

THE OFFICIAL PROCEEDINGS OF THE CITY OF GERING PLANNING COMMISSION REGULAR MEETING, AUGUST 18, 2026

A regular meeting of the City of Gering Planning Commission was held in open session on August 18, 2026, at 6:00 p.m. in the Gering City Hall Council Chambers at 1025 P Street, Gering, NE. Present were Commissioners C. Kaufman, Crews, Taylor, Shimic, Hauck and Alvizar. Absent: Commissioners T. Kaufman, Keener and Waterman. Notice of the meeting was given in advance by publication in the Star-Herald on August 6, 2026 and the agenda was posted on the City's website on August 13, 2026, pursuant to the designated method of giving notice by the Planning Commission. All proceedings hereafter were taken while the meeting was open to the attendance of the public.

Call to Order and Roll Call:

Vice Chair C. Kaufman called the meeting to order at 6:00 p.m. and noted that a quorum of the Planning Commission was present and business could be conducted.

1. Pledge of Allegiance

2. Open Meetings Act - Neb. Rev. Stat. Chapter 84, Article 14

Vice Chair Kaufman stated: As required by State Law, public bodies shall make available current copies of the Open Meetings Act in the meeting room on the counter by the press corps. Agenda items may be moved up or down on the agenda at the discretion of the Chairperson. As required by State law, additions may not be made to this agenda less than 24 hours before the beginning of the meeting unless they are considered under this section of the agenda and the Planning Commission determines that the matter requires emergency action.

3. Approval of Minutes of the May 19, 2026, regular Planning Commission meeting

A motion was made by Commissioner Hauck to approve the minutes of the May 19, 2026 regular Planning Commission meeting. Seconded by Commissioner Alvizar. There was no discussion. The Secretary called the roll. "AYES": Alvizar, Miles, Hauck, C. Kaufman, Crews. "NAYS": None. Abstain: Taylor and Shimic. Absent: Keener, T. Kaufman, and Waterman. Motion carried.

4. Current Business:

A. Consider the method of giving notice for regular meetings pursuant to the Nebraska Open Meetings Act.

i. Approve Resolution PC8-26-1 regarding the method of giving notice for regular meetings pursuant to the Nebraska Open Meetings Act

Vice Chair Kaufman introduced the next agenda item, consideration of Resolution PC 8-26-1, establishing the method for providing reasonable notice of Planning Commission regular meetings, public hearings, and special meetings.

Vice Chair Kaufman explained that the resolution establishes the methods the Planning Commission will use to provide notice, including monthly notice of regular meetings, quarterly publication of the regular meeting schedule, notice of public hearings as required by law, and notice of special meetings. For regular monthly meetings, the resolution provides for publication in the Scottsbluff Star-Herald at least 10 days prior to the meeting, with agendas also posted on the City's website. The resolution also provides for quarterly publication of the regular meeting schedule as required by the Nebraska Open Meetings Act.

Commissioner Hauck asked whether the notice published in the Star-Herald would always appear on a Saturday or on a specific day of the month. Ms. Folck explained that the notice would be published at least 10 days prior to the meeting. Since the Planning Commission typically meets on Tuesdays, the notice would generally appear on either a Thursday or Saturday, depending on the publication schedule. Staff clarified that the requirement is that the notice be published at least 10 days prior to the meeting.

Commissioner Taylor asked whether the 10-day notice period was a new requirement or remained the same. Ms. Folck explained that the State Legislature had made changes to the Nebraska Open Meetings Act, one of which requires meetings of public bodies to formalize its method of providing meeting and public hearing notices. She further stated that the meeting notices and public hearing notices provided for in the resolution are consistent with what the City has already been doing. The only addition is the quarterly publication of the regular meeting schedule, which is now required by law.

Ms. Folck added that public hearings are required by statute to be noticed at least 10 days in advance. Since the majority of Planning Commission meetings include a public hearing, the City has generally published meeting notices 10 days or more in advance. She stated that, even when a meeting does not include a public hearing, the City intends to provide notice in the same manner for consistency. As an example, a meeting may involve only a final plat or another matter that technically does not require a public hearing, but the meeting would still be noticed in the same manner. Ms. Folck reiterated that the resolution does not represent a change from the City's existing practice, other than the newly required quarterly publication of the regular meeting schedule.

With no further discussion, Vice Chair Kaufman entertained a motion to approve Resolution PC 8-26-1, establishing a method for providing reasonable notice of Planning Commission meetings, public hearings, and special meetings.

Commissioner Miles made a motion to approve Resolution PC 8-26-1. The motion was seconded by Commissioner Taylor. The Secretary called the roll. "AYES": Shimic, Crews, Taylor, Miles, C. Kaufman and Alvizar. "NAYS": Hauck. Abstain: None. Absent: Keener, T. Kaufman, and Waterman. The motion carried.

B. Public Hearing to amend the Zoning Ordinance to add supplemental regulations for adult entertainment establishments and to add adult entertainment establishments to the land use table.

i. Make recommendation to City Council

Vice Chair Kaufman opened a public hearing at 6:08 p.m. to consider amendments to the Zoning Ordinance to add supplemental regulations for adult entertainment establishments and to add adult entertainment establishments to the land use table. She invited City Engineer Annie Folck to provide the staff report and recommendation.

Ms. Folck explained that the proposed regulations were brought forward after a similar facility was established in a neighboring community. She clarified that there was currently nothing proposed for Gering, but stated that the appropriate time to establish regulations was before such a use became an issue. She explained that staff was attempting to be proactive by establishing regulations so that, if an adult entertainment establishment were proposed in Gering, the City would have regulations in place to address it. Currently, the City's zoning code does not address this type of facility.

Ms. Folck explained that adult entertainment is a unique land use with a long history of case law. She noted that the proposed ordinance therefore contained more background information, findings, and rationale than is typical of the City's ordinances. At the recommendation of legal counsel, the ordinance included the case law on which the regulations were based, as well as an explanation of why adult entertainment establishments are considered a unique use.

Ms. Folck stated that adult entertainment establishments, as a category of commercial uses, have been associated with a wide variety of adverse secondary effects, including but not limited to personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illegal drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, sexual assault, and exploitation. She also noted that alcohol consumption can impair judgment and lower inhibitions, thereby increasing the risk of adverse secondary effects.

Ms. Folck explained that the regulations were intended to separate adult entertainment establishments from sensitive land uses in order to minimize the impact of these secondary effects. She stated that the City has a substantial governmental interest in preventing or abating such secondary effects.

Ms. Folck emphasized that the purpose of the proposed regulations was not to prohibit adult entertainment establishments, as doing so would be unconstitutional under established case law and would violate First Amendment protections. Instead, the purpose of the regulations was to establish reasonable standards regarding where such establishments could locate and how they would operate in order to address and minimize adverse secondary effects.

Regarding location, Ms. Folck referred the Commission to the zoning map included in the meeting packet and explained that under the proposed ordinance, adult entertainment establishments would be permitted only in the MH zoning district, subject to a conditional use permit considered by both the Planning Commission and City Council. She stated that staff believed the MH district would be the least affected by the potential secondary effects and that the City had an interest in keeping such establishments as far from residential uses as possible. The MH district is generally located farther from residential areas and provides greater separation from residential districts than other zoning districts.

Ms. Folck explained that, in addition to the zoning district limitation, the ordinance would establish separation requirements from certain other uses. An adult entertainment establishment could not be located within 1,000 feet of another adult entertainment establishment, a business licensed to sell alcohol, a residential district, a residential use, a church, school, child care facility, or recreational facility. She stated that these separation requirements were intended to help protect sensitive uses from the potential secondary effects of adult entertainment establishments.

Commissioner Crews asked whether the 1,000-foot separation requirement could be increased or whether 1,000 feet was the maximum distance permitted by law. Ms. Folck explained that 1,000 feet was the maximum distance that the City's attorney was comfortable recommending based on applicable case law and ordinances adopted by other communities. She stated that staff could consult with legal counsel if the Commission wished to consider increasing the distance.

Ms. Folck reviewed several of the proposed performance standards. Adult entertainment establishments would be required to close between midnight and 6:00 a.m. Full nudity and specified sexual activities would not be permitted on the premises. Semi-nudity would be permitted only for employees who remained at least six feet from patrons and performed on a stage at least 18 inches high in a room of at least 600 square feet. There would also be no touching between semi-nude employees and patrons.

Ms. Folck explained that alcohol would not be permitted on the premises. The City already has liquor regulations prohibiting the sale of alcohol in such establishments; however, some facilities have attempted to circumvent those requirements by allowing patrons to bring their own alcohol. The proposed ordinance would make it clear that alcohol would not be permitted on the premises regardless of whether the establishment had a liquor license or patrons brought their own alcohol. Persons under 18 years of age would also not be permitted on the premises.

Ms. Folck noted that the ordinance contained additional detailed requirements regarding viewing rooms and booths but did not review those provisions in detail. She encouraged the Commissioners to review those sections of the proposed ordinance.

Ms. Folck further explained that the ordinance placed responsibility for compliance on the operator of the establishment. The operator would be required to be on site and maintain an operator station that could monitor the facility, either through cameras or by having a clear view of the premises. The operator would be responsible for monitoring the establishment and ensuring that the requirements of the ordinance were enforced at all times.

Ms. Folck stated that the other purpose of the ordinance was to add adult entertainment establishments to the City's land use table under the commercial and industrial uses. The use would be listed as a conditional use in the MH zoning district. She reiterated that the purpose was to provide the City with the ability to regulate adult entertainment establishments, direct where they could be located, oversee their operation, and minimize potential secondary effects on surrounding properties.

Vice Chair Kaufman asked whether, if an applicant were denied a conditional use permit by both the Planning Commission and City Council, the applicant could sue the City. Ms. Folck explained that an applicant could bring a lawsuit against the City, as anyone could, but would generally have to establish that the City acted arbitrarily or capriciously in denying the application. The applicant would have to demonstrate that the decision was not based on sound fact-finding or that there was a problem with the reasoning supporting the denial.

Ms. Folck stated that this was why the Commission receives training regarding findings of fact and the reasoning behind decisions. She explained that the findings and reasoning become particularly important in cases such as this. If an application were denied simply because the Commission did not like the proposed use, the decision would be more likely to be overturned in court. However, if the application were denied because the Commission had a well-supported concern that the secondary effects on neighboring property were unacceptable, that reasoning could provide a basis for the decision. She noted that staff typically works with legal counsel to provide information that can assist the Commission in developing appropriate findings of fact.

Commissioner Miles asked that the zoning map be displayed again on the screen and questioned whether there were any small areas of MH zoning that were difficult to see on the map or whether the MH zoning consisted primarily of the areas east of 10th Street, north of the railroad, and east of town along the expressway. Ms. Folck confirmed that the darker areas shown on the map represented the MH zoning district. She stated that there were no other small pockets of MH zoning and identified the larger area as including the City's industrial park and other areas. She also noted that there was additional MH zoning on the southeast end of town, including the area along Lockwood Road and the former Lockwood building. She stated that there was no other MH zoning throughout the community.

Vice Chair C. Kaufman noted a small area of rural residential zoning located within the MH area and asked about the extent of the rural residential district. Ms. Folck acknowledged the area and explained that the 1,000-foot separation requirement from residential uses would help ensure that an adult entertainment establishment could not locate immediately adjacent to residential property.

Commissioner Miles commented that it was interesting that the City's attorney had recommended a maximum separation distance of 1,000 feet because it was not a particularly large distance. Ms. Folck stated that staff could ask the City's attorney whether a greater separation distance would be legally acceptable if the Commission wished to consider increasing the distance.

Commissioner Miles asked about the conditional use permit process and stated that he understood that the Planning Commission typically had final approval authority for conditional uses. Ms. Folck explained that the Planning Commission typically has final authority over conditional uses, with meat packing being the current exception because of the controversial nature of that use and the City Council's desire to have final authority. She stated that the City's attorney felt that adult entertainment was another use that could be controversial enough to warrant an additional level of oversight by the City Council before the application was approved or denied.

Commissioner Hauck asked about the term "juice bar" listed under adult cabaret uses in the materials and questioned what a juice bar was. Ms. Folck explained that the term referred to establishments that attempt to

avoid liquor licensing requirements by allowing patrons to bring their own alcohol. She stated that such establishments may refer to themselves as a "juice bar" and that allowing patrons to bring their own alcohol could otherwise circumvent regulations prohibiting a liquor license at an adult entertainment establishment.

Commissioner Hauck also asked whether the Police Department was comfortable with the proposed regulations. Ms. Folck confirmed that she had provided the proposed ordinance to the Police Chief and that he was comfortable with the regulations.

Vice Chair Kaufman opened the floor for public comment and asked anyone wishing to speak regarding this item to come to the podium, state their name and address, and sign in. She noted that speakers would be limited to five minutes.

Michael Clement, 150597 Kihlthau, Mitchell, identified himself as the CEO of a not-for-profit organization, Bible Baptist Church. Mr. Clement stated that he and his wife had moved back to the area in 1980 and had raised their family in the community. He congratulated the Commission on its efforts, stating that he understood the Commission was attempting to protect the community through the proposed regulations.

Mr. Clement encouraged the Commission to do whatever it could to stop or hinder this type of business from coming to the area and stated that he would like to see the Commission oppose such a business for moral reasons. He spoke about the community's family-friendly reputation and stated that many people who had grown up in the area and later moved away for school or employment had returned after marrying and having children because they considered it a good place to raise children.

Mr. Clement stated that businesses of this type could change that reputation and could negatively affect men, women, and children and damage or destroy families. He encouraged the Commission to consider not only the financial aspects of such a business but also potential costs to the community, including additional work for law enforcement and potential increases in crime and abuse.

Mr. Clement referenced his experience living in New Jersey when casinos were established in Atlantic City and cited an article he had read regarding prostitution and other problems associated with the casinos. He stated that it is easier to keep something out of a community initially than to remove it after it has been established.

Mr. Clement encouraged the Commission to use zoning regulations and licensing requirements strictly if the City could not prevent such a business from locating in the community. He stated that rules should not be relaxed or bent to accommodate this type of business and suggested that, if permitted, such establishments should be located in remote and difficult-to-access areas.

Mr. Clement stated that he would be willing to contribute to a fund to obtain legal representation to defend the community's ability to refuse this type of business. He concluded by encouraging the Commission to "do what's right" and stated that his family had taught their children that right is right even if no one else is right, and wrong is wrong even if everyone else is wrong.

Following the public comment, Vice Chair Kaufman asked Ms. Folck to clarify whether the City could deny an adult entertainment establishment and, if sued, potentially be required to allow the business to locate wherever it wanted. Ms. Folck clarified that a complete ban on adult entertainment establishments would not be legally sustainable and would not hold up in court. She stated that completely prohibiting the use was not an option and that the purpose of the proposed regulations was to provide reasonable oversight and regulation rather than no regulation at all. Vice Chair Kaufman thanked her for the clarification.

David Clement, 280 A Street, addressed the Commission. Mr. Clement encouraged the Commission to adopt as much regulation as legally permissible. He acknowledged that the City's authority may be limited by applicable law but stated that he believed the primary responsibility of government at the city, state, and federal levels is to protect its citizens.

Mr. Clement stated that businesses of this type can be associated with crime and referenced research he had reviewed regarding connections between such establishments and child and sex trafficking. He stated that, because trafficking is already a serious concern in the community and throughout the country, he believed the City should make it as difficult as legally possible for such a business to locate in Gering.

Mr. Clement stated that he believed the proposed regulations were generally good but suggested that the separation requirements be increased substantially, potentially to 10 miles or outside the city limits. He stated that he has four daughters and did not want to see this type of establishment in the community. He also referenced information he had recently seen claiming that the Scotts Bluff County had the second-highest child abduction rate in Nebraska, although he acknowledged that he was not certain the information was accurate. He concluded by encouraging the Commission to make it as difficult as possible for such a business to locate in the community.

Vice Chair Kaufman thanked Mr. Clement and asked if anyone else wished to speak.

Commissioner Alvizar asked whether the proposed conditions could be changed following the Commission's action on the matter. Ms. Folck explained that the Planning Commission would be making a recommendation to the City Council and could recommend approval of the ordinance as written or include requested changes as part of its recommendation. She stated that she could consult with the City's attorney regarding the proposed separation distances, although the attorney had already increased the distance from the ordinance on which the proposed regulations were based and had indicated that 1,000 feet was the maximum distance with which he was comfortable.

Commissioner Crews asked whether the separation distance could be increased specifically for residential, educational, and church uses, while maintaining a different distance for the other categories. Ms. Folck stated that she could ask the City's attorney whether that would be legally acceptable.

Commissioner Taylor stated that, based on his research regarding Nebraska law, even if the Commission did not want an adult entertainment establishment in the area, the applicant would still need to have a reasonable opportunity to operate a business. He explained that if the separation requirements were increased beyond 1,000 feet, the Commission would need to consider how much land would remain available for such a use. If the regulations left an insufficient number of available sites, the restrictions could potentially be overturned. He cautioned that making the regulations overly restrictive could make the City's position more difficult to defend.

Mr. Michael Clement asked to make an additional comment. He explained that he had previously been employed by a church in New Jersey where a business subject to a required separation distance was ultimately located directly across the street from the church. He stated that the regulation had not clearly defined how the distance was to be measured and that the distance had been measured along a pathway, allowing the business to technically comply even though it was directly across the street. Mr. Clement suggested that, if not already addressed, the City's regulations specify that the required separation distance be measured in a straight line or by line of sight.

Ms. Folck explained that the proposed ordinance already addressed the issue. She read the applicable provision, which states that measurements are to be made in a straight line in all directions without regard to intervening structures or objects, measured from the closest part of the structure containing the adult establishment to the closest point on the property boundary of the other establishment or protected use.

Commissioner Alvizar asked for clarification regarding the possibility of revising the conditions in the future and expressed concern that, if the ordinance were approved, the conditions would be permanently established and could not be changed. Ms. Folck explained that when a conditional use permit is considered for a specific proposed facility, the Planning Commission and City Council would have the opportunity to establish conditions specific to that business and site. If there were a concern unique to a particular site, that concern could be addressed through the conditional use permit process. Ms. Folck further explained that the general standards contained in the ordinance would remain in effect unless the City later chose to amend the ordinance. She noted that the City's codes are living documents and are regularly amended, so the provisions

would not be permanently fixed. However, changes to the general ordinance would not typically be made solely for one establishment or property; site-specific concerns would more appropriately be addressed through the conditional use permitting process.

With no further public comments, Vice Chair Kaufman closed the public hearing at 6:38 p.m.

Commissioner Miles made a positive recommendation for approval of the ordinance amending Article 5, Supplemental Regulations, of the City of Gering Zoning Ordinance regarding adult entertainment facilities. Commissioner Miles stated that he had no additional reasons to provide for the recommendation.

Commissioner Alvizar raised an additional consideration regarding whether the ordinance should require an adult entertainment establishment to provide its own security. Ms. Folck stated that she believed such a requirement could be added and agreed to look into including it in the regulations.

Commissioner Miles clarified that, if the security requirement were added to the ordinance, it would be included among the general requirements rather than needing to be addressed separately as a condition of a future conditional use permit. He stated that he believed such a requirement made sense for this type of establishment and amended his motion to include a security requirement.

Commissioner Shimic asked whether the security requirement would need to specify details such as bonding or insurance. Ms. Folck stated that she would need to consult with legal counsel regarding how detailed the requirement could be. She suggested that the Commission could approve the ordinance with the condition that legal counsel review the security requirements and draft language with which they were comfortable.

Commissioner Miles confirmed his amendment to the motion.

Commissioner Miles made a motion to recommend to the City Council for approval of the ordinance amending Article 5, Supplemental Regulations, of the City of Gering Zoning Ordinance regarding adult entertainment facilities with the condition that legal review and include language for security requirements. The motion was seconded by Commissioner Taylor. There was no further discussion. The Secretary called the roll. "AYES": Alvizar, C. Kaufman, Taylor, Shimic, Miles and Crews. "NAYS": None. Abstain: Hauck. Absent: Keener, T. Kaufman, and Waterman. Motion carried.

5. City Engineer Report

Ms. Folck reminded the Commission that another meeting was scheduled in two weeks to consider an extension of the conditional use permit (CUP) for the casino.

Ms. Folck also reported that she had received an application requesting to vacate a replat. She stated that the Commission would likely need to hold another meeting regarding the request, most likely on the third Tuesday in September, although it could potentially be delayed until the first week of October. Staff would provide the Commissioners with the meeting information once the date was confirmed.

Ms. Folck stated that, otherwise, it had been relatively quiet and there were no other upcoming items at that time.

6. OPEN COMMENT: Discussion or action by the Planning Commission regarding unscheduled business will not take place. This section is for citizen comment only.

There was no comment.

7. Adjourn

A motion was made by Commissioner Crews to adjourn. Seconded by Commissioner Alvizar. There was no discussion. The Secretary called the roll. "AYES": Crews, Miles, Shimic, Taylor, Alvizar, C. Kaufman, and Hauck. "NAYS": None. Abstain: None. Absent: Keener, T. Kaufman, and Waterman. Motion carried.

The meeting adjourned at 6:44 p.m.

ATTEST:

Levi Keener, Chairman

Karen Heins, Administrative Secretary

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