FACTSHEET

TITLE: Text Amendment No. 18003 - Amend Section 27.02.160 of the Lincoln Municipal Code relating to the definition of “office”.

APPLICANT: Dave Johnson, Studio 951

STAFF RECOMMENDATION: Approval.

SPONSOR: Planning Department


OTHER DEPARTMENTS AFFECTED: None present at hearing.

REASON FOR LEGISLATION:

This text amendment updates the definition of office. The current iteration includes a definition of office, but goes beyond that to include both regulatory statements with respect to signs, along with other definitional language pertaining to other uses.

The proposed revision simplifies and clarifies the definition, and only includes provisions that only relate to the definition of office.

DISCUSSION / FINDINGS OF FACT:

1. The proposed text amendment was heard before the Planning Commission on February 28, 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 intent of the ‘Definitions’ section of the Zoning Ordinance is to add clarity and specificity to select terms used throughout the ordinance to help reduce confusion and the need for interpretation. The current definition includes a sign regulation which is appropriate for Chapter 27.69 Signs instead of in the definition of office. It also includes definitional language relating to laboratories and medical testing facilities, uses which are already addressed in other sections of the Zoning Ordinance.

   The revised language should provide clarity, help reduce the need for interpretation, and make administration of the Zoning Ordinance simpler.

3. On February 28, 2018, the Planning Commission voted 7-0 to recommend approval of this text amendment request.

FACTSHEET PREPARED BY: Geri Rorabaugh, Administrative Officer

REVIEWED BY: David R. Cary, Director of Planning

DATE: March 2, 2018
COMPATIBILITY WITH THE COMPREHENSIVE PLAN

The 2040 Comprehensive Plan supports creation and retention of existing businesses while striving for predictability for existing residential uses and neighborhoods. This request is compatible with the Comprehensive Plan because it removes unnecessary language and simplifies and clarifies the definition of office.
KEY QUOTES FROM THE 2040 COMPREHENSIVE PLAN

P. 5.1-5.2 - Business & Economy Guiding Principles

- Focus primarily on retention and expansion of existing businesses; attracting new businesses should also be encouraged.
- Promote and foster appropriate, balanced, and focused future economic growth that maintains the quality of life of the community.
- Seek to efficiently utilize investments in existing and future public infrastructure to advance economic development opportunities.
- Provide flexibility to the marketplace in siting future commercial and industrial locations.
- Strive for predictability for neighborhoods and developers.

ANALYSIS

1. This request is for a text amendment to amend the Zoning Ordinance to simplify and clarify the definition of office.

2. Copies of the current definition and of the proposed definition are at the end of this report.

3. The application was initiated by a user attempting to locate within a building in the O-3 zoning district. The use, considered a ‘Personal Services’ use, is one of those uses listed in body of the current definition. The section limits such personal services uses to ‘no sign or display visible from the outside of the building to indicate the existence of the use’. This is a very restrictive limitation and would be eliminated by this amendment.

4. The provisions regulating signs in the O-3 district, along with all other sign regulations, are otherwise located in Chapter 27.69 Signs. Sign regulations like the one in the current office definition should be located in the sign code chapter. This facilitates ease of understanding of the applicable sign regulations by having them located in one place in the Zoning Ordinance.

5. The adoption of the Use Groups amendment to the Zoning Ordinance in 2012 also made the second paragraph of the existing definition obsolete. With the adoption of Use Groups, laboratories and medical testing facilities are addressed in other sections of the Zoning Ordinance. Including restrictions and provisions in the office definition is not appropriate. Since the adoption of Use Groups the office definition has been considered to also include medical and financial offices. The proposed definition helps clarify that understanding.

6. The proposed text amendment clarifies and simplifies the definition of office. It eliminates extraneous language for provision which are either addressed in other sections of the code, or which are inappropriate in a description used to merely define a use. This amendment is consistent with the Zoning Ordinance and Comprehensive Plan, and will make the use and administration of the Zoning Ordinance simpler.

Prepared by

Brian Will
February 14, 2018

Applicant/Contact: Dave Johnson
Studio 951
800 P Street, Ste #203
Lincoln, NE 68508
402-477-1666
davejohnson@studio951.net

F:\DevReview\TX\18000\TX18003 Office Redefined.bjw.docx
EXISTING ‘OFFICE’ DEFINITION 27.02.160

**Office.** Office shall mean a room or group of rooms within a building used for conducting the affairs of professional, commercial, industrial, religious, institutional, public, or semipublic persons or organizations, provided no goods, wares, or merchandise shall be prepared or sold on the premises except that a portion of a building used for offices may be occupied and used as a drugstore, barbershop, beauty parlor, shoeshine shop, cosmetologists shop, cigar stand, or newsstand when such uses are located entirely within the building with no entrance from the street nor visible from any sidewalk and having no sign or display visible from the outside of the building indicating the existence of such use. Offices and studios within a broadcast station shall be considered to be an office use; broadcast towers as defined in this title shall not be so considered.

Office use shall also include an office or clinic used by a health care practitioner, or group of practitioners, including other accessory or ancillary uses such as medical testing laboratories that perform routine clinical diagnostic tests on human or animal specimens, dentistry, or podiatry; provided, however, that patients upon whom procedures have been performed or who have otherwise received care or treatment at such office or clinic shall not be permitted to stay on the premises for recovery or observation for more than 24 hours. Medical testing laboratories shall exclude any laboratory which is required by federal law to hold a certificate of registration for their activity in compliance with CFR 42 Part 73, Selected Agents and Toxins.

PROPOSED REVISED ‘OFFICE’ DEFINITION 27.02.160

**OFFICE.** Office shall mean facilities in which the administrative activities, record-keeping, clerical work and other similar affairs of a business, profession, service, industry or government are conducted and, in the case of professions such as, but not limited to, dentists, physicians, therapists, bankers, lawyers, engineers and accountants, the facilities where such professional services are rendered. The incidental sale of goods which are furnished as part of the professional service is allowed. The term office includes ‘medical office’ and ‘financial office’. 
January 30, 2018

Planning Department  
City of Lincoln  
555 South 10th Street  
Suite 213  
Lincoln, NE 68508

Re:  Text Amendment Request  
     Section 27.02.160

To whom it may concern,

We are requesting a text amendment to Section 27.02.160 pertaining to signage restrictions for uses allowed under a conditional permit in O zoning.

The O zoning has a limiter on personal service in itself that allows 20% personal service in a building in O zoning under a conditional permit.

Our opinion is that there is a sufficient limiter in the amount of personal service you can do in O zoning and that the sign code should govern what signage can be done in O zoning.

With the limits set in O zoning already we feel that if we fall within the 20% and are granted a conditional permit to allow the use, that the business should be able to have signage in compliance with the sign code.

Sincerely,

[Signature]

David L Johnson, AIA, NCARB  
studio951, Ltd.
AN ORDINANCE amending Chapter 27.02 of the Lincoln Municipal Code relating to Definitions by amending Section 27.02.160 to revise the definition of Office; and repealing Section 27.02.160 of the Lincoln Municipal Code as hitherto existing.

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

Section 1. That Section 27.02.160 of the Lincoln Municipal Code be amended to read as follows:

27.02.160 O.

Office. Office shall mean facilities in which the administrative activities, record-keeping, clerical work, and other similar affairs of a business, profession, service, industry, or government are conducted and, in the case of professionals such as, but not limited to, dentists, physicians, therapists, bankers, lawyers, engineers, and accountants, the facilities where such professional services are rendered. The incidental sale of goods which are furnished as part of the professional service is allowed. The term office includes “medical office” and “financial office,” a room or group of rooms within a building used for conducting the affairs of professional, commercial, industrial, religious, institutional, public, or semipublic persons or organizations, provided no goods, wares, or merchandise shall be prepared or sold on the premises except that a portion of a building used for offices may be occupied and used as a drugstore, barbershop, beauty parlor, shoeshine shop, cosmetologists shop, cigar stand, or newsstand when such uses are located entirely within the building with no entrance from the street nor visible from any sidewalk and having no sign or display visible from the outside of the building indicating the existence of such use. Offices and studios within a broadast-station shall
be considered to be an office use; broadcast towers as defined in this title shall not be so
considered.

Office use shall also include an office or clinic used by a health care practitioner, or
group of practitioners, including other accessory or ancillary uses such as medical testing
laboratories that perform routine clinical diagnostic tests on human or animal specimens,
dentistry, or podiatry; provided, however, that patients upon whom procedures have been
performed or who have otherwise received care or treatment at such office or clinic shall not be
permitted to stay on the premises for recovery or observation for more than 24 hours. Medical
testing laboratories shall exclude any laboratory which is required by federal law to hold a
certificate of registration for their activity in compliance with CFR 42 Part 73, Selected Agents
and Toxins.

Outdoor Dining. Outdoor dining shall mean an open area for dining when associated
with a food or drink establishment in which tables and seats are uncovered or covered by a
permanent roof or individual umbrellas or canopies (no tents or other types of temporary
structures) and may be surrounded by a fence.

Outlot. Outlot shall mean a parcel of real property with a separate and distinct outlot
designation shown on a final plat recorded in the office of the Register of Deeds for Lancaster
County, Nebraska, and which is reserved for future building or occupancy after replatting and
subdivision or reserved for agricultural uses, open space or common facilities.

Owner. For purposes of making application for a special permit or a use permit under
this title, the term “owner” shall include an owner of record, a trustee under a deed of trust or
similar trust document, or a long-term lessee. A person, other than an owner, may be authorized
to apply on behalf of an owner.
Section 2. That Section 27.02.160 of the Lincoln Municipal Code as hitherto existing be and the same is hereby repealed.

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

Introduced by:

_____________________________

Approved as to Form & Legality: Approved this ___ day of ____________, 2018:

_____________________________ ____________________________
City Attorney Mayor
TEXT AMENDMENT NO. 18003

CONSENT AGENDA
PUBLIC HEARING & ADMINISTRATIVE ACTION
BEFORE PLANNING COMMISSION: February 28, 2018

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

The Consent Agenda consisted of the following item: TEXT AMENDMENT NO. 18003.

There were no ex parte communications disclosed.

Hove moved approval of the Consent Agenda, seconded by Beckius and carried, 7-0: Beckius, Edgerton, Finnegan, Harris, Hove, Joy, and Corr voting 'yes'; Scheer and Washington absent.

Note: This is a recommendation to City Council on TEXT AMENDMENT NO. 18003 unless appealed to the Office of the City Clerk within 14 days.