

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

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

3. Pledge of Allegiance
4. Motion to adopt the current agenda for the Planning Commission Meeting

Moved by Brian 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, Jacque Cranson. 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, Jacque Cranson. 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.

Brian 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 know 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, Jacque Cranson. 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.

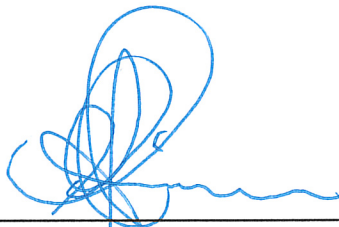
Greg Sinner: Commissioners what are your thoughts for lunch? It looks like you are getting positive feedback.

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