

AGENDA ITEM 4 B

GUNSMITH, HOME OCCUPATION CONDITIONAL USE PERMIT

Memorandum



To: Planning Commission

From: Christopher Solberg, City Planner

Date: 7/15/2011

Re: Public Hearing regarding: 2011-CUP-03 - Conditional Use Permit – Home Occupation, Gunsmith located on Lot 24, Millard Highlands South II, Sarpy County, Nebraska

At this time the applicant has been required to resubmit required documentation in relation to this agenda item has not finished the resubmittal. Please hold the public hearing and continue the recommendation to a future meeting.



**CITY OF LA VISTA
PLANNING DIVISION**

RECOMMENDATION REPORT

CASE NUMBER:

FOR HEARING OF: July 21, 2011

Report Prepared on: July 13, 2011

I. GENERAL INFORMATION

A. APPLICANT:

Lee A. McMurray

B. PROPERTY OWNER:

Lee A. McMurray

C. LOCATION:

7114 S. 137th Avenue, located in the City's ETJ.

D. LEGAL DESCRIPTION:

Lot 28 Millard Highlands South II a Subdivision of Sarpy County, Nebraska.

E. REQUESTED ACTION(S):

Approval of Conditional Use Permit to allow Home Occupation -
Gunsmith

F. EXISTING ZONING AND LAND USE:

R-1 – Single Family Residential

G. PURPOSE OF REQUEST:

Allow for an in-home business that includes the cleaning of firearms and
the transfer of sales of firearms.

H. SIZE OF SITE:

3.53 acres

II. BACKGROUND INFORMATION

A. EXISTING CONDITION OF SITE:

Slowly rolling residential site.

B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:

1. **North:** Single Family Residential – R-1
2. **East:** Single Family Residential – R-1
3. **South:** Park – R-1
4. **West:** Single Family Residential – R-1

C. RELEVANT CASE HISTORY: N/A

D. APPLICABLE REGULATIONS:

1. Section 5.06 – R-1 Single-Family Residential
2. Article 6 – Conditional Use Permits

III. ANALYSIS

A. COMPREHENSIVE PLAN:

The Future Land Use Map designates this property as residential.

B. OTHER PLANS: N/A

C. TRAFFIC AND ACCESS:

1. The property has access to 137th Ave through the southern edge of the property.

D. UTILITIES:

All utilities are available to the site.

IV. REVIEW COMMENTS:

1. In addition to the base conditions within the conditional use permit, the following conditions have been added:
 1. Permitted use will utilize approximately 120 square feet in the basement.
 2. Hours of operation will generally be from 8:00 a.m. to 8:00 p.m. Monday through Saturday, by appointment only.
 3. There will be no employees.
 4. Activities will include the cleaning of firearms and the transfer of firearms sales as regulated by the Bureau of Alcohol Tobacco, Firearms and Explosives (ATF).
 5. Owner will maintain a Federal Firearms License (FFL) at all times and adhere to the rules and regulations of the ATF.
 6. There will be no stocking or sales of ammunition.
 7. There will be no stocking of firearms available for sale.
 8. There will be no test firing or discharge of the firearms on the premises.
 9. Only ten firearms, other than those owned by the property owner, will be on site at any one time. All firearms shall be secured in an acceptable gun safe whenever the operator is not actively working with the firearms.
 10. Fires escape routes shall be properly designated.
 11. There shall be no storage, placement or display of goods or supplies outside described areas relating to the conditional use.
 12. Client parking will consist of owner's driveway.
2. An annual inspection to determine compliance with the conditions of approval will be required. The conditional use permit may be revoked upon a finding by the City that there is a violation of the terms of approval.

V. STAFF RECOMMENDATION:

Pending comments received during the public hearing regarding any further safeguards which may need to be evaluated, staff recommends approval of the Conditional Use Permit for Home Occupation - Gunsmith.

VI. PLANNING COMMISSION RECOMMENDATION:

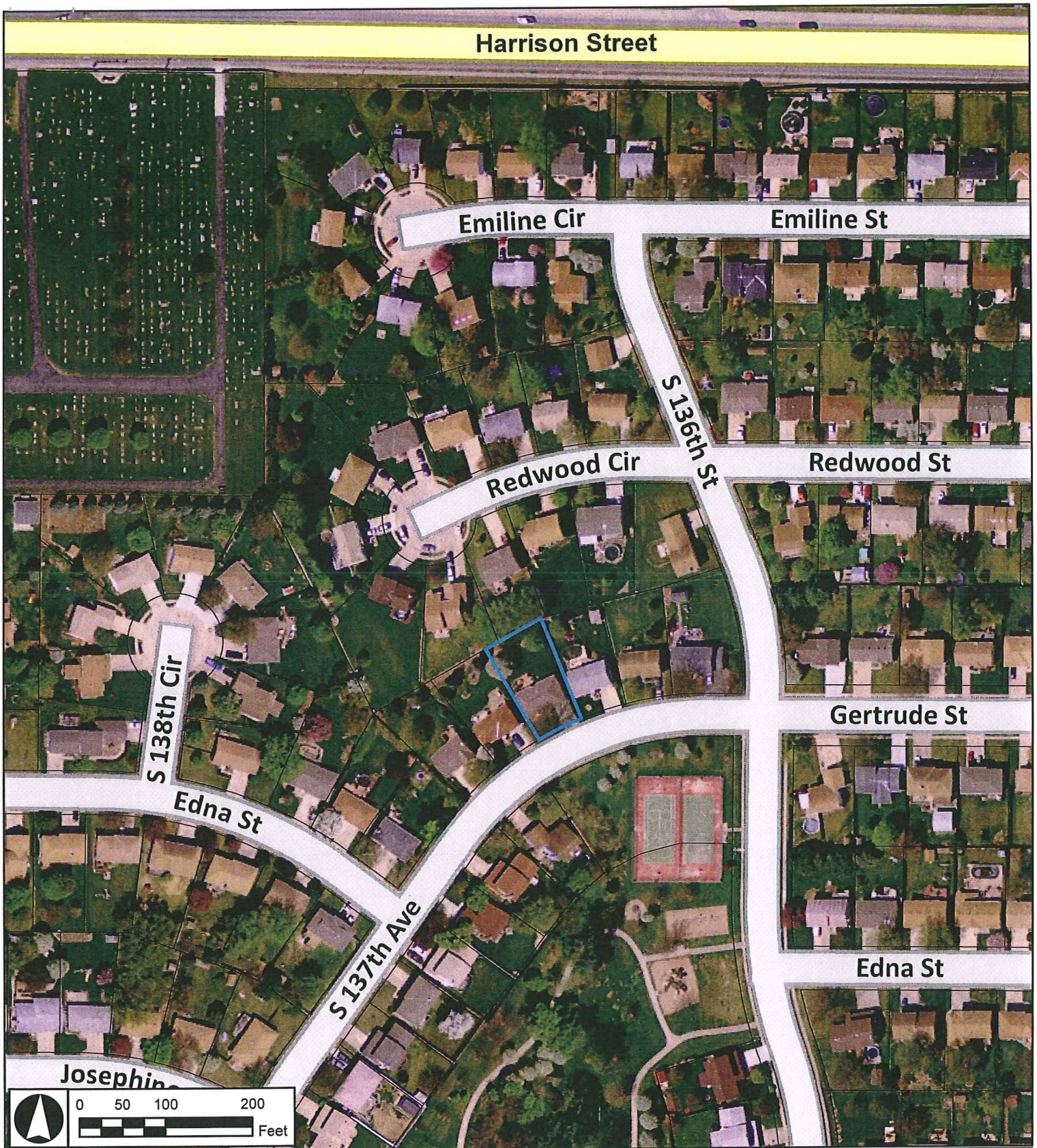
VII. ATTACHMENTS TO REPORT:

1. Vicinity Map
2. Draft Conditional Use Permit
3. Site Plan of where activities will be limited to in the McMurray residence.
4. Letters from Lee A. McMurray describing activities of the Home Occupation.
5. L&R Ultrasonics documentation

VII. COPIES OF REPORT SENT TO:

1. Lee A. McMurray
2. Public Upon Request


Prepared by: _____
M. Bonick 7-14-11
Community Development Director Date



Location Map

McMurray CUP Application

July 14, 2011
CAS



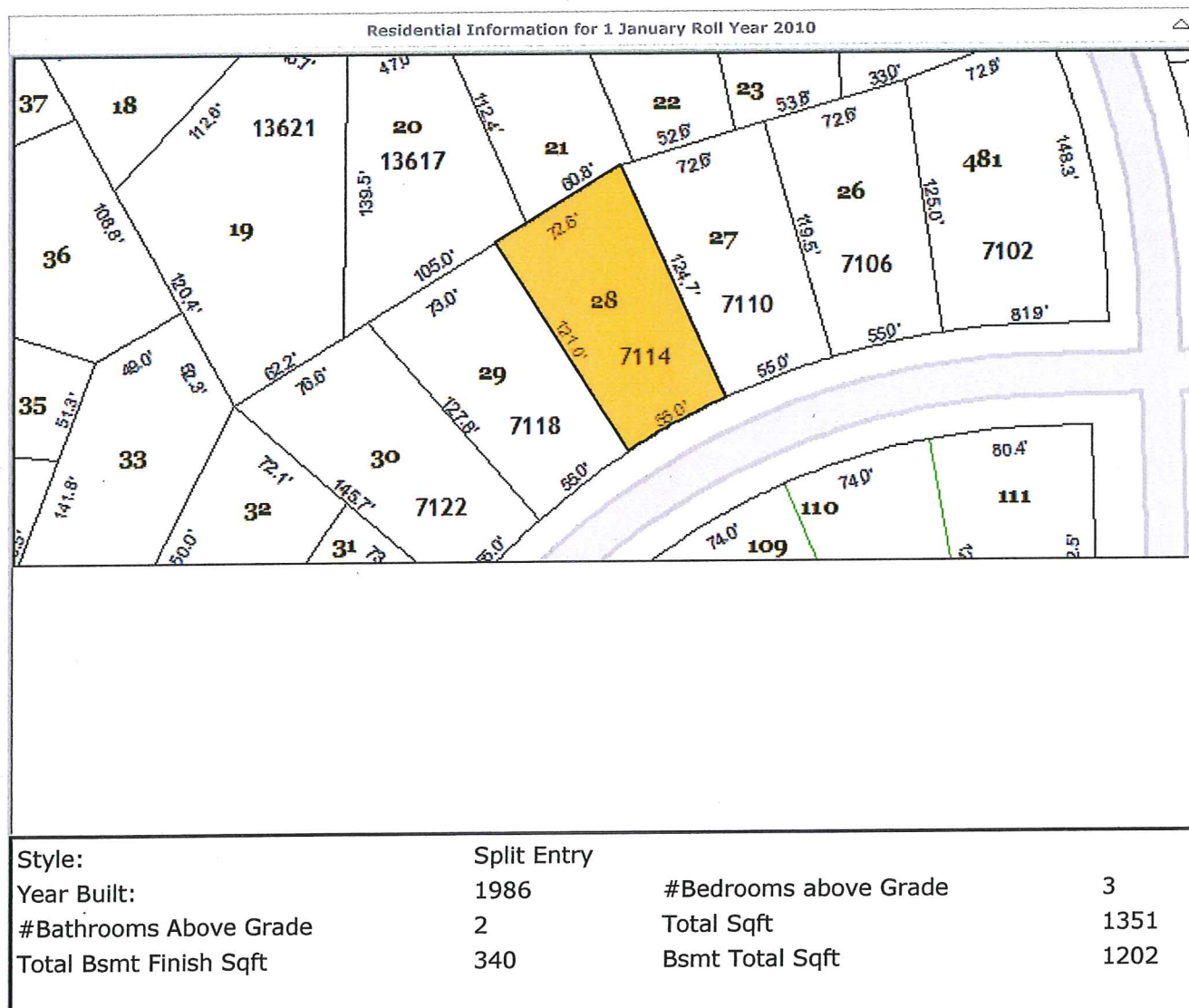
Active

Parcel Number: 010969012
 Location: 07114 S 137TH AVE
 Owner: MCMURRAY III/LEE A
 & MARCIA D
 Mail Address: 7114 S 137TH AVE
 OMAHA NE 68138-0000
 Legal: LOT 28 MILLARD HIGHLANDS SOUTH II
 Tax District: 17014
 Map #: 2957-13-1-60265-000-0028



Click Picture/Sketch for Larger View.
 Use arrows to view Picture/Sketch.

THIS IS NOT A PROPERTY RECORD FILE



City of La Vista Conditional Use Permit

Conditional Use Permit for Home Occupation (Gunsmith)

This Conditional Use Permit issued this ____ day of August, 2011, by the City of La Vista, a municipal corporation in the County of Sarpy County, Nebraska ("City") to, Lee A. McMurray ("Owner"), pursuant to the La Vista Zoning Ordinance.

WHEREAS, Owner wishes to locate and operate a home occupation (Gunsmith) in a single-family dwelling at 7114 S. 137th Avenue upon the following legally described property of land within the City of La Vista zoning jurisdiction:

Lot 28 Millard Highlands South II a Subdivision of Sarpy County, Nebraska.

WHEREAS, Owner has applied for a conditional use permit for the purpose of locating and operating a home occupation (Gunsmith); and

WHEREAS, the Mayor and City Council of the City of La Vista are agreeable to the issuance of a conditional use permit to the owner for such purposes, subject to certain conditions and agreements as hereinafter provided.

NOW, THEREFORE, BE IT KNOWN THAT subject to the conditions hereof, this conditional use permit is issued to the owner to use the area of the property described herein for a home occupation (Gunsmith), said use hereinafter being referred to as "Permitted Use or Use".

Conditions of Permit

The conditions to which the granting of this permit is subject are:

1. The rights granted by this permit are transferable and any variation or breach of any terms hereof shall cause permit to expire and terminate without the prior written consent of the City (amendment to permit) or unless exempted herein.
2. In respect to the proposed Use:
 - a. Permitted use will utilize approximately 120 square feet in the basement.
 - b. Hours of operation will generally be from 8:00 a.m. to 8:00 p.m. Monday through Saturday, by appointment only.
 - c. There will be no employees.
 - d. Activities will include the cleaning of firearms and the transfer of firearms sales as regulated by the Bureau of Alcohol Tobacco, Firearms and Explosives (ATF).
 - e. Owner will maintain a Federal Firearms License (FFL) at all times and adhere to the rules and regulations of the ATF.
 - f. There will be no stocking or sales of ammunition.
 - g. There will be no stocking of firearms available for sale.
 - h. There will be no test firing or discharge of the firearms on the premises.
 - i. Only ten firearms, other than those owned by the property owner, will be on site at any one time. All firearms shall be secured in an acceptable gunsafe whenever the operator is not actively working with the firearms.

- j. Fires escape routes shall be properly designated.
 - k. There shall be no storage, placement or display of goods or supplies outside described areas relating to permitted use.
 - l. Client parking will consist of owner's driveway.
 - m. Owner shall obtain all required permits from the City of La Vista and shall comply with any additional requirements as determined by the Building Inspector.
 - n. Owner shall comply (and shall ensure that all, invitees, suppliers, structures, appurtenances and improvements, and all activities occurring or conducted, on the premises at any time comply) with any applicable federal, state and/or local regulations, as amended or in effect from time to time, including, but not limited to, applicable environmental or safety laws, rules or regulations.
 - o. Owner hereby indemnifies the City against, and holds the City harmless from, any liability, loss, claim or expense whatsoever (including, but not limited to, reasonable attorney fees and court cost) arising out of or resulting from the acts, omissions or negligence of the owner, his/her agents, employees, assigns, suppliers or invitees, including, but not limited to, any liability, loss, claim or expense arising out of or resulting from any violation on the premises of any environmental or safety law, rule or regulation.
3. The applicant's right to maintain the use as approved pursuant to these provisions shall be based on the following:
- a. An annual renewal of a home occupation license and annual inspection to determine compliance with the conditions of approval. The conditional use permit may be revoked upon a finding by the City that there is a violation of the terms of approval.
 - b. The use authorized by the conditional use permit must be initiated within one (1) year of approval and shall become void two (2) years after the date of approval unless the applicant has fully complied with the terms of approval.
 - c. All obsolete or unused structures and accessory facilities or materials specifically pertaining to such permitted use shall be removed at owner's expense within twelve (12) months of cessation of the conditional use, if required by the City.
4. Notwithstanding any other provision herein to the contrary, this permit, and all rights granted hereby, shall expire and terminate as a permitted use hereunder upon the first of the following to occur:
- a. Owner's abandonment of the permitted use. Non-use thereof for a period of twelve (12) months shall constitute a presumption of abandonment.
 - b. Cancellation, revocation, denial or failure to maintain any federal, state or local permit required for the Use.
 - c. Owner's breach of any other terms hereof and his/her failure to correct such breach within ten (10) days of City's giving notice thereof.
5. In the event of the owner's failure to promptly remove any safety or environmental hazard from the premises, or the expiration or termination of this permit and the owner's failure to promptly remove any permitted materials or any remaining environmental or safety hazard, the City may, at its option (but without any obligation to the owner or any third party to exercise said option) cause the same to be removed at owner's cost and the owner shall reimburse the City the costs incurred to remove the same. Owner hereby irrevocably grants the City, its agents and employees the right to enter the premises and to take whatever action as is necessary or appropriate to remove the structures or any environmental or safety hazards in accordance with the terms of this permit, and the right of the City to enter the premises as necessary or appropriate to carry out any other provision of this permit.
6. If any provision, or any portion thereof, contained in this agreement is held to be unconstitutional, invalid, or unenforceable, the remaining provisions hereof, or portions thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

Miscellaneous

The conditions and terms of this permit shall be binding upon owner, his/her successors and assigns.

1. Delay of City to terminate this permit on account of breach of owner of any of the terms hereof shall not constitute a waiver of City's right to terminate, unless it shall have expressly waived said breach, and a waiver of the right to terminate upon any breach shall not constitute a waiver of the right to terminate upon a subsequent breach of the terms hereof, whether said breach be of the same or different nature.
2. Nothing herein shall be construed to be a waiver or suspension of, or an agreement on the part of the City to waive or suspend, any zoning law or regulation applicable to the premises except to the extent and for the duration specifically authorized by this permit.
3. Any notice to be given by City hereunder shall be in writing and shall be sufficiently given if sent by regular mail, postage prepaid, addressed to the owner as follows:

Contact Name and Address: Lee A. McMurray
7114 S. 137th Avenue
Omaha, NE 68138

Effective Date:

This permit shall take effect upon the filing hereof with the City Clerk a signed original hereof.

THE CITY OF LA VISTA

By _____
Douglas Kindig, Mayor

Attest:

Pam Buethe
City Clerk

CONSENT AND AGREEMENT

The undersigned does hereby consent and agree to the conditions of this permit and that the terms hereof constitute an agreement on the part of the undersigned to fully and timely perform each and every condition and term hereof, and the undersigned does hereby warrant, covenant and agree to fully and timely perform and discharge all obligations and liabilities herein required by owner to be performed or discharged.

Owner:

By: _____

Title: owner/operator

Date: _____

garage



The Ultimate Ultrasonic Gun Cleaning System[®]

- Cleans, conditions and lubricates
- Provides a uniform standard of cleanliness
- Leaves weapons with a "factory new" look
- Eliminates manual labor



"You won't believe the results"



L&R ULTRASONICS. YOUR GLOBAL SOURCE FOR ULTRASONIC CLEANING SYSTEMS.

CLEANING TACTICAL FIREARMS AND LONG GUNS IS MORE CONVENIENT AND EFFICIENT USING L&R'S LE SERIES ULTRASONIC CLEANING SYSTEMS

L&R's LE Series accommodates long guns as well as handguns. These systems are designed to operate concurrently: While one set of guns is being cleaned, a set of guns already cleaned can be lubricated, streamlining the process. All LE Set-Ups feature:

- Stainless steel chamber construction
- High-reliability composite transducers
- Digital timer with memory cycle
- Thermostatically controlled heater
- CA2 Heat to optimize and accelerate the cleaning process

CPO GENERATOR POWER AND RELIABILITY

All LE Series Systems come with L&R's Model 4002 **Constant Power Output (CPO)** ultrasonic generators. CPO generators maintain a constant power level regardless of solution level, cleaning load or voltage fluctuations, ensuring greater cleaning reliability, consistency and repeatability.



Clean and Lubricate Simultaneously

LE 36



SweepZone™ Technology Generator

LE 36 Set-Up (Shown) #18640

- 36" x 6" x 8" Tank size (91.4 x 15.2 x 20.3 cm)
- Digital timer and thermostatically controlled heater
- Weapon/Lubricating Racks (adjustable compartments for accommodating various size weapons)
- Full-size Lubricating Pan
- Drip-proof flanges on tank
- Half-size Weapon Pan, Basket and Cover
- 4 gals. (15.2L) Weapon Cleaning Concentrate (yields 44 gals/166.6L solution)
- 8 gals. (30.4L) Weapon Lubricating Solution

LE 236 Set-Up #18654

Dual LE 36 tanks

- 36" x 6" x 8" Tank size each (91.4 x 15.2 x 20.3 cm)
- Digital timer and thermostatically controlled heater
- Drip-proof flanges on tank
- Weapon/Lubricating Racks (adjustable compartments for accommodating various size weapons)
- 4 gals. (15.2L) Weapon Cleaning Concentrate (yields 44 gals/166.6L solution)
- 8 gals. (30.4L) Weapon Lubricating Solution
- Mounted on a stainless steel stand

All LE Set-Ups are designed for high-volume usage accommodating handguns, tactical and long guns

LE 50



LE 250



LE 50 Set-Up #18643

- 52" x 6-1/4" x 7" Tank size (132 x 15.9 x 17.8 cm)
- Digital Timer
- Weapons Rack
- Lubricating Pan
- Lubricating Rack
- 5 Small Weapon Pans, Covers and Baskets
- 8 gals. (30.4L) Weapon Cleaning Concentrate (yields 88 gals/333.1L solution)
- 16 gals. (60.8L) Weapon Lubricating Solution

LE 250 Set-Up #18650

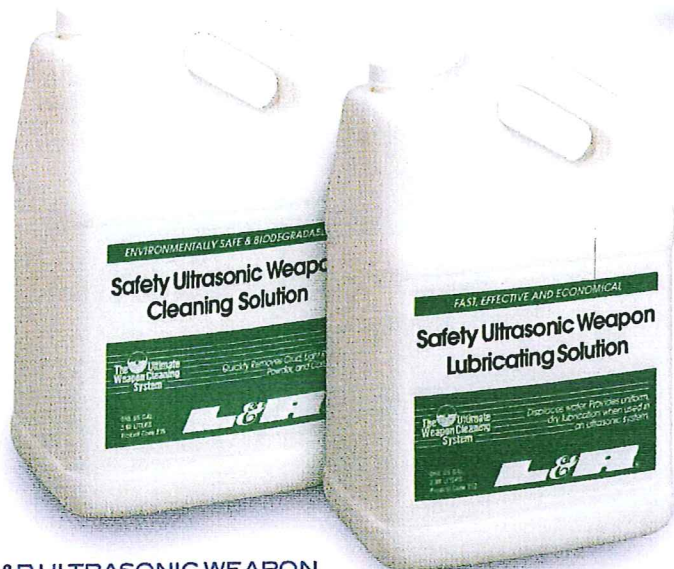
Dual LE 50 Tanks

- 52" x 6-1/4" x 7" Tank size each (132 x 15.9 x 17.8 cm)
- Mounted on stainless steel stand at 36" Working Height
- Digital Timer
- 2 Weapon/Lubricating Racks
- 10 Small Weapon Baskets
- 8 gals. (30.4L) Weapon Cleaning Concentrate (yields 88 gals/333.1L solution)
- 16 gals. (60.8L) Weapon Lubricating Solution

Q650 Classic Handgun



L&R ULTRASONIC CLEANING AND LUBRICATING SOLUTIONS



L&R ULTRASONIC WEAPON CLEANING SOLUTION CONCENTRATE NON-AMMONIATED

Intensifies the ultrasonic cleaning process. Non-ammoniated to preclude surface damage. Eliminates the use of harmful solvents. A powerful surfactant maximizes cleaning with virtually no odor. Concentrated, biodegradable and environmentally friendly. Economical; 1 gallon yields 11 gallons of solution.



HANDCUFF DISINFECTANT KIT

Many Law Enforcement situations have the potential for exposure to blood or other infectious materials. As a result, OSHA requires compliance with 29CFR1910.1030 for Bloodborne Pathogens. Therefore, thorough cleaning and disinfecting of handcuffs, leg irons, waist chains, gang chains and restraints are a must.



L&R ULTRASONIC WEAPON LUBRICATING SOLUTION

Blended and ready-to-use. Conditions and lubricates firearms after cleaning. All traces of water are displaced, leaving the firearm with a uniform, dry lubrication. In a matter of minutes, your weapon looks and feels "factory new." Economical.



UltraDose® GERMICIDAL HOSPITAL GRADE ULTRASONIC CLEANER CONCENTRATE

This concentrated germicidal solution is formulated to serve both as a presoak prior to ultrasonic cleaning and as an ultrasonic cleaning solution. L&R's unique formulation allows use as a disinfectant for handcuffs, leg irons and other apparatus that become contaminated with blood. UltraDose is a reliable germicidal concentrate that kills a broad spectrum of micro-organisms, including HIV-1, Herpes Simplex 2 and Mycobacterium Bovis (TB). A dual-neck bottle delivers an accurate 1-ounce unit dose.

WHY ALL FIREARMS NEED L&R's ULTRASONIC CLEANING

Firearms frequently need to be thoroughly cleaned and lubricated to assure continued operational reliability. Residue can accumulate and cause malfunctions. A change in the operating function is a warning sign that may signal impending failure.

L&R's Ultrasonic Cleaning Systems safely clean firearms more effectively than manual cleaning, providing a uniform standard of cleanliness. Even "impossible to reach by hand" areas are cleaned effectively and efficiently with simple field stripping. Ultrasonic lubrication displaces all traces of water in minutes, leaving each firearm with a uniform, dry lubrication.



HOW L&R's ULTRASONIC CLEANING AND LUBRICATING TECHNOLOGY WORKS

High-frequency sound waves are used to produce more than 40,000 alternating high and low pressure waves per second. As these waves travel through the specially formulated cleaning solution, millions of microscopic vacuum bubbles form and implode. This process, known as cavitation, creates an action capable of cleaning up to 16 times more effectively than hand cleaning. In minutes, all dirt, crud, light rust, loose lead, powder buildup and copper residue are removed from even the tiniest grooves and interior areas of the weapon.



Firearms Cleaning Division

www.LRultrasonics.com

phone: 201-991-5330

fax: 201-991-5870

email: info@LRultrasonics.com

**577 Elm Street, PO Box 607
Kearny, New Jersey 07032-0607 USA**

Call us today or log onto www.LRultrasonics.com for more information.

BB-20-1102STJ M

May 18, 2011

City of LaVista
ATTN: Chris Solberg
8116 Park View Blvd
LaVista, NE 68128

Chris,

I would like to operate a business out of my residence at 7114 So.137th ave.68138
This business will be mainly firearms cleaning, minor gunsmithing with some sales and transfers.

This business will be by appointment only with no store front advertising. I will not be a stocking dealer for any firearms but will have customers firearms on the premises for cleaning .

The method of cleaning will be Ultra Sonic, which is environment friendly with no hazardous waste problems.

The sales and transfers will be by appointment only for those who have made a purchase through an internet web site or auction. I will not be advertising firearms sales or depending on this as my main income.

All cleaning will be done in my basement with a lockable, fireproof gun safe to store the firearms.

I will operate this business in accordance with all applicable laws as defined by the BATFE and the city of La Vista.

Please let me know what procedures to follow to accomplish this venture, and if I will require a Conditional Use Permit.

Sincerely,

Lee McMurray

City of La Vista
Attn: Chris Solberg
8116 Park View Blvd.
La Vista, NE 68128

To Whom It May Concern

This is a follow up letter concerning a gun cleaning business that has already been sent to Chris Solberg for his consideration.

I am Lee McMurray and have lived at 7114 So. 137th Ave for twenty three years.

I have raised two children at this address and now enjoy two grandchildren who visit frequently, one living as my next door neighbor.

Over the years I have been very active with my children's sporting interests to include coaching football, president of KWAA Football, hunting, fishing, and the shooting sports. As I enter the later years in my life, I'm sixty-four, I am looking to have a small firearms cleaning business to be operated from my home at the above address. Upon looking into starting a small business out of my home, I was informed that I would need a Federal Firearm License to offer this service, which I have applied for this permit. The Bureau of Alcohol, Tobacco, Firearms and Explosive agent had me check into zoning and this is where I come to you, to offer this proposal of my intent.

I will be cleaning firearms with an ultra-sonic cleaning machine that incorporates ultra-sonic waves through a cleaning compound that cleans better and safer than conventional ways. These systems are used in the law enforcement and firearm industry, the medical and dental industry, the computer industry, jewelry cleaning as well as a host of other applications. The cleaning solution is environmentally safe and I will enclose a copy of the system that I will use.

The FFL that will allow me to do my cleaning service will also enable me to do firearm transfers for customers that purchased firearms through internet web sites and auctions. All transactions are recorded and available for inspection by the BATFE at any time. Background checks are mandatory as well as all laws pertaining to firearms use and ownership.

I am not a stocking dealer for any firearms manufacturer nor will I have an advertised storefront. I will be running my business on an appointment only basis, and will not have a large number of customer firearms at my home.

I hope you will consider this request as a way to supplement my income as I retire and still contribute to the community as a responsible citizen of Sarpy County and the city of La Vista, Nebraska.

Enclosed are copies of my legal address as well as copies of the cleaning system I wish to employ in this endeavor.

I thank you for your time and look forward to working with you in any way to make this venture possible.

Sincerely,
Lee McMurray