

# **City of Scottsbluff, Nebraska**

**Monday, October 4, 2021**

**Regular Meeting**

## **Item Resolut.2**

**Council to discuss and consider an Ordinance amending Chapter 25, Article 2 of the Municipal Code to revise the definition of Family in Section 40 for the purpose of zoning.**

**Staff Contact: Zachary Glaubius, Planning Administrator**

## Agenda Statement

Item No.

For Meeting of: October 4, 2021

**AGENDA TITLE:** Council to consider an Ordinance amending the Chapter 25 definition of Family for zoning.

**SUBMITTED BY DEPARTMENT/ORGANIZATION:** Department of Development Services

**PRESENTATION BY:** Zachary Glaubius, MCRP

**SUMMARY EXPLANATION:** The existing definition of family under 25-2-40 is both outdated and excludes same-sex and single parent households as can be seen in the staff report to the Planning Commission. The new definition corrects this and is based on the definition used by several other Nebraska municipalities.

**BOARD/COMMISSION RECOMMENDATION:** On 9-13-2021, the City of Scottsbluff Planning Commission made a positive recommendation to the City Council to amend 25-2-40 regarding the definition of "family" to that as seen on the proposed ordinance.

**STAFF RECOMMENDATION:** Staff recommends the adoption of the amended 25-2-40.

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### EXHIBITS

Resolution ☐ Ordinance ☒ Contract ☐ Minutes ☒ Plan/Map ☐

Other (specify) Staff Report

**NOTIFICATION LIST:** Yes ☐ No ☐ Further Instructions ☐  
Please list names and addresses required for notification.

**APPROVAL FOR SUBMITTAL:** \_\_\_\_\_  
City Manager

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Rev: 11/15/12 City Clerk

# City of Scottsbluff Planning Commission

## Development Services Staff Report – Zachary Glaubius

Prepared on: September 2, 2021 For Hearing of: September 13, 2021



### I. GENERAL INFORMATION

- A. Staff met with legal about updating 25-2-40 regarding the definition of “family.” Several issues were discussed including the definition being outdated and simplifying the definition for both staff and the public.

### II. CURRENT DEFINITION

#### A. Family

1. A group of natural persons consisting of a man, his wife, any children born to either him or his wife, legally adopted by either him or his wife, or placed with either him or his wife as foster children, or any combination of these persons.
2. A group of natural persons as defined in (1) plus not more than six (6) other persons, at least three (3) of which must be related to some one of the persons described in (1) by blood, marriage, or legal adoption, or
3. A group of not more than three (3) natural persons living together who are not related. (Ord. 3639, 2000; Ord. 1487, 2016; Ord. 4208, 2017)

### III. NEW DEFINITION

#### A. Family

1. One or more persons living together and sharing common living, sleeping, cooking and eating facilities within an individual housing unit, no more than four of whom may be unrelated. The following persons shall be considered related for the purpose of this definition:
  - i. Persons related by blood, marriage, or adoption;
  - ii. Persons residing with a family for the purpose of adoption;
  - iii. Not more than eight persons residing in a foster house licensed and/or approved by the state of Nebraska;
  - iv. Person(s) living with a family at the direction of a court

### IV. STAFF COMMENTS

- A. The current definition is outdated and excludes same-sex marriages and single parent families. Staff reviewed family definitions from other Nebraska cities. The proposed definition is a common definition shared by the City of Omaha, City of Norfolk, and City of Kearney.
- B. The proposed definition has been reviewed and found sufficient by the City’s legal counsel.

### V. STAFF RECCOMENDATION

- A. Staff recommends the Planning Commission make a positive recommendation to City Council to approve the proposed ordinance text amendment changes to Chapter 25 Article 2, changing the definition.

PLANING COMMISSION MINUTES  
REGULAR SCHEDULED MEETING  
September 13, 2021  
SCOTTSSLUFF, NEBRASKA

The Planning Commission for the City of Scottsbluff met in regular scheduled meeting on Monday, September 13, 2021, at 6:00 PM in the Scottsbluff City Council Chambers at 2525 Circle Drive, Scottsbluff, Nebraska. A notice of the meeting was published in the Star-Herald, a newspaper of local circulation in the City, on September 3, 2021. The notice stated the date, time, and location of the meeting, and that the meeting was open to the public, that anyone with a disability desiring reasonable accommodation to attend should contact the Development Services office. An agenda is kept current and available for public inspection at the Development Services office provided; the Planning Commission can modify the agenda at the meeting, if the business was determined that an emergency so required. A copy of the agenda packet was delivered to each Planning Commission member.

- 1 Chairman Dana Weber called the meeting to order at 6:00 PM. Roll call consisted of the following members being present, Mark Westphal, Henry Huber, Dana Weber, Jim Zitterkopf, Angie Aguallo "Absent": Anita Chadwick, Dave Gompert, Becky Estrada, Callen Wayman Linda Redfern (Alternate). City Officials present were Zachary Glaubius, Secretary/Planning Administrator, Gary Batt, Code Administrator II, Anthony Murphy, Fire Prevention Officer, Tom Schingle, Fire Chief, and John Selzer, Deputy City Attorney.
- 2 Chairman Weber informed those present of the Nebraska Open Meetings Act and that a copy was located on the south wall of the Council Chambers.
- 3 Acknowledgement of any changes in the agenda: None.
- 4 Business not on the agenda: None.
- 5 The minutes from the August 9, 2021 meeting were reviewed. Conclusion, a motion was made by Zitterkopf and seconded by Westphal to approve the minutes from August 9, 2021 meeting. "Yeas": Westphal, Huber, Wayman, Zitterkopf, Weber Aguallo, "Abstained": None, "Absent": Chadwick, Gompert, Estrada, Redfern. The motion carried.
- 6 Members David Gompert and Becky Estrada arrived at 6:04 PM.
- 7 Chairman Weber opened the public hearing at 6:06 PM for the Kersch Powerhouse Renovation Project located at Lots 17 and 18, Block 2, Original Town Addition, commonly known at 1721 Broadway.
- 8 Deputy City Attorney John Selzer presented the application to the Planning Commission. Selzer stated that Simmons Olsen Law Firm represents the redevelopers, however when it comes to a TIF project, Simmons Olsen Law Firm represents the City of Scottsbluff. Selzer stated this is application for Tax Increment Financing for the building at 1721 Broadway commonly known as the Powerhouse Building. Selzer stated that it is the Planning Commissions responsibility to review TIF applications and redevelopment plans for compliance with the city's Comprehensive Plan. Selzer states the plan for the building is to renovate it for a restaurant, office space, and apartments. Selzer stated the area the building is located is referred to as the Central Business District in the comprehensive plan. The goal of the district is to grow it as a regional commercial center. Selzer stated furthermore the intent of the district is to foster businesses such as restaurants and above ground floor residences. Selzer stated it is zoned C-1 which permits all proposed uses, so no zoning changes are necessary. Selzer stated it is the opinion of Simmons Olsen that the plan conforms to the city's comprehensive plan. Westphal asked Glaubius why the plan was being brought to the Planning Commission if it meets the zoning requirements.

Selzer answered and informed Westphal that all TIF applications must be approved by the Planning Commission. Weber asked Glaubius if he anything to add. Glaubius stated he did not. Weber asked the applicant, Dave Schaff, if he anything to add. Schaff stated the plan does a good job explaining the proposal, and he is looking to finish the plans for the property from the previous owner. Weber closed the public hearing at 6:10 PM. Conclusion, a motion was made by Zitterkopf, seconded by Aguillo to make a positive recommendation to approve the resolution drafted by Simmons Olsen. "Yeas": Westphal, Huber, Wayman, Zitterkopf, Weber, Aguillo, Estrada, Gompert "Abstained": None, "Absent": Chadwick, Redfern (alternate).

- 9 Chairman Weber introduce Item 6.C. regarding a zoning text amendment to Municipal Code 25-2-40. Weber opened the public hearing at 6:12 PM. Weber asked Glaubius to provide a staff report. Glaubius stated that staff is reviewing the zoning code to see where updates are needed. Glaubius stated that the current definition of "family" as per 25-2-40 is specific and exclusionary. Glaubius stated the proposed definition is based off the definitions used by the City of Omaha, City of Norfolk, and City of Kearney, and the proposed definition has been deemed sufficient by City Attorney Kent Hadenfeldt. Weber inquired if the Planning Commission makes a positive recommendation to City Council that the proposed definition would replace the existing definition. Glaubius stated that it would after the ordinance has been passed. Weber closed the public hearing at 6:14 PM. Conclusion, a motion was made by Estrada, seconded by Westphal to make a positive recommendation to the City Council for the adoption the proposed definition under 25-2-40 "Family". "Yeas": Westphal, Huber, Wayman, Zitterkopf, Weber, Aguillo, Estrada, Gompert "Abstained": None, "Absent": Chadwick, Redfern (alternate).
- 10 Chairman Weber asked if there was any further business, with there being none, he declared the meeting adjourned at 6:15 PM with the members to signify by saying Aye. Westphal, Huber, Wayman, Zitterkopf, Weber, Aguillo, Estrada, Gompert all signified by saying aye.

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Chairman Dana Weber

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Zachary Glaubius, Secretary

**AN ORDINANCE OF THE CITY OF SCOTTSBLUFF, NEBRASKA, AMENDING CHAPTER 25, ARTICLE 2, SECTION 40 OF THE SCOTTSBLUFF MUNICIPAL CODE REGARDING THE DEFINITION OF FAMILY, PROVIDING FOR AN EFFECTIVE DATE AND PROVIDING FOR PUBLICATION IN PAMPHLET FORM.**

**BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF SCOTTSBLUFF, NEBRASKA:**

Section 1. Section 25-2-40 of the Scottsbluff Municipal Code is now revised and amended to read as follows:

**“25-2-40. Family.**

One or more persons living together and sharing common living, sleeping, cooking and eating facilities within an individual dwelling unit, no more than four (4) of whom may be unrelated. The following persons shall be considered related for the purposes of this definition:

- (a) Persons related by blood, marriage or adoption;
- (b) Persons residing with a family for the purpose of adoption;
- (c) Not more than eight persons residing in a foster house licensed and/or approved by the State of Nebraska; and
- (d) Person(s) living with a family at the direction of a court.”

Section 2. Prior Section 25-2-40 is now repealed.

Section 3. This Ordinance shall become effective upon its passage, approval as provided by law, and publication shall be in pamphlet form.

**PASSED and APPROVED** on \_\_\_\_\_, 2021.

\_\_\_\_\_  
Mayor

Attest:

\_\_\_\_\_  
City Clerk (Seal)

Approved as to Form:

\_\_\_\_\_  
City Attorney