

PLANNING COMMISSION REPORT
Regular Agenda - Public Hearing Item

PC Staff Report
11/16/15

**ITEM NO. 9 TEXT AMENDMENT FOR PERSONAL CONVENIENCE SERVICES &
PERSONAL IMPROVEMENT SERVICE (SMS)**

TA-15-00391: Consider a Text Amendment to the City of Lawrence Land Development Code to review the *Personal Convenience Services* and *Personal Improvement Service* uses and determine if amendments are necessary to permit salons as a use in the RSO (Single-Dwelling Residential-Office) zoning district. *Initiated by City Commission on 9/1/15.*

RECOMMENDATION: Staff recommends approval of the revised text for Articles 4, 5, and 17, and forwarding of the proposed text amendments to Chapter 20, Articles 4, 5, and 17 to the City Commission with a recommendation for approval and adoption.

Reason for Request: The City Commission initiated this amendment on September 1st, 2015 in response to a request from a member of the public. Berniece Garber requested a change in the classification of Beauty Salons & Spas from *Personal Convenience Services* to *Personal Improvement Services* to recognize the health and improvement aspects of these services and to expand the potential location of such uses to RSO and RMO zoned properties.

RELEVANT GOLDEN FACTOR:

- Conformance with the Comprehensive Land Use Plan is the relevant factor that applies to this request.

PUBLIC COMMENT RECEIVED PRIOR TO PRINTING

- No written comments received to date.

BACKGROUND

Beauty Salons & Spas have been classified as a *Personal Convenience Services* use rather than a *Personal Improvement Service* use. The Land Development Code defines land uses and assigns them to certain zoning district locations. Article 17, Terminology provides the following definitions of these land uses:

20-1748 PERSONAL CONVENIENCE SERVICES

Provision of small personal items or consumer-oriented, personal services. These include various general retail sales and personal services of a small, neighborhood-scale. Typical uses include neighborhood grocery stores, drugstores, laundromats/ dry cleaners and barbershops.

20-1749 PERSONAL IMPROVEMENT SERVICE

Informational, instructional, personal improvement, and similar services of a nonprofessional nature. Excludes services classified as "Spectator Sports and Entertainment", "Sports and Recreation, Participant" or "Transient Habitation." Typical uses include fine arts studios, martial arts centers, yoga meditation or diet centers.

The Land Development Code permits *Personal Improvement Service* uses in a broader range of zoning districts, specifically RSO and RMO Residential-Office Districts, than *Personal Convenience Services* uses. The applicant owns property zoned RSO and has suggested that salon & spa uses are more closely aligned with uses permitted in the *Personal Improvement Service* category and has suggested that this classification is an error in the Code.

Prior to the adoption of the Land Development Code in 2006, the zoning ordinance listed both barber and beauty shop uses in *Use Group 12 – Retail Stores-Personal Services*. The Use Group included “certain types of retail stores and service establishments which: (a) provide for a wide variety of local consumer and transient needs, and (b) have a small service area and are, therefore, not distributed widely throughout the city.” These uses were only permitted in commercial districts, specifically C-2, C-3, C-4 & C-5 (these districts correspond to CN2, CD, CS, CC & CR in the current Code).

Since the text amendment was initiated, Staff has reviewed a number of different area zoning codes and definitions for similar uses. More often than not, the beauty salon/barber shop use has been categorized as a *personal service* and allowed in commercially zoned properties. Many of the codes combined uses that are listed in the Development Code categories *Personal Improvement Service* and *Personal Convenience Services*.

Staff has concluded that permitting the *salon & spa* use, with some size limitations, in the RSO and RMO Districts is a reasonable amendment and consistent with the organizational structure of the Land Development Code. Staff has also suggested revisions to the definitions of both *Personal Convenience Services* and *Personal Improvement Service*. The suggested revisions are offered to provide more examples of each use and to distinguish the differences between the two uses. In Staff's opinion, the proposed amendment is a simpler solution to address the requested change. Moving uses from one definition to another has the potential to create nonconforming uses. Without more extensive review of uses in the community, Staff does not recommend this path.

In evaluating the proposed amendment, Staff has identified several minor revisions that should be included in this text amendment to align terms in different sections of the code. Staff looked at the standards listed for other uses in RSO and RMO Districts and, in doing so, noticed that the format of these various sections was not consistent in the code. Therefore, these housekeeping changes are also suggested at this time.

OVERVIEW OF PROPOSED AMENDMENT

The following is a summary listing of the proposed changes:

1. Article 4: Use Table
 - a. To modify Section 20-402 to include *Personal Convenience Services* in RSO & RMO Districts with conditions and to remove * notations in those districts that do not include use standards.
 - b. To modify the terminology listed in both Section 20-402 and Section 20-403 to list both of the uses (*Personal Convenience* and *Personal Improvement*) as *Services*
2. Article 5:
 - a. To establish standards for *Personal Convenience Services* in RSO & RMO Districts
 - b. To modify the code structure in Sections 20-510, 20-520 & 20-521 to reflect consistency in format and terminology.

- c. To include an effective date for standards for financial institutions in Sections 20-510 to recognize uses established prior to the original adoption of the Development Code.
3. Article 17: Terminology
 - a. To refine the existing definitions of both *Personal Convenience Services* and *Personal Improvement Service* in Sections 20-1748 & 20-1749.

Portions of Articles 4, 5 and 17, listing the proposed changes, are attached to this staff report. Text to be deleted is shown with ~~strikeout~~ and proposed text is shown in underlined font. *Article 5 changes show existing and proposed text since part of the revision is to the structure of the code outline.*

CRITERIA FOR REVIEW & 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 applicant has suggested that the Salon & Spa use was incorrectly categorized as a *Personal Convenience* use and is more appropriately aligned with other uses in the *Personal Improvement* use.

Staff Response: As noted above, Staff reviewed similar definitions in various area community codes. This use is treated in some codes as a retail service use and in others as a personal service group of uses that potentially may be located in office districts, as well as, commercial districts.

Lawrence is different from some of the communities in that we have combined residential-office districts. As we continue to evaluate how the Development Code can accommodate a wider mix of uses throughout the community, amendments will continue to be made where appropriate. Modifying the code to permit these uses, with standards, can provide an opportunity for a broader mix of uses in these already, mixed use districts. Modifying definitions can address the perceived error in how various uses are classified.

2) Whether the proposed text amendment is consistent with the Comprehensive Plan and the stated purpose of this Development Code (Sec. 20-104).

Staff Response: The comprehensive plan does not specifically address these amendments. The Comprehensive Plan categorizes uses very broadly; generally aggregating more specific uses into the broader categories such as residential, commercial and industrial. However, policy statements throughout *Horizon 2020* emphasize mixing uses and building types throughout the community to maintain vital neighborhoods. The proposed amendment clarifies use definitions and expands the potential locations for these uses with development standards as safeguards.

PROFESSIONAL STAFF RECOMMENDATION

Staff recommends forwarding a recommendation of approval to the Lawrence City Commission of this text amendment to the Land Development Code, Chapter 20 of the Code of The City of Lawrence, Kansas modify the *Personal Convenience* and *Personal Improvement* uses.

20-402 RESIDENTIAL DISTRICT USE TABLE (EXCERPT)

[illegible]

Key: <i>A = Accessory</i> <i>P = Permitted</i> <i>S = Special Use</i> <i>* = Standard Applies</i> <i>- = Use not allowed</i>		Base Zoning Districts														Use-Specific Standards (Sec. 20-)
		RS40	RS20	RS10	RS7	RS5	RS3	RSO	RM12	RM12D	RM15	RM24	RM32	RMG	RMO	
	Retail Sales, General	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Retail Establishment, Large	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Retail Establishment, Medium	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
	Retail Establishment, Specialty	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
INDUSTRIAL USE GROUP																
OTHER USES GROUP																

20-403 NONRESIDENTIAL DISTRICT USE TABLE (EXCERPT)

Key: A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed		Base Zoning Districts															Use-Specific Standards (Sec. 20-)
		CN1	CN2	MU	CO	CD	CC	CR	CS	IBP	IL	IM	IG	OS	GPI	H	
RESIDENTIAL USE GROUP																	
PUBLIC AND CIVIC USE GROUP																	
Medical Facilities	Community Mental Health Facility	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	
	Extended Care Facility, General	-	S	-	S	-	-	-	-	S	-	-	-	-	-	A	
	Extended Care Facility, Limited	P	P	P	P	-	-	-	-	-	-	-	-	-	S	A	
	Health Care Office, Health Care Clinic	P	S	P	P	P	P	P	P	P	P	-	-	-	P	A	
	Hospital	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	
	Outpatient Care Facility	P*	P*	P*	P*	P*	P*	P*	P*	P*	-	-	-	-	-	P*	A*
COMMERCIAL USE GROUP																	
Office	Administrative and Professional	P*	P	P*	P	P	P	P	P	P	P	A	P	-	P	A	518
	Financial, Insurance & Real Estate	P*	P	P	P	P	P	P	P	P	P	-	-	-	-	A	510
	Payday Advance, Car Title Loan Business	P*	P	P	P	P	P	P	P	P	P	-	-	-	-	A	510
	Other	P	P	P*	P	P	P	P	P	P	P	A	P	-	-	-	543

Key: A = Accessory P = Permitted S = Special Use * = Standard Applies - = Use not allowed		Base Zoning Districts															Use-Specific Standards (Sec. 20-)
		CN1	CN2	MU	CO	CD	CC	CR	CS	IBP	IL	IM	IG	OS	GPI	H	
Retail Sales & Service	Building Maintenance	-	P	S	-	P	P	P	P	-	P	P	P	-	A	A	
	Business Equipment	-	P	P	-	P	P	P	P	P	P	P	-	-	-	-	
	Business Support	-	P	P	P	P	P	P	P	P	P	P	P	-	-	A	
	Construction Sales and Service	-	-	-	-	-	P	P	P	-	P	-	P	-	-	A	
	Food and Beverage	P*	P*	P*	P*	P*	P*	P*	P*	-	P*	-	-	-	-	A*	511
	Mixed Media Store	P*	P*	P*	P*	P*	P*	P*	P*	-	P*	-	-	-	-	-	516/528
	Personal Convenience	P*	P*	P*	-	P*	P*	P*	P*	-	P*	-	-	-	-	A*	520
	Personal Improvement	P*	P*	P*	-	P*	P*	P*	P*	-	P*	-	-	-	A*	A*	521
	Repair Service, Consumer	P*	P*	P*	-	P*	P*	P*	P*	-	P*	-	-	-	-	-	523
	Retail Sales, General	P*	P*	P*	P*	P*	P*	P*	P*	-	P*	-	-	-	-	A*	525
	Retail Establishment, Large	-	-	-	-	-	P*	P*	S*	-	-	-	-	-	-	-	526
	Retail Establishment, Medium	-	P*	P*	-	P*	P*	P*	P*	-	-	-	-	-	-	-	526
	Retail Establishment, Specialty	-	P*	P*	-	P*	P*	P*	P*	-	-	-	-	-	-	-	526
INDUSTRIAL USE GROUP																	

ARTICLE 5 REVISIONS

Existing Code language:

20-510 FINANCIAL, INSURANCE AND REAL ESTATE (F.I.R.E.) SERVICES, PAYDAY ADVANCE AND CAR TITLE LOAN BUSINESSES

All uses in this use category shall be permitted in the RSO, RMG, RMO and CN1 Districts subject to the following standards:

- (1) No external drive-thru automated teller machine, drive-through windows, or night drop windows shall be permitted;
- (2) Total nonresidential **Gross Floor Area** is limited to 5,000 square feet in RSO, RMG, RMO and 3,000 square feet in CN1; and
- (3) Walk-up ATMs are allowed for all uses in this use category.

Proposed Revisions change structure of section and eliminate potential nonconformity:

20-510 FINANCIAL, INSURANCE AND REAL ESTATE (F.I.R.E.) SERVICES, PAYDAY ADVANCE AND CAR TITLE LOAN BUSINESSES

All uses in this use category shall be permitted in the RSO, RMG, RMO and CN1 Districts subject to the following standards:

- (1) **Standards that Apply in RSO, RMG and RMO Districts**
 - (i) Uses in this category shall be permitted in the RSO, RMG and RMO Districts provided that the Gross Floor Area shall not exceed 5,000 square feet.
 - (ii) No external drive-thru automated teller machine, drive-through windows, or night drop windows shall be permitted for uses created after July 1, 2006.
 - (iii) Walk-up ATMs are ~~allowed~~ permitted.
- (2) **Standards that Apply in CN1 Districts**
 - (i) Uses in this category and shall be permitted in the CN1 District provided that the Gross Floor Area shall not exceed 3,000 square feet in CN1.
 - (ii) No external drive-thru automated teller machine, drive-through windows, or night drop windows shall be permitted.
 - (iii) Walk-up ATMs are ~~allowed~~ permitted.

Existing Code language:

20-520 PERSONAL CONVENIENCE STORE

A personal convenience store shall be permitted in the CN1 District provided that the Gross Floor Area shall not exceed 3,000 square feet.

Proposed Revisions change structure of section:

20-520 PERSONAL CONVENIENCE STORE SERVICES

(1) Standards that Apply in RSO and RMO Districts

(i) A Personal Convenience Services use shall be permitted in RSO and RMO Districts provided that the Gross Floor Area shall not exceed 3,000 square feet.

(ii) No external automated teller machines, drive-through windows, or night drop windows shall be permitted.

(2) Standards that Apply in the CN1 District

(i) A Personal Convenience store Services use shall be permitted in the CN1 District provided that the Gross Floor Area shall not exceed 3,000 square feet.

(ii) No external automated teller machines, or drive-through windows shall be permitted.

(iii) Walk-up pick-up/drop-off windows shall be permitted.

Existing Code language:

20-521 PERSONAL IMPROVEMENT SERVICE

(1) Standards that Apply in RMO, RSO and RMG Districts

A Personal Improvement Service shall be permitted in the RMO, RSO and RMG Districts; however, no external automated teller machine, drive-through windows, or night drop windows shall be permitted.

(2) Standards that Apply in CN1 District

A Personal Improvement Service shall be permitted in the CN1 District provided that the Gross Floor Area shall not exceed 3,000 square feet.

Proposed Revisions change structure of section:

20-521 PERSONAL IMPROVEMENT SERVICE S

(1) Standards that Apply in RSO, RMO and RMG Districts

~~A Personal Improvement Services use shall be permitted in the RMO, RSO and RMG Districts; however,~~

(i) ~~no~~ external automated teller machines, drive-through windows, or night drop windows shall be permitted.

(2) Standards that Apply in CN1 District

(i) A Personal Improvement Service s use shall be permitted in the CN1 District provided that the Gross Floor Area shall not exceed 3,000 square feet.

ARTICLE 17 REVISIONS

20-1748 PERSONAL CONVENIENCE SERVICES

Provision of small personal items or consumer-oriented, personal services in a small scale setting. These include various general retail sales and personal services of a small, neighborhood-scale. Typical uses include neighborhood ~~grocery~~ convenience stores, drugstores, hookah/retail smoke shops, laundromats/ dry cleaners, shoe repair and alteration/tailor shops, beauty salons and barber shops, tanning salons, nail salons, tattoo/body piercing shops, and massage therapy services.

20-1749 PERSONAL IMPROVEMENT SERVICE~~S~~

Informational, instructional, personal improvement, and similar services of a nonprofessional nature typically provided in a group setting such as classes or meetings. Excludes services classified as "Spectator Sports and Entertainment", "Sports and Recreation, Participant" or "Transient Habitation." Typical uses include fine arts studios, martial arts centers, yoga or meditation studios, or diet centers.

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RSO & RMO ZONED PROPERTIES IN LAWRENCE