

## FACTSHEET

**TITLE:** Text Amendment No. 18001 -  
Amend Zoning Ordinance Chapter 27.63 to include a  
correction to add the B-2 District where indoor theaters  
may be allowed to consist of not more than 250 seats.

**BOARD/COMMITTEE:** Planning Commission

**APPLICANT:** Planning Director

**RECOMMENDATION:** Approval (8-0: Beckius, Hove,  
Edgerton, Finnegan, Harris, Washington, Joy, and  
Scheer voting 'yes'; Corr absent).

**STAFF RECOMMENDATION:** Approval.

**OTHER DEPARTMENTS AFFECTED:**

**SPONSOR:** Planning Department

**OPPONENTS:** None present at hearing.

### **REASON FOR LEGISLATION:**

A text amendment is proposed to correct an error in section 27.63.630 (1)(a) of the Zoning Ordinance pertaining to Indoor Theaters. This is a correction that is consistent with the intent as described in the staff report for the Theater Policy Text Amendment (TX16006) which was to allow indoor theaters up to 250 seats maximum in both the B-2 and B-3 districts by special permit.

### **DISCUSSION / FINDINGS OF FACT:**

1. The proposed text amendment was heard before the Planning Commission on January 31, 2018, as part of the Consent Agenda.
2. The staff recommendation of approval of this text amendment is based upon the "Analysis" as set forth on p.2. The text amendment amends an unintentional omission when TX16006 Theater Policy Text Amendment was adopted and does not represent a substantial change.
3. On January 31, 2018, the Planning Commission voted 8-0 to recommend approval of this text amendment request.

**FACTSHEET PREPARED BY:** Geri Rorabaugh, Administrative Officer

**DATE:** February 1, 2018

**REVIEWED BY:** David R. Cary, Director of Planning

**DATE:** February 1, 2018



**LINCOLN/LANCASTER COUNTY PLANNING COMMISSION STAFF REPORT**

FROM THE LINCOLN/LANCASTER COUNTY PLANNING DEPARTMENT, 555 S. 10TH STREET, SUITE 213, LINCOLN, NE 68508

APPLICATION NUMBER Text Amendment #18001	FINAL ACTION? No
PLANNING COMMISSION HEARING DATE January 31, 2018	RELATED APPLICATIONS None

**RECOMMENDATION: APPROVAL**

**BRIEF SUMMARY OF REQUEST**

A text amendment is proposed to correct an error in section 27.63.630 (1)(a) of the Zoning Ordinance pertaining to Indoor Theaters. This is a correction that is consistent with the intent as described in the staff report for the Theater Policy Text Amendment (TX16006) which was to allow indoor theaters up to 250 seats maximum in both the B-2 and B-3 districts by special permit.

**JUSTIFICATION FOR RECOMMENDATION**

The text amendment will amend an unintentional omission when TX16006 Theater Policy Text Amendment was adopted and does not represent a substantial change.

**APPLICATION/STAFF CONTACT**

George Wesselhoft, (402) 441-6366 or [gwesselhoft@lincoln.ne.gov](mailto:gwesselhoft@lincoln.ne.gov)

**COMPATIBILITY WITH THE COMPREHENSIVE PLAN**

The proposed text amendment is consistent with the original intent of TX16006 which is compatible with the Comprehensive Plan which maintains that the Downtown retain an appreciable share of the area's movie screens.

## KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

p. 5.3 - Downtown Lincoln has historically served as the community's dominant center of entertainment. A key element to this role has been the longstanding and successful "theater policy." This policy has allowed Downtown to retain an appreciable share of the area's movie screens. It is intended that this policy will continue as part of LPlan 2040.

## ANALYSIS

1. Section 27.63.630 of the Zoning Ordinance allows theaters in the B-2, B-3, and B-5 Districts by special permit under certain conditions. This request is for a text amendment to correct an error in TX16006 Theater Policy Text Amendment which was to allow indoor theaters up to 250 seats maximum in both the B-2 and B-3 districts by special permit and not just the B-3 District per Section 27.63.630(1)(a) as unintentionally adopted. TX16006 was adopted January 23, 2017 by City Council.
2. The specific component of the proposal pertaining to the B-2 and B-3 districts was to add theaters as a special permitted use in the B-2 and B-3 districts in order to allow smaller, niche theater operators in Lincoln. Theaters in the B-2 and B-3 districts would not likely be first-run theaters and may or may not be accompanied by another permitted use such as a restaurant.
3. The Planning Commission for theater proposals in the B-2 and B-3 districts under Section 27.63.630 (1)(b) as part of the special permit could also impose conditions and may include adjustments to the parking, yard and maximum height restrictions.
4. This corrective ordinance amendment is consistent with the Comprehensive Plan and the intent of the theater policy ordinance amendment as clearly identified in the staff report proposal and analysis of TX#16006.

Prepared by

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George Wesselhoft, Planner  
Date: January 18, 2018

Applicant/Contact:

George Wesselhoft, Planner  
555 S. 10<sup>th</sup> Street, Suite 213  
Lincoln, NE 68508  
(402) 441-6366 or [gwesselhoft@lincoln.ne.gov](mailto:gwesselhoft@lincoln.ne.gov)

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ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE amending Section 27.63.630 of the Lincoln Municipal Code  
2 relating to indoor theaters as a permitted special use by amending Section 27.63.630 to add that  
3 not more than one indoor theater be allowed in the B-2 District consisting of not more than 250  
4 seats throughout the theater; and repealing Section 27.63.630 as hitherto existing.

5 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

6 Section 1. That Section 27.63.630 of the Lincoln Municipal Code be  
7 amended to read as follows:

8 **27.63.630 Theaters, Indoor.**

9 Indoor theaters may be allowed in the B-2, B-3, and B-5 Districts by special permit under  
10 the following conditions:

11 (1) Conditions applicable to the B-2 and B-3 Districts:

12 (a) Not more than one indoor theater shall be allowed for each B-2 or B-3 District  
13 consisting of not more than 250 seats throughout the theater; and

14 (b) The Planning Commission shall impose such conditions as are appropriate and  
15 necessary to insure compliance with the Comprehensive Plan and to protect the health, safety,  
16 and general welfare in the issuance of any such special permits. Such conditions may include an  
17 increase in the minimum parking and yard requirement, and decrease in the maximum height  
18 restrictions. Upon request of the applicant the City Council may decrease the minimum parking  
19 and yard requirement and increase the maximum height restrictions of the district in which the  
20 permitted special use is located.

1 (2) Conditions applicable to the B-5 District:

2 (a) A use permit for 400,000 square feet or more of commercial floor area has been  
3 issued;

4 (b) A Certificate of Occupancy has been issued for 300,000 square feet or more of  
5 commercial floor area; provided, however, that the City Council may decrease or waive this  
6 requirement upon a finding that the proposed theaters will have no significant adverse impact  
7 upon the property values and existing uses in the B-4 Lincoln Center Business District, with  
8 particular emphasis upon the effect of such proposed indoor theaters on the entertainment and  
9 cultural uses in the B-4 Lincoln Center Business District; and

10 (c) Not more than one indoor theater complex shall be allowed for each B-5 District,  
11 consisting of not more than six movie screens.

12 Section 2. That Section 27.63.630 of the Lincoln Municipal Code as hitherto  
13 existing be and the same is hereby repealed.

14 Section 3. This ordinance shall be published, within fifteen days after the  
15 passage hereof, in one issue of a daily or weekly newspaper of general circulation in the City, or  
16 posted on the official bulletin board of the City, located on the wall across from the City Clerk's  
17 office at 555 S. 10<sup>th</sup> Street, in lieu and in place of the foregoing newspaper publication with  
18 notice of passage and such posting to be given by publication one time in the official newspaper  
19 by the City Clerk. This ordinance shall take effect and be in force from and after its passage and  
20 publication or after its posting and notice of such posting given by publication as herein and in  
21 the City Charter provided.

Introduced by:

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18-XX

Approved as to Form & Legality:

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

Approved this \_\_\_ day of \_\_\_\_\_, 2018:

\_\_\_\_\_  
Mayor

# TEXT AMENDMENT NO. 18001

**CONSENT AGENDA**  
**PUBLIC HEARING & ADMINISTRATIVE ACTION**  
**BEFORE PLANNING COMMISSION:**

January 31, 2018

Members present: Beckius, Corr, Edgerton, Finnegan, Harris, Hove, Joy, Scheer, and Washington.

The Consent Agenda consisted of the following items: **TEXT AMENDMENT NO. 18001, CHANGE OF ZONE NO. 17038, USE PERMIT NO. 17010, STREET AND ALLEY VACATION NO. 17012, and WAIVER NO. 17006.**

There were no ex parte communications disclosed.

Harris moved approval of the Consent Agenda, seconded by Finnegan, and carried, 8-0: Beckius, Edgerton, Finnegan, Harris, Hove, Joy, Washington and Scheer voting 'yes'; Corr absent.

Note: This is a recommendation to City Council on **TEXT AMENDMENT NO. 18001, CHANGE OF ZONE NO. 17038, and STREET AND ALLEY VACATION NO. 17012.** This is FINAL ACTION on **USE PERMIT NO. 17010 and WAIVER NO. 17006** unless appealed to the Office of the City Clerk within 14 days.