile radius.

Supermarket (> 45,000[K]). A commercial use engaged in the retail sale of a broad range of food and household products for consumption off premises, although some limited areas may be dedicated to the on-premises sale and consumption of food. A supermarket typically involves more than 45,000 square feet of gross leasable area and is characterized by a target market of greater than one-mile radius.

Indoor entertainment and recreation business. A service use where facilities for indoor sports, entertainment, or similar recreation opportunities for participants or spectators are offered as a business. Examples of uses include roller skating rinks, movie theaters, or fitness clubs.

Outdoor entertainment and recreation business. A service use where facilities for outdoor sports, entertainment, or similar recreation opportunities for participants or spectators are offered as a business. Examples include race tracks, driving ranges, or other similar grounds.

Entertainment, venue. A service use where floor shows or other forms of entertainment, performances or presentations by persons are provided for guests, which may include accessory dining, bar, and similar refreshment services. Examples include concert halls, dinner theaters, or banquet halls, or auditoriums.

Outdoor sales, limited. The limited display of merchandise on a sidewalk or an exterior private area of a site associated with an otherwise permitted commercial use. This display is further limited by the following: (1) it only occurs during regular business hours and is brought indoors; (2) is limited in extent to less than ten percent of the entire merchandise area of the commercial use; and (3) it is limited to seasonal sales or events lasting no longer than one-week at a time with at least four weeks between consecutive events.

Outdoor sales, seasonal. The limited display of merchandise on a sidewalk or an exterior private area of a site associated with an otherwise permitted commercial use. This display is further limited by the following: (1) it only occurs during regular business hours and is brought indoors; (2) is limited in extent to less than 20 percent of the entire merchandise area of the commercial use; and (3) it is limited to seasonal sales or events lasting no longer than one month at a time with at least two months between consecutive events.

Outdoor sales, yard. The display and sale of merchandise where the primary business is generated by merchandise displayed permanently and year-round on an exterior portion of the site.

Outdoor market (farmers market). A special event outdoor sales of products that are produced off-site by a number of different merchants, typically farm or craft products.

Drop shipping A form of retail business wherein the seller accepts customer orders without keeping stock on hand. Instead, in a form of supply chain management, the seller transfers the orders and their shipment details to either the manufacturer, a wholesaler, another retailer, or a fulfillment house, which then ships the goods directly to the customer.

- (6) *Industrial uses.* The industrial use category is for businesses engaged in manufacturing, fabrication, warehousing, processing, wholesale or disposal of goods, products and component parts, and services related to these businesses. These uses typically belong in a special district due to their inability to blend with the uses from other use categories, except when occurring at the smallest scale.

Grain storage elevator. A facility used for the storage, exchange, processing and distribution of grain.

Manufacturing, limited. An industrial use where small-scale activities produce no by products such as smoke, odor, dust or noise discernable from the outside of the building in which it is located. Individual facilities typically occupy less than 10,000 square feet of gross leasable area, it requires no outside storage, and distribution and deliveries are commonly made by general consumer delivery services, requiring no significant truck access. A retail, showroom, or service component is often associated with

the use. Examples include artist studios, metal and wood shops, arts and crafts manufacturing, small appliance or machine repairs, or other small-scale assembly of finished parts or products from previously prepared materials.

Manufacturing, light. An industrial use whereby products such as smoke, odor, dust or noise are not discernable from outside of the building in which it is located. It requires no outdoor storage or operations to occur, and where distribution and deliveries can occur from general consumer delivery services or limited commercial truck access. Examples include research labs or facilities, small electronics or computer assembly and manufacturing, furniture assembly.

Manufacturing general. An industrial use whereby products such as smoke, odor, dust or noise are not discernable from beyond the property boundary. Limited outdoor storage or materials may occur, and operations may require substantial commercial vehicle access for distribution and deliveries. Examples include large-scale non-animal food processing, commercial warehouses or wholesale distribution centers.

Manufacturing, heavy. An industrial use capable of producing significant by products discernable from outside the building and property including noise, odors, or other potentially offensive materials. It includes outdoor storage of materials and operations may require substantial commercial vehicle access for distribution and deliveries. Examples include food-processing involving animals, metal or chemical manufacturing, impoundment yards.

Impound yard. A place where the primary use is the storage or parking of operating or non-operating vehicles for longer than 48 hours, including, but not limited to, the following: (1) the storage of private parking towed-away vehicles; or (2) the long-term storage of vehicles with consent of the owner.

Recycling collection and processing. An industrial use where land and buildings are used for the public drop-off, storage, and packaging of recyclable materials. Processing may occur on site, or materials may be shipped to other industrial sites for further processing.

Salvage yard/junkyard. Any lot, or portion of a lot, which is used for the purpose of the outdoor storage, handling, dismantling or wrecking of abandoned airplanes, appliances, vehicles, boats, building and building materials, machinery, equipment, or parts thereof, including but not limited to, scrap metals, wood, lumber, plastic, fiber, or other tangible materials as defined in this subsection under "junk."

Slaughter house/meatpacking. A manufacturing use where live animals are temporary boarded for processing and distribution as food or other byproducts.

Storage or sale of liquid petroleum. A manufacturing use where storage, processing and sale of large quantities of combustible or flammable fuels may be present on the premises, and where frequent truck traffic is necessary for the safe distribution of products.

Warehouse storage/bulk storage. A structure containing an area whose primary purpose is storing commercial, industrial or private personal property, which may or may not include associated office space.

Wholesale. A merchant or middleman who sells chiefly to retailers, other merchants, or industrial, institutional and commercial users mainly for resale or business use.

- (7) *Agriculture and natural resource uses.* The agriculture use category is for uses that are commonly associated with an agrarian or rustic lifestyle, and which demand little or no public infrastructure or services.

Limited agriculture (AR). The production of grain, animals, food and fiber on a small scale where any impacts on potential adjacent property from storage, operations, and equipment can be internalized

into the site or buffered from abutting areas, typically not occurring on lots or parcels larger than ten acres.

General agriculture. The production of grain, animals, food and fiber; the science and art of farming and ranching; and the work of cultivating the soil, producing crops and raising livestock. General agriculture specifically excludes concentrated feeding operation where animals are confined, fed and maintained for 45 consecutive days or more in any 12-month period.

Aquaculture. The raising, feeding, planting, and harvesting of fish, shellfish or water home plants, and associated facilities necessary for the use.

Feed lot.

- (a) Any tract of land or structure wherein any type of fowl or the by-products thereof are raised for sale at wholesale or retail.
- (b) Any structure, pen or corral wherein cattle, horses, sheep, goats, swine, fowls or other animals maintained in close quarters for the purpose of fattening and confinement feeding of such livestock or fowl for final shipment to market.

Natural resource extraction. The growth, harvesting, cultivating land preparation of plants or other products of the land for distribution and sale as raw material in some other manufacturing process.

Nursery. The use of land and facilities for growing trees and plants for the retail or wholesale distribution on the premises. Examples include tree farms, orchards, or commercial greenhouses.

Stable, public. A business engaged in the keeping of horses, ponies, mules or cows for others.

- (8) *Public service uses.* The public service use category is for business or government entities engaged in serving a broad and general public and community interest to enhance general health, safety, welfare and convenience for landowners and residents. This category is based on the need of different kinds and classes of buildings in close proximity with other uses, which can be buffered from these areas with the appropriate site design, or alternatively which can be located in special purpose districts and still serve the public interest.

Air field. An area constructed for the purpose of serving as a location for small airplanes or similar aircraft to land and take off.

Heli-stop. A hard-surfaced area constructed for the purpose of serving as a location for helicopters to land and take off.

Public parking lot. A parking area available for public use whether free, for compensation or as an accommodation for clients or customers.

Public recreation grounds. Structures used primarily for participation by the public in athletic activities such as tennis, handball, racquetball, basketball, and other court games; jogging, track and field, baseball, football, soccer, and other field games; skating, swimming, or golf. Recreational facilities shall include country clubs and athletic clubs; it shall not include facilities accessory to a private residence used only by the owner and guest, nor shall it include arenas or stadia used primarily for spectators to watch athletic events.

Public utility plant. A public service use where land is used for the concentrated location of fixed equipment necessary to serve large areas with utility service, including operations of the utility other accessory buildings and facilities essential to the operation of the equipment, distribution, and processing associated with the utility. Examples include sewage treatment plant, electric supply plant, water supply plant, or sanitary landfill.

Public utility substation. A public service use where land is used for equipment necessary to serve adjacent areas with utility services, which facilitates are typically unmanned except for during ordinary maintenance.

Cemetery. An area where land is used for the burial of the deceased, both human and animals, and dedicated for internment purposes, including columbaria, crematoria, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

Small wind energy systems. Facilities used to generate energy from wind as a use accessory to other permitted structures on the premises.

Large scale wind generator (wind farms). Any wind generator facilitates that do not qualify for small scale wind energy systems according to the standards of these regulations.

Telecommunication facilities and support structures. Any unmanned facility established for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, cellular telephone service, personal communications service (PCS), and paging service. A telecommunication facility can consist of one or more antennas and accessory equipment or one base station, and supporting structures.

All words and phrases shall have their ordinary and customary meanings unless the context of the word or phrase indicates otherwise.

(Ord. No. 4233-11/2009, 4309 -10/2011, 4354 -7/2013 and 4416 -11/2014; Ord. No. 4698 , § 1, 3-14-2022)

Existing Code

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)

7.19.22 Version Presented at PC

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.

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

Department: Development Services
Staff Contact: Brian Hurskainen
Planning Commission Meeting Date: 8/16/2022
File No: 2022-052
Prepared By: Brian Hurskainen, City Planner

AGENDA ITEM SUMMARY SHEET

Description of Item:

Public hearing to recommend a request for Applicant Name regarding Plan Modification No. 2022-2 to Redevelopment Area Number #1, Corner Building Project, for the following collective property, to wit: Lot 1-3, Block 27, Original Town, Hastings, Adams County Nebraska

Motion to recommend approval for Plan Modification No. 2022-2 to Redevelopment Area Number #1, Corner Building Project, for the following collective property, to wit: Lot 1-3, Block 27, Original Town, Hastings, Adams County Nebraska

Names of People/Business affected by this action:

The applicant, the people of Hastings, the Community Redevelopment Authority, and the City.

Why Planning Commission action is required:

Prior to recommending a redevelopment plan to the governing body for approval, an authority shall submit such plan to the planning commission or board of the city in which the redevelopment project area is located for review and recommendations as to its conformity with the general plan for the development of the city as a whole. The planning commission or board shall submit its written recommendations with respect to the proposed redevelopment plan to the authority within thirty days after receipt of the plan for review. Upon receipt of the recommendations of the planning commission or board or, if no recommendations are received within such thirty days, then without such recommendations, an authority may recommend the redevelopment plan to the governing body of the city for approval (N.R.S. 18-2112).

Type of action requested:

Motion

Suggested motion:

Motion to recommend approval for Plan Modification No. 2022-2 to Redevelopment Area Number #1, Corner Building Project, for the following collective property, to wit: Lot 1-3, Block 27, Original Town, Hastings, Adams County Nebraska

Deadlines associated with action:

This case will be presented for final approval at the September 12, 2022 regular City Council meeting.

Department head comments:

Corner Building LLC wants to amend the Redevelopment Plan for Area #1. The developer intends to redevelop the existing buildings at 701-709 W 1st Street into main level retail space and second level office/commercial space.

Corner Building LLC will utilize Tax Increment Financing to aid in site acquisition, site preparation, interior demolition, rehabilitation of the structure, façade enhancements, architectural, engineering and planning costs, capitalized interest, and legal fees, public parking and any other eligible public improvements essential for public uses in accordance with the Redevelopment Plan. Total anticipated project costs are approximately \$1,000,000 for construction and installation of the project. Cost of TIF eligible public improvements are estimated to be \$212,000. The redevelopment project area currently has an estimated valuation of \$178,423. The proposed redevelopment will create an additional valuation of \$770,886.

Future Land Use for this area is Mixed Use – Downtown. The *Imagine Hastings* Comprehensive Plan stated a desire for a land use pattern that is supportive of similar uses. This area is currently zoned C-2 and will not require rezone to accommodate this use.

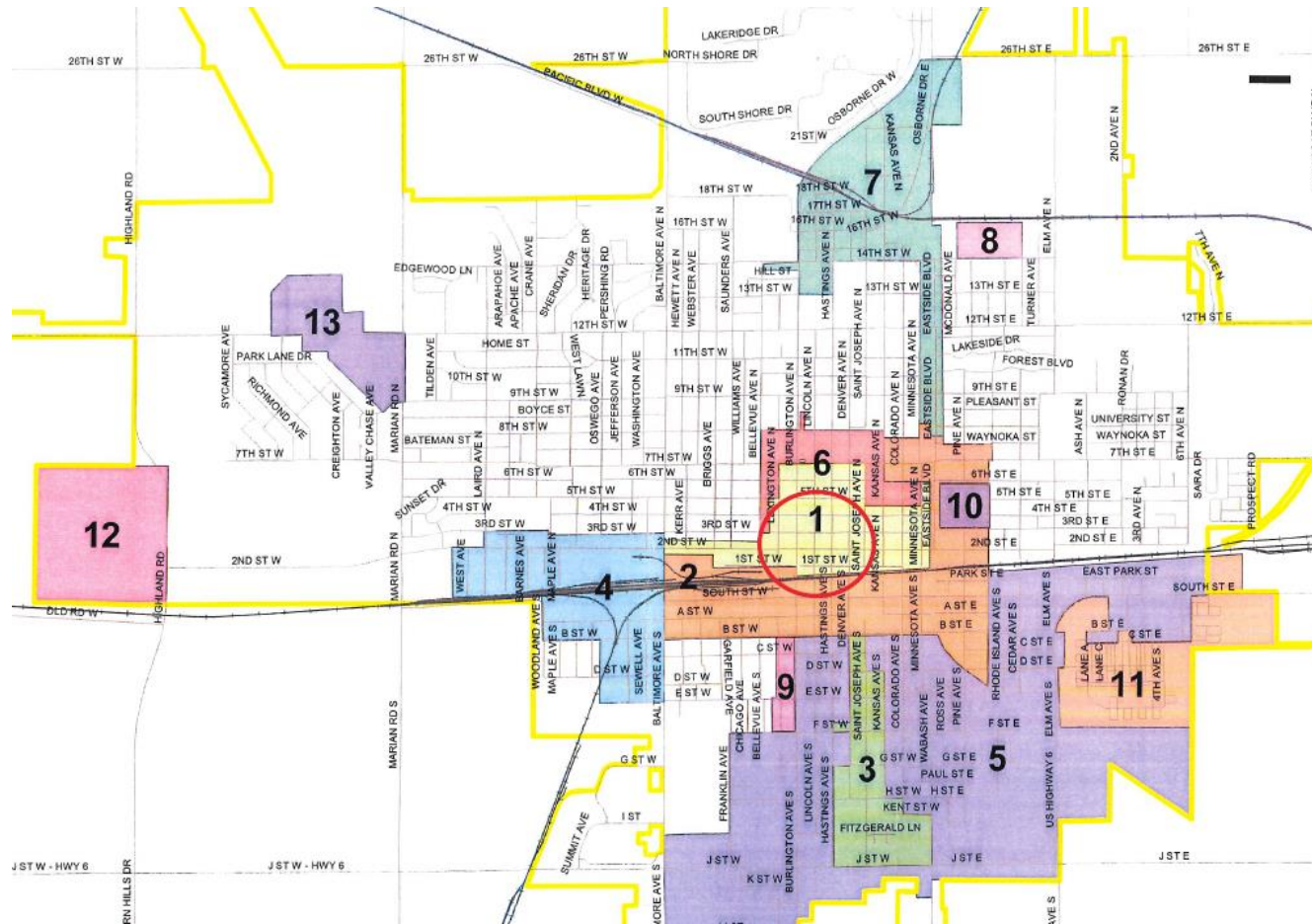
Plan Modification 2022-2, attached, details further information.

Recommendation:

Recommend a motion to recommend approval for Plan Modification No. 2022-2 to Redevelopment Area Number #1, Corner Building Project, for the following collective property, to wit: Lot 1-3, Block 27, Original Town, Hastings, Adams County Nebraska

MAPS FOR REDEVELOPMENT AREA #1 – Corner Building Project

Redevelopment Area #1



Lot 1-3, Block 27, Original Town, Hastings to be developed – Plan Modification 2022-1 (orange outlined area)



REDEVELOPMENT PLAN #1
PLAN MODIFICATION NO. 2022-2
(Corner Building LLC
Redevelopment Project)

The Community Redevelopment Authority (CRA) of the City of Hastings intends to amend the Redevelopment Plan for Area #1 within the city, pursuant to the Nebraska Community Development Law (the "Act") and provide for the financing of a specific redevelopment related project in Area #1.

Executive Summary:

Project Description

The project consists of the purchase and redevelopment of two 2-story properties located at 701 W. 1st and 709 W. 1st a.k.a. Lot 1-3, Block 27, Original Town, Hastings, Adams County Nebraska, according to the recorded plat thereof. The properties have or will be acquired and will be renovated for commercial and office uses, including fire/life safety improvements and building rehabilitation and remodeling.

The use of Tax Increment Financing to aid in rehabilitation expenses associated with redevelopment of the existing buildings at 701-709 W 1st Street into main level retail space and second level office/commercial space. The intended utilization of the second floor is a multi-office professional space as well as a shared photography studio. The use of Tax Increment Financing is an integral part of the development plan and necessary to make this project affordable. The project will result in renovating these historic building into a combination of commercial space and office space. This project would not be possible without the use of TIF.

Corner Building, LLC currently owns the building at 701 W. 1st and plans to purchase the building at 709 W. 1st prior to construction. Both floors of the 701 W. 1st building are currently vacant and the 2nd floor of 709 W. 1st is vacant. The developer is in the process of finalizing development plans and will provide evidence that they have secured adequate debt financing and equity to cover the costs associated with the remodeling and rehabilitation of this building prior to the execution of a Redevelopment Contract. The Hastings Community Redevelopment Authority (CRA) intends to pledge the ad valorem taxes generated over the 15-year period beginning January 1, 2023 towards the allowable costs and associated financing for rehabilitation.

TAX INCREMENT FINANCING TO PAY FOR ACQUISITION AND THE REHABILITATION OF THE PROPERTY WILL COME FROM THE FOLLOWING REAL PROPERTY:

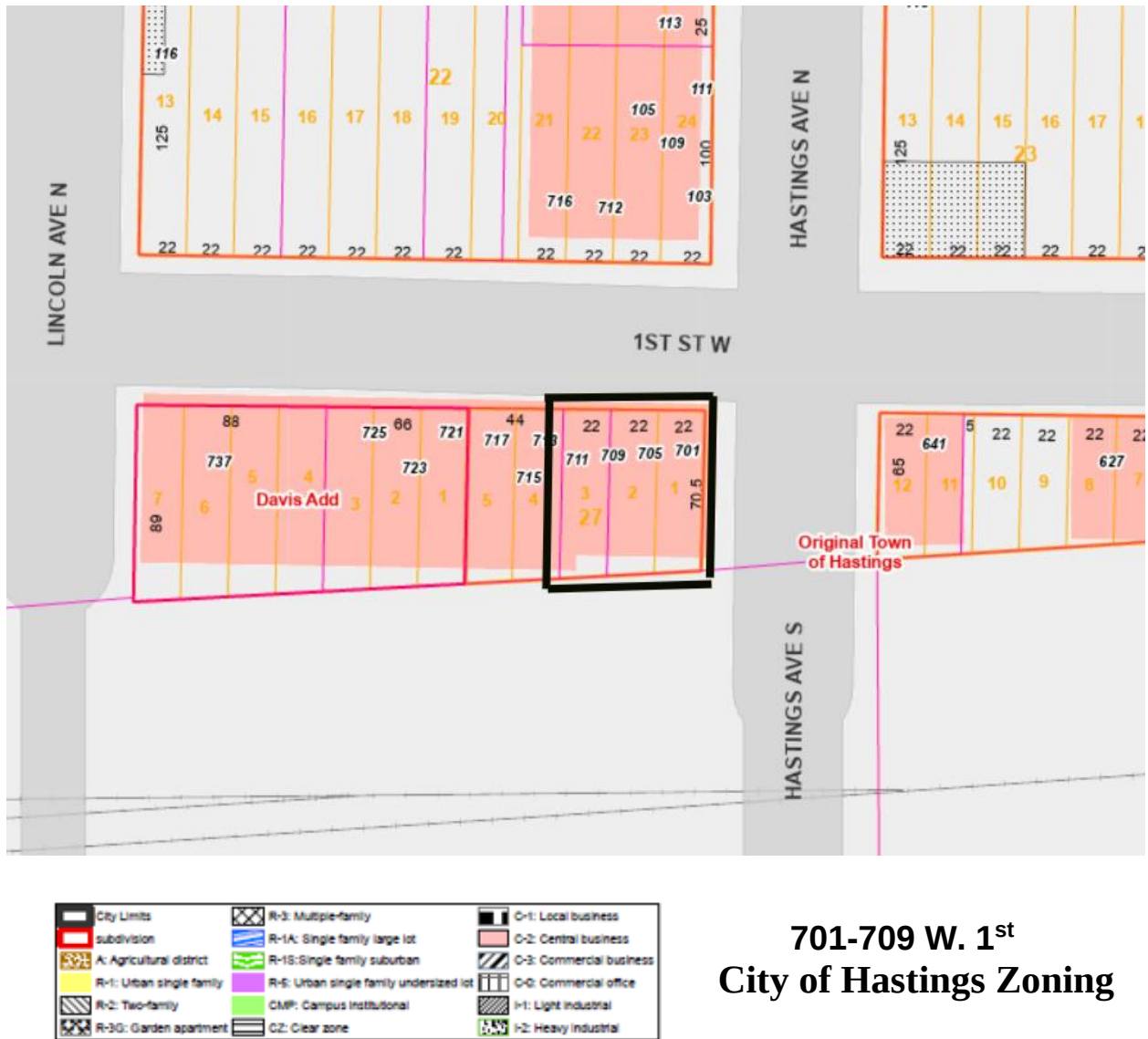
Property Description (the "Redevelopment Project Area")

701 W. 1st Street and 709 W. 1st in Hastings, Nebraska

Legal Description: Lot 1-3, Block 27, Original Town, Hastings, Adams County Nebraska, according to the recorded plat thereof

Corner Building LLC will utilize Tax Increment Financing to aid in site acquisition, site preparation, interior demolition, rehabilitation of the structure, façade enhancements, architectural, engineering and planning costs, capitalized interest, and legal fees, public parking and any other eligible public improvements essential for public uses in accordance with the Redevelopment Plan.

Map of Existing Land Use and Proposed Redevelopment Site



The tax increment will be captured for the tax years the payments for which become delinquent in years 2023 through 2037 inclusive.

The real property ad valorem taxes on the current valuation will continue to be paid to the normal taxing entities. The increase in value will come from the construction of main level retail space and second level office/commercial space as permitted in the C-2 Commercial Zoning District. The tax increment will be captured for the tax years 2023 through 2037 inclusive. Provided, however, if there is no increase in valuation for the 2023 tax year, the increment will be captured beginning in the year when an increase in value is available for capture and ending fifteen years later.

Project costs for the acquisition, façade, renovation of the second floor to include construction of main level retail space and second level office/commercial space are estimated to be \$1,000,000. The anticipated project valuation when completed is \$998,600 and the developer projects an incremental valuation increase of approximately \$848,600.

Statutory Pledge of Taxes.

In accordance with Section 18-2147 of the Act and the terms of the Resolution providing for the issuance of the TIF Note, the Authority hereby provides that any ad valorem tax on the Redevelopment Project Area for the benefit of any public body be divided for a period of fifteen years after the effective date of this provision as set forth in the Redevelopment Contract, consistent with this Redevelopment Plan, Said taxes shall be divided as follows:

- a) That portion of the ad valorem tax which is produced by levy at the rate fixed each year by or for each public body upon the redevelopment project valuation shall be paid into the funds, of each such public body in the same proportion as all other taxes collected by or for the bodies; and
- b) That portion of the ad valorem tax on real property in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the Authority to pay the principal of; the interest on, and any premiums due in connection with the bonds, loans, notes, or advances on money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such Authority for financing or refinancing, in whole or in part, a redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness including interest and premium due have been paid, the Authority shall so notify the County Assessor and County Treasurer and all ad valorem taxes upon real property in such redevelopment project shall be paid into the funds of the respective public bodies.

Pursuant to Section 18-2150 of the Act, the ad valorem tax so divided is hereby pledged to the repayment of loans or advances of money, or the incurring of any indebtedness, whether funded, refunded, assumed, or otherwise, by the CRA to finance or refinance, in whole or in part, the redevelopment project, including the payment of the principal of, premium, if any, and interest on such bonds, loans, notes, advances, or indebtedness.

Redevelopment Plan Amendment Complies with the Act:

The Community Development Law requires that a Redevelopment Plan and Project consider and comply with a number of requirements. This Plan Amendment meets the statutory qualifications as set forth below.

- 1. The Redevelopment Project Area was first declared blighted and substandard by action of the Hastings City Council on March 23, 1987 (Resolution No. 1069). In September of 2017 a blight and substandard study was completed and the area was re-declared blighted and substandard by action of the Hastings City Council on November 13, 2017. (§18-2109) Such declaration was made after a public hearing with full compliance with the public notice requirements of §18-2115 of the Act,**
- 2. Conformation to the General Plan for the Municipality as a whole. (§18-2103 /13) (a) and §18-2110)**

Hastings adopted a Comprehensive Plan on February 24, 2009. This redevelopment plan amendment and project are consistent with the Comprehensive Development Plan, in that no changes in the Comprehensive Development Plan elements are intended. This plan merely provides funding for the developer to preserve a historic building for residential and commercial uses on this property as defined by the current and effective zoning regulations. The Hastings Planning Commission will hold a public hearing at their meeting on August 16, 2022 to approve Plan Modification No. 2022-2 to Redevelopment Plan I confirming that this project is consistent with the Comprehensive Development Plan for the City of Hastings.

- 3. The Redevelopment Plan must be sufficiently complete to address the following items: (§18-2103/13) (b)**
 - a. Land Acquisition:**

The Redevelopment Plan for Area I provides for real property acquisition and this plan amendment does not prohibit such acquisition. Corner Building LLC is the current owner of the building at 701 W. 1st and plans to acquire the building at 709 W. 1st prior to the start of construction of the Project.

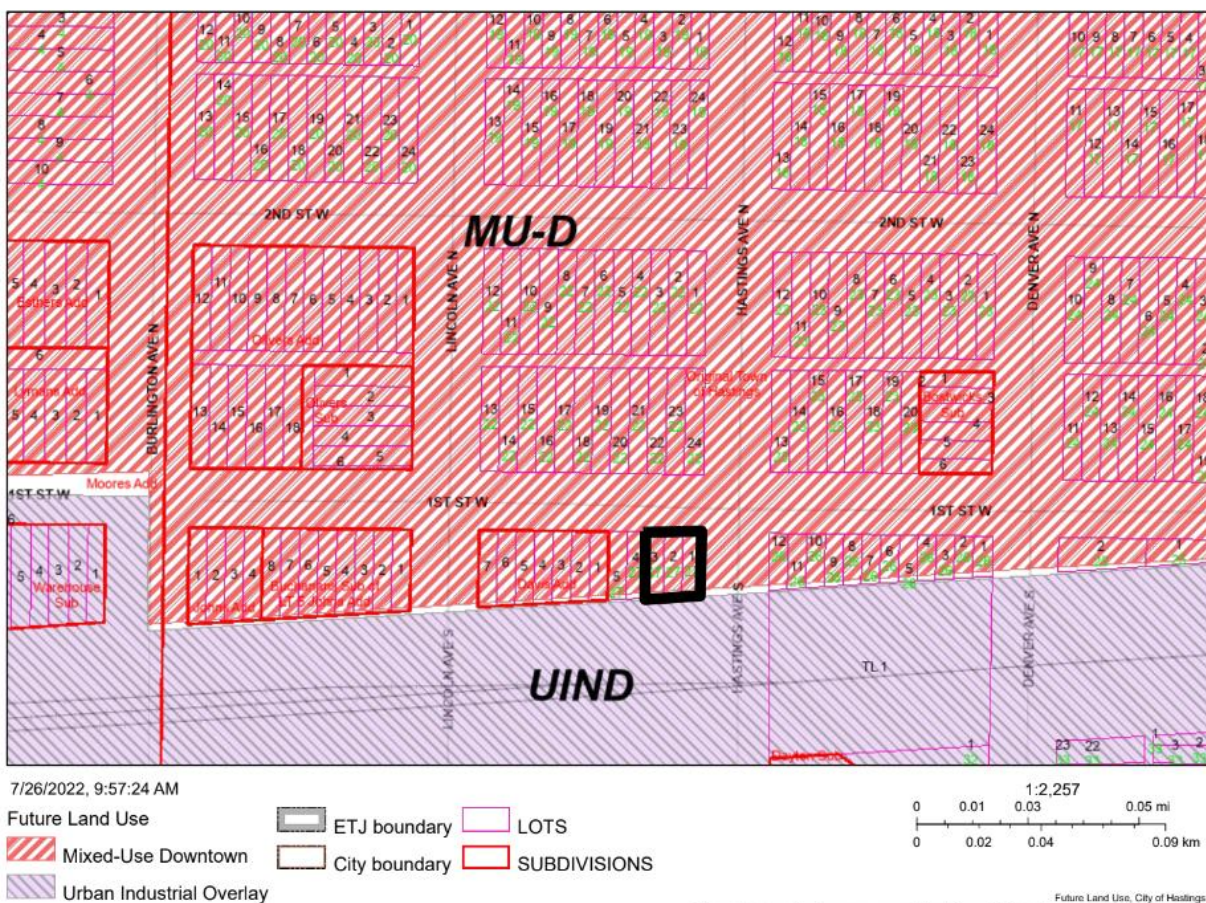
b. Demolition and Removal of Structures:

The project to be implemented with this plan does not provide for the demolition and removal of any structures on this property.

c. Future Land Use Plan

See the attached map from the 2009 Hastings Comprehensive Development Plan. All of the area around the site in private ownership is planned for Downtown Commercial development; this includes housing and commercial uses within the same structure. The properties are currently owned by the developer of will be acquired prior to the start of construction. [§18-2103(b) and §18-2111) The attached map also is an accurate site plan of the area after redevelopment. [§18-2111(5))

Future Land Use Map



d. Changes to zoning, street layouts and grades or building codes or ordinances or other planning changes

The area is zoned C-2 Commercial District and no zoning changes are anticipated with this project. No changes are anticipated in street layouts or grades. No changes are anticipated in building codes or ordinances nor are any other planning changes contemplated. [§18-2103(b) and §18-2111]

e. Site Coverage and intensity of Use

The developer plans to rehabilitate the existing buildings and the current buildings meet the applicable regulations regarding site coverage and intensity of use. [§18-2103(b) and §18-2111]

f. Additional Public Facilities or Utilities

Sewer, water, gas and electric are available to support this development. The developer may be required to extend a water line capable of providing sufficient water for the sprinkler system required to convert this building into the proposed uses.

4. **The Act requires a Redevelopment Plan provide for relocation of individuals and families displaced as a result of plan implementation. These properties has previously been utilized for commercial related uses and no relocation is contemplated or necessary. [§18-2103.02]**
5. **No member of the Authority, nor any employee thereof holds any interest in any property in this Redevelopment Project Area. [§18-2106]**
6. **Section 18-2114 of the Act requires that the Authority consider:**
 1. **Method and cost of acquisition and preparation for redevelopment and estimated proceeds from disposal to redevelopers.**

The developer has purchased or plans to purchase the properties and acquisition is part of the request for tax increment financing. The CRA has been asked to provide \$140,000 in TIF funding to this project to offset the cost of TIF eligible expenditures. The CRA has identified the following developer TIF eligible expenses for the developers proposed improvements;

- a) site acquisition - \$177,500
- b) demolition - \$20,000
- c) planning related & engineering services - \$40,000
- d) structure rehabilitation costs - \$644,000
- e) façade enhancements - \$118,000

The total TIF eligible expenses for this project are \$999,500. The properties will be purchased by the developer and the developer will provide and secure all necessary financing.

2. Statement of proposed method of financing the redevelopment project.

The developer will provide all necessary financing for the project. The Authority will assist the project by granting the sum of \$212,000 from the proceeds of the TIF and providing a \$100,000 zero percent interest loan. This indebtedness will be repaid from the Tax Increment Revenues generated from the project. TIF revenues shall be made available to repay the original debt and associated interest after January 1, 2023 through December 2037.

3. Statement of feasible method of relocating displaced families.

No families will be displaced as a result of this plan.

7. Section 18-2113 of the Act requires:

Prior to recommending a redevelopment plan to the governing body for approval, an authority shall consider whether the proposed land uses and building requirements in the redevelopment project area are designed with the general purpose of accomplishing, in conformance with the general plan, a coordinated, adjusted, and harmonious development of the city and its environs which will, in accordance with present and future needs, promote health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development, including, among other things, adequate provision for traffic, vehicular parking, the promotion of safety from fire, panic, and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the provision of adequate transportation, water, sewerage, and other public utilities, schools, parks, recreational and community facilities, and other public requirements, the promotion of sound design and arrangement, the wise and efficient expenditure of public funds, and the prevention of the recurrence of insanitary or unsafe dwelling accommodations or conditions of blight.

The Authority has considered these elements in proposing this Plan Amendment. This amendment, in and of itself will promote consistency with the Hastings Comprehensive Development Plan. This will have the intended result of preventing recurring elements of unsafe buildings and blighting conditions. This will accomplish the goal of both the Downtown Business Improvement District and the Hastings City Council of increasing the number of residential units available in the Downtown area and will help with the prevention of the recurrence of insanitary or unsafe dwelling accommodations or conditions of blight.

8. Time Frame for Development

Development of this project is anticipated to be completed between fall of 2022 and fall of 2023. Excess valuation should be available for this project for 15 years beginning with the 2023 tax year.

9. Justification of Project

Two historic buildings in downtown Hastings will be preserved with this project. Renovated main floor space will provide two opportunities for upgraded retail/commercial bays and the 2nd floor will provide new opportunities for small and growing businesses to lease unique office space. The renovation of this building will help to prevent the reoccurrence of blight and substandard conditions in the area.

10. Cost Benefit Analysis

Section 18-2113 of the Act, further requires the Authority conduct a cost benefit analysis of the plan amendment in the event that Tax Increment Financing will be used. This analysis must address specific statutory issues.

As authorized in the Nebraska Community Development Law, §18-2147, Neb. Rev. Stat. (2012), the City of Hastings has analyzed the costs and benefits of the proposed Redevelopment Project, including:

Project Sources and Uses.

Approximately \$212,000 in public funds from tax increment financing provided by the Hastings Community Redevelopment Authority will be required to complete the project. This investment by the Authority and the City will leverage \$787,500 in private and public sector financing; a private investment of \$3.71 for every public/TIF dollar of investment.

USE OF FUNDS		SOURCE OF FUNDS	
Site Acquisition	\$177,500	Bank Financing	\$537,500
Demolition	\$20,000	Owner Equity	\$50,000
Engineering & architecture	\$40,000	CRA Loan	\$100,000
Façade Enhancements	\$118,000	TIF Loans	\$212,000
Rehabilitation & renovation	\$644,000	CDBG Façade Loan	\$100,000
TOTALS	\$999,500	TOTALS	\$999,500

Tax Revenue. The property to be redeveloped is anticipated to have a January 1, 2022, valuation of approximately \$178,423. Based on the 2022 levy of .02300454 this would result in real property taxes of approximately \$4,104.54 which will be paid out to all the existing taxing entities. It is anticipated that the assessed value will increase by \$770,886 upon full completion, as a result of the building redevelopment. This development will result in an additional estimated tax increase of over \$17,734 annually. This tax increment gained from the Redevelopment Project Area would not be available for use as city general tax revenues, for a period of 15 years, or such shorter time as may be required to amortize the TIF bond, but would be used for eligible private redevelopment costs to enable this project to be realized.

Estimated 2022 assessed value:	\$178,423
Estimated value after completion	\$949,309
Increment value	\$770,886
Annual TIF generated (estimated)	\$17,734
TIF bond issue	\$212,000

Statement Identifying Financial Gap and Necessity for use of Tax Increment Financing for proposed Project:

A large financial gap exists on this project after conventional financing is utilized. A combination of owner equity, TIF and other incentives are needed to make the project feasible. The developer is contributing owner equity and other financing of \$687,500 and TIF and façade grant funding are intended to fill the remaining gap, making this project feasible. The project is asking for \$212,000 in a TIF loan amortized over 15 years. Without the availability of TIF funding for the project, it would not be feasible for the developer to proceed with this redevelopment. Please see the table below which shows rate of returns from -7.19% to 6.2% without TIF funding which is an unacceptable return on investment in today's market.

Proforma Operating Statement w/o TIF					
			<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Rent Revenue			\$ 88,808	\$ 94,923	\$ 96,049
Expenses			\$ (28,117)	\$ (28,380)	\$ (28,652)
NOI Without TIF			\$ 60,691	\$ 66,543	\$ 67,397
Debt Service			\$ (64,286)	\$ (64,286)	\$ (64,286)
Cash Flow Without TIF			\$ (3,595)	\$ 2,257	\$ 3,111

Proforma with TIF

Proforma Operating Statement with TIF					
			<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
Rent Revenue			\$ 88,808	\$ 94,923	\$ 96,049
Expenses			\$ (28,117)	\$ (28,380)	\$ (28,652)
NOI With TIF			\$ 60,691	\$ 66,543	\$ 67,397
Debt Service			\$ (53,303)	\$ (53,303)	\$ (53,303)
Cash Flow With TIF			\$ 7,388	\$ 13,240	\$ 14,094

(a) Tax shifts resulting from the approval of the use of Tax Increment Financing;

The redevelopment project area currently has an estimated valuation of \$178,423. The proposed redevelopment will create additional valuation of \$770,886. No tax shifts are anticipated from the project. The project creates new valuation from the rehabilitation of all levels of an historic building which will support taxing entities long after the project is paid off.

(b) Public infrastructure and community public service needs impacts and local tax impacts arising from the approval of the redevelopment project;

No additional public service needs have been identified. Existing water and waste water facilities will not be impacted by this development. The electric utility has sufficient capacity to support the development. Fire and police protection are available and should not be negatively impacted by this development. The addition of life safety elements to this building including fire sprinklers, rated separations and proper exits actually reduce the chances of negative impacts to the fire department.

(c.) Impacts on employers and employees of firms locating or expanding within the boundaries of the area of the redevelopment project; and

This project will not have a negative impact on employers and employees of firms locating within the boundaries of the redevelopment area but will create new opportunities for these same firms to lease unique and renovated commercial space. The project will also provide additional residences in the downtown area consistent with the planned development in Downtown Hastings.

(d.) Impacts on other employers and employees within the city or village and the immediate area that are located outside of the boundaries of the area of the redevelopment project; and

This project will not have a negative impact on other employers in any manner different from any other expanding business within the Hastings area.

(e) Impacts on student populations of school districts within the City or Village:

This development will have no impact on the Hastings area school systems as it will not result in any increased attendance. The units to be developed with this project are commercial and office space and if any jobs are created by the development, it is likely that the local school systems would be able to absorb any students without adding to school facilities or staffing.

(e) Any other impacts determined by the authority to be relevant to the consideration of costs and benefits arising from the redevelopment project.

This project is consistent with the goals of the City Council, the Business Improvement District and the Community Redevelopment Authority to create unique retail and office opportunities in downtown Hastings. The project will create additional jobs and downtown employees which will benefit local businesses.

(f) Any other impacts determined by the authority to be relevant to the consideration of costs and benefits arising from the redevelopment project.

This project is consistent with the goals of the City's Comprehensive Plan, and the Downtown Hastings Strategic Plan of 2013.

Time Frame for Development

Development of this project is anticipated to be completed between October 2022 and October of 2023. The base tax year should be calculated on the value of the property as of January 2022. Excess valuation should be available for this project for 15 years beginning in 2023 with taxes due in 2024. Excess valuation will be used to pay the TIF Indebtedness issued by the CRA per the contract between the CRA and the developer for a period not to exceed 15 years on an amount not to exceed \$212,000 the projected amount of increment based upon the anticipated value of the project and current tax rate.