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**PLANNING COMMISSION REPORT**  
**Regular Agenda -- Public Hearing Item**

PC Staff Report  
04/23/2018

**ITEM NO. 5      TEXT AMENDMENT TO LAND DEVELOPMENT CODE; (SLD)**

**TA-18-00121:** Consider a Text Amendment to the City of Lawrence Land Development Code, Articles, 4 and 9, to permit *Group Homes* in the GPI district. *Initiated by Planning Commission on 2/21/18.*

**RECOMMENDATION:** Staff recommends that the Planning Commission forward the proposed amendment, TA-18-00121, amending sections of Article 4 and Article 17 of the Lawrence Land Development Code to permit *Group Homes* in the GPI District and to update the definition to align with current State legislation to the City Commission with a recommendation for approval.

**Reason for Request:** The Planning Commission initiated a text amendment to the Development Code at their February 21, 2018 meeting to permit *Group Homes* in the GPI District.

**PUBLIC COMMENT RECEIVED PRIOR TO PRINTING**

- None received

**ATTACHMENTS**

- A. Revised Code Sections
- B. KSA-12-736 Group homes, exclusion of, prohibited; conditions; definitions

**BACKGROUND**

The Land Development Code defines two types of *Group Homes (also known as Adult Care Homes)* in Section 20-1701 as:

*Group Home, General:* Any **Dwelling** occupied by 11 or more persons, including eight (8) or more persons with a disability who need not be related by blood or marriage and staff residents who need not be related by blood or marriage to each other or to other residents of the home. The **Dwelling** is licensed by one (1) or more of the following regulatory agencies of the State: Dept. of Social and Healing Arts, Behavioral Sciences Regulatory Board, or State Board of Healing Arts. Disability means, with respect to a person: (a) a physical or mental impairment which substantially limits one (1) or more of such person's major life activities; (b) a record of having such impairment; or (c) being regarded as having such impairment. Such term does not include current illegal use or addiction to a controlled substance, as defined in Sec. 102 of the Controlled Substance Act 21U.S.C.802). A Special Use Permit is required before operation of the home can begin.

*Group Home, Limited:* Any **Dwelling** occupied by not more than ten (10) persons, including eight (8) or fewer persons with a disability who need not be related by blood or marriage and not to exceed two (2) staff residents who need not be related by blood or marriage to each other or to other residents of the home. The **Dwelling** is licensed by one (1) or more of the following regulatory agencies of the State: Dept. of Social and Healing Arts, Behavioral Sciences Regulatory Board, or State Board of Healing Arts. Disability means, with respect to a person: (a) a physical or mental impairment which substantially limits one (1) or more of such person's major life

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activities; (b) a record of having such impairment; or (c) being regarded as having such impairment. Such term does not include current illegal use or addiction to a controlled substance, as defined in Sec. 102 of the Controlled Substance Act (21U.S.C.802).

Current State legislation defines a *Group Home* as a dwelling licensed by a “regulatory agency of this state.” Providers are further defined as a person or agency who provides mental health services and is licensed by;

- (A) *The Kansas department for aging and disability services pursuant to K.S.A. 75-3307b or 65-425 et seq., and amendments thereto; or*
- (B) *the behavioral sciences regulatory board pursuant to K.S.A. 65-6301 et seq. or 74-5301 et seq., and amendments thereto; or*
- (C) *the state board of healing arts pursuant to K.S.A. 65-2801 et seq., and amendments thereto.*

This use is included in the Residential Use Group. The two types are distinguished based on size. The *Group Home, Limited* allows a maximum occupancy of 10 residents including any care providers. The smaller *Limited* facilities are typically comparable to a *Detached Dwelling* (Single-Family Residence). Based on K.S.A. 2017 Supp. 12-736 (e) “*No municipality shall prohibit the location of a group home in any zone or area where single family dwellings are permitted.*” Larger *Group Home* use, with an occupancy that exceeds 10 people, is allowed in all residential districts subject to a Special Use Permit. The exception to this rule is that the larger *Group Homes* are permitted by right in the RMG (Multi-Dwelling Greek) District.

Residential uses are only permitted in some non-residential districts and are typically subject to a Special Use Permit review and approval process. Kansas State law requires a *Group Home, (occupied by not more than 10 persons, including eight or fewer persons with a disability and not to exceed 2 staff resident)* to be permitted the same as any detached dwelling in any other zoning district. *Detached Dwellings* are a permitted use in the GPI (General Public and Institutional) District. By state law, the use listed in the Land Development Code, *Group Home, Limited*, would also be a permitted use. The larger facilities are not clearly permitted in the GPI District.

The intent of this proposed text amendment is to correct and to clarify that *Group Home, Limited and General* are permitted uses in the GPI District. This issue was identified as part of the preliminary planning efforts related to the Crisis Center for Douglas County.

#### **OVERVIEW OF PROPOSED AMENDMENT**

The following is a summary listing of the proposed changes:

1. Section 20-403 Nonresidential District Use Table
2. ~~Section 20-902 Off-street Parking Schedule A~~
3. Section 20-1701 Terminology
4. KSA-12-736 Group Homes, Exclusions of , Prohibited; Conditions; Definitions

The portion of the Code being revised is attached to this staff report (Attachment B).

Changes to the nonresidential use table include showing that the use is permitted either by right or by a Special Use Permit. After reviewing Section 20-902, no additional changes to the off-street parking design standards or requirements are necessary for *Group Homes* in the GPI District.

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## **CRITERIA FOR REVIEW AND DECISION-MAKING**

Section 20-1302(f) provides review and decision-making criteria on proposed text amendments. It states that review bodies shall consider at least the following factors:

### **1) Whether the proposed text amendment corrects an error or inconsistency in the Development Code or meets the challenge of a changing condition;**

The GPI district is a special purpose district (Section 20-219) intended to accommodate institutional uses occupying significant land areas but not part of the H (Hospital) or U (University) District. Properties zoned GPI (General Public and Institution) District are typically owned by the City, County or School District and are developed or held in reserve for public uses such as schools, fire stations, municipal buildings, and similar uses.

By State law, any district that permits detached dwelling uses must also permit *Group Homes*. Several non-residential zoning districts permit both *Detached Dwellings* and *Group Homes* as shows in the Non-Residential District use table. The GPI District permits *Attached Dwellings*, *Detached Dwellings*, *Manufactured Homes*, *Mobile Homes*, and *Multi-Dwelling Structures*, but does not permit *Group Homes*. This is both an error and inconsistent regulation of the Land Development Code.

### **2) Whether the proposed text amendment is consistent with the Comprehensive Plan and the stated purpose of this Code (Sec. 20-901)**

*Horizon 2020* addresses Community Facilities in Chapter 10. Public and semi-public uses include “municipal facilities, schools, universities, parks, recreation and open space, and a range of institutions.” The Plan states that these uses are often “difficult to project” and are often “monitored by jurisdictions over which the city and/or county has limited control.”

The GPI District is the preferred zoning district for development of uses with a public or semi-public land use component. This district requires a master plan as part of the development approval process. For projects that include more than 10 acres an “Institutional Development Plan” is required and is subject to a public hearing process as a Special Use Permit. Amending the GPI District clarifies the intent to permit certain types of residential uses as part of a community development project and aligns with State law that permits *Group Homes*, as a type of residential use, to be permitted as other similar uses are allowed in the same district.

## **Conclusion**

The proposed change is minor and amends only Article 4 of the Land Development Code. The change clarifies that *Group Homes* are permitted in the GPI District and specifies that larger *Group Homes* are subject to a Special Use Permit.