

ORDINANCE NO. 42 -2022

AN ORDINANCE AMENDING SECTION 8-15(b)(19) OF THE ZONING ORDINANCE TO REMOVE THE CURRENT LIMITATIONS (NUMBER OF COSMETOLOGISTS AND SQUARE FOOTAGE) ON BEAUTY SHOPS AND BARBER SHOPS IN THE PROFESSIONAL OFFICE (P-1) ZONE. (COURTNEY AND RODNEY CARPENTER).

WHEREAS, the applicants, Courtney and Rodney Carpenter, have initiated a text amendment to Article 8-15(b)(19) of the Zoning Ordinance to remove current limitations (number of cosmetologists and square footage) on beauty shops and barber shops in the Professional Office (P-1) zone; and

WHEREAS, the Planning Commission has reviewed and considered a text amendment to Article 8-15(b)(19) of the Zoning Ordinance to remove current limitations (number of cosmetologists and square footage) on beauty shops and barber shops in the Professional Office (P-1) zone. The Planning Commission did recommend APPROVAL of the text by a vote of 9-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated by reference herein:

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Article 8-15(b)(19) of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended to remove current limitations (number of cosmetologists and square footage) on beauty shops and barber shops in the Professional Office (P-1) zone as follows:

Article 8-15(b)(19)

19. Beauty shops and barber shops.

Section 2 – That this Ordinance shall become effective upon the date of its passage.

PASSED URBAN COUNTY COUNCIL: May 26, 2022



MAYOR

ATTEST:



CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: June 2, 2022-1t

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Recd by _____

Date: _____


RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY

IN RE: PLN-ZOTA-22-00004:AMENDMENT TO PROFESSIONAL OFFICE (P-1) ZONE TO MODIFY RESTRICTIONS ON BEAUTY SHOPS AND BARBER SHOPS -
petition for a Zoning Ordinance text amendment to remove the current limitations (number of cosmetologists and square footage) on Beauty Shops and Barber Shops in the Professional Office (P-1) zone (Article 8-15).

Having considered the above matter on April 28, 2022, at a Public Hearing and having voted 9-0 that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL** for this matter for the following reason:

1. The proposed text amendment to remove restrictions for beauty shops and barber shops in the Professional Office (P-1) zone will increase the opportunity to utilize land inside the Urban Service Area for professional services that are necessary for the community. Allowing beauty shops and barber shops to expand may help to reduce vacant office space within the community, as recommended by Theme C: Jobs and Prosperity, Prosperity Policy #9 of the 2018 Comprehensive Plan.

ATTEST: This 13th day of May, 2022.



Secretary, Jim Duncan

LARRY FORESTER
CHAIR

At the Public Hearing before the Urban County Planning Commission, this petition was represented by **Traci Wade, Planning Manager, Division of Planning, Planning Services Section.**

OBJECTORS

- None
- None

VOTES WERE AS FOLLOWS:

AYES: (9) Barksdale, Davis, Forester, Meyer, Michler, Nicol, Penn, Pohl, Worth.

NAYS: (0)

ABSENT: (2) Bell and de Movellan.

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for Approval of PLN-ZOTA-22-00004 carried.

Enclosures: Council initiating legislation
Staff Report
Planning Commission Recommended Text
Applicable excerpts of minutes of above meeting

GENERAL INFORMATION - Zoning Ordinance Text Amendment Application**1. APPLICANT INFORMATION:**

Name: Rodney and Courtney Carpenter (Bombshell Salons)

Address: 3801 Dylan Place, Ste. 116

City, State, Zip Code: Lexington, KY 40514

2. ATTORNEY (Or Other Representative) INFORMATION:

Name:

Address:

City, State, Zip Code:

Phone Number:

3. REQUESTED TEXT CHANGE: Date of Pre-application Conference: 2/22/2022

Zoning Ordinance 8-15(b)(19) Specific text change proposed:

Beauty shops and barber shops ~~not exceeding two thousand (2,000) square feet in floor area, which employ not more than five (5) licensed cosmetologists, with all service provided only by licensed cosmetologists and/or barbers.~~

4. DESCRIBE THE JUSTIFICATION FOR MAKING THIS CHANGE: (Use attachment if necessary.)

The applicant is seeking remove the restrictions on beauty shops and barber shops in the Professional Office (P-1) zone to allow for a greater amount of employees to work at these facilities. The applicant is seeking to develop in a P-1 zoned site, contracting with various licensed professionals. The applicant is concerned that the restrictions make it harder to operate a service based use in the zone and indicates that the restrictions are not applied to other service uses in the zone.



STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

PLN-ZOTA-22-00004: AMENDMENT TO PROFESSIONAL OFFICE (P-1) ZONE TO MODIFY RESTRICTIONS ON BEAUTY SHOPS AND BARBER SHOPS

APPLICANT: COURTNEY AND RODNEY CARPENTER

PROPOSED TEXT: (Note: Text underlined indicates an addition to the existing Zoning Ordinance; text ~~stricken through~~ indicates a deletion.)

ARTICLE 8-15 PROFESSIONAL OFFICE (P-1) ZONE

(b) Principal Uses.

19. Beauty shops and barber shops ~~not exceeding two thousand (2,000) square feet in floor area, which employ not more than five (5) cosmetologists, with all service provided only by licensed cosmetologists and/or barbers.~~

STAFF REVIEW:

The petitioner, Courtney and Rodney Carpenter, own and operate numerous salons in Fayette County, doing business as Bombshell Salons. They are requesting a text amendment to the Zoning Ordinance in order to remove the existing restrictions associated with beauty shops and barber shops in the Professional Office (P-1) zone.

Beauty shops and barber shops were added to the P-1 zone in 1997 (ZOTA-97-7; Ord. No 245-97) at the request of a private citizen. At that time, the applicant argued that the operation of a beauty shop was already allowable in the zone or substantially similar to a trade school for cosmetology (i.e. a beauty or barber school), and that the proposed use was compatible with other professional office uses, such as dentists, podiatrists, or doctors. The applicant opined that cosmetologists were professionally licensed by the Commonwealth of Kentucky and should be viewed as providing a professional service. Due to a concern with potential retail sales associated with cosmetology, the Urban County Council incorporated restrictions on the size of a beauty shop and/or barber shop (2,000 square feet), as well as the number of professionals operating in such a location (five cosmetologists).

The P-1 zone does address incidental retail sales associated with any principal permitted use by limiting it to ten percent (10%) of the building's gross square footage or five-thousand (5,000) square feet, whichever is greater (Article 8-15(c)(3)), which likely addresses the Council's original concerns. In addition, the Division of Planning is not aware of any compliance issues or complaints about the operation of beauty shops or barber shops in the P-1 zone over the past decade. Lastly, the staff recognizes that the current restrictions do limit the utilization of existing professional office land within the Urban Service Area. The proposed amendment may allow for increased utilization of such land, which could partially address the 2018 Comprehensive Plan, *Imagine Lexington*, Theme C: Jobs



and Prosperity, Prosperity Policy #9, which recommends recruiting professional services that utilize vacant office space.

Due to the existing restrictions related to retail sales in the P-1 zone, the lack of concerns from the public to-date, and that the Comprehensive Plan supports regulatory changes to the zone, the staff supports the proposed text amendment as submitted.

The Staff Recommends: Approval of the proposed text amendment to the Zoning Ordinance, for the following reason:

1. The proposed text amendment to remove restrictions for beauty shops and barber shops in the Professional Office (P-1) zone will increase the opportunity to utilize land inside the Urban Service Area for professional services that are necessary for the community. Allowing beauty shops and barber shops to expand may help to reduce vacant office space within the community, as recommended by Theme C: Jobs and Prosperity, Prosperity Policy #9 of the 2018 Comprehensive Plan.

TLW/HB/AG

4/5/22

Planning Services/Staff Reports/ZOTA/2022/PLN-ZOTA-22-00004 Staff Report.doc



MAYOR LINDA GORTON



LEXINGTON

JIM DUNCAN
DIRECTOR PLANNING

**Urban County Planning Commission
Division of Planning – Planning Services Section
200 East Main Street
Lexington, KY40507**

March 7, 2022

Re: Requested Zoning Ordinance Text Amendment

Dear Neighborhood Association Representative:

This letter is to inform you of a request for a Zoning Ordinance text amendment. This request was proposed by Rodney and Courtney Carpenter, and is scheduled to be considered by the Planning Commission at their public hearing on Thursday, April 28, 2022.

The purpose of this text amendment is to **amend the LFUCG Zoning Ordinance remove the restrictions for beauty shops and barber shops in the Professional Office (P-1) zone.**

~~Article 8-15(b)(19) Beauty shops and barber shops not exceeding two thousand (2,000) square feet in floor area, which employ not more than five (5) licensed cosmetologists, with all services provided only by licensed cosmetologists and/or barbers.~~

Additional information about this application, and the proposed text change can be reviewed at the following website: www.lexingtonky.gov/plans.

The agenda for the above meeting will be posted to the www.lexingtonky.gov/calendar one week prior to the public hearing. The agenda will include specific information for this meeting necessary to join the hearing.

For persons with a disability who need assistance to participate in the above meeting, for assistance navigating the website, or if you have any questions, please contact the Division of Planning at planningmailbox@lexingtonky.gov or 258-3160.

Sincerely,

Urban County Planning Commission
LFUCG Division of Planning
Planning Services Section

- b. The proposed changes will maximize context-sensitive employment opportunities within the opportunity zone tracts, providing equitable community development and prioritizing local residents for advancement opportunities (Theme C, Diversity Policy #5).
 - c. The amendment will encourage a diverse economic base to provide a variety of job opportunities, allowing upward mobility for lower income residents of Fayette County (Theme C, Policy #2).
 - d. The amendment will strengthen efforts to develop a variety of job opportunities that lead to prosperity for all (Theme C, Goal #1.a).
2. The amendment will modernize the Zoning Ordinance, reconciling its requirements with relevant state laws.

Staff Text Amendment Presentation – Ms. Autumn Goderwis presented and summarized the staff report and recommendations for this text amendment. Ms. Goderwis stated that this text amendment is to allow more flexibility in regard to at home childcare and to reconcile the current Zoning Ordinance to align with new Kentucky state law.

The current ordinance allows for in home childcare up to six children as an accessory, and seven to twelve children as a conditional use. Ms. Goderwis said that this text amendment will change the current definition, and add two new definitions that better suit the accessory and conditional use options.

The "Type II Childcare Center" is a licensed in-home childcare center where care is provided for seven (7) to twelve (12) children, including children related to the licensee. The "Family Childcare Home" is for six or fewer children, with up to four children related to the licensee, for a total of up to 10 children.

Ms. Goderwis concluded her presentation by stating that staff is recommending approval for this text amendment.

Commission Question – None.

Citizen Comment – None.

Motion – A motion was made by Ms. Worth, seconded by Ms. Barksdale, and carried 9-0 (Bell and de Movellan absent) to approve PLN-ZOTA-22-00003: AMENDMENT TO ARTICLES 1, 8, AND 23 TO UPDATE REGULATIONS FOR FAMILY CHILD CARE HOMES for the reasons provided by the staff.

2. PLN-ZOTA-22-00004: AMENDMENT TO PROFESSIONAL OFFICE (P-1) ZONE TO MODIFY RESTRICTIONS ON BEAUTY SHOPS AND BARBER SHOPS – petition for a Zoning Ordinance text amendment to remove the current limitations (number of cosmetologists and square footage) on Beauty Shops and Barber Shops in the Professional Office (P-1) zone (Article 8-15).

INITIATED BY: Courtney and Rodney Carpenter

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: Approval for the reasons provided by the staff.

The Staff Recommends: Approval, for the following reason:

- 1. The proposed text amendment to remove restrictions for beauty shops and barber shops in the Professional Office (P-1) zone will increase the opportunity to utilize land inside the Urban Service Area for professional services that are necessary for the community. Allowing beauty shops and barber shops to expand may help to reduce vacant office space within the community, as recommended by Theme C: Jobs and Prosperity, Prosperity Policy #9 of the 2018 Comprehensive Plan.

Staff Text Amendment Presentation – Ms. Traci Wade presented and summarized the staff report and recommendations for this text amendment. Ms. Wade gave background on the text amendment and the reasoning behind the restriction that this text amendment is attempting to change. At the time, the Urban County Council was concerned with large barber/beauty shops selling retail items in the P-1 zone, and those concerns have not materialized because of this restriction.

Ms. Wade relayed that staff is recommending approval because this text amendment will allow barbers/beauty shops to utilize more existing square footage, which is consistent with the Jobs and Prosperity Policy #9 of the Comprehensive Plan.

Commission Question – None.

Citizen Comment – None.

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

Motion – A motion was made by Ms. Meyer, seconded by Mr. Pohl, and carried 9-0 (Bell and de Movellan absent) to approve PLN-ZOTA-22-00004: AMENDMENT TO PROFESSIONAL OFFICE (P-1) ZONE TO MODIFY RESTRICTIONS ON BEAUTY SHOPS AND BARBER SHOPS for the reason provided by the staff.

3. PLN-ZOTA-22-00005: AMENDMENT TO LIGHT INDUSTRIAL (I-1) ZONE TO ALLOW CRAFT DISTILLERIES – petition for a Zoning Ordinance text amendment to add Craft Distilleries as a principal permitted use in the Light Industrial (I-1) zone (Article 8-22). Craft Distilleries are further regulated by the Commonwealth of Kentucky as Class B Distilleries in KRS 243.

INITIATED BY: Turner Property 4, LLC

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: Approval of the staff alternative text, for the reasons provided by the staff.

The Staff Recommends: Approval of the staff alternative, for the following reason:

1. Providing for craft distilleries in the I-1 zone, and by reference the I-2 zones, will permit additional opportunities to utilize land for production in support of the local economy.
2. The proposed text amendment will allow for stepdown from the most intense distillation of alcohol, and is consistent with other similar uses currently allowed in the Light Industrial (I-1) zone.
3. The inclusion of the craft distillery use in the Zoning Ordinance is in agreement with the 2018 Comprehensive Plan for the following reasons:
 - a. Craft distilleries are a growing industry that will support and showcase local assets to further the creation of jobs (Theme C, Goal #1)
 - b. The establishment of craft distilleries can attract the world's finest jobs, encourage an entrepreneurial spirit and enhance our ability to recruit & retain a talented, creative workforce by establishing opportunities that embrace diversity with inclusion in our community (Theme C, Goal #2).

Staff Text Amendment Presentation – Mr. Hal Baillie presented and summarized the staff report and recommendations for this text amendment. Mr. Baillie discussed a similar text amendment passed in 1996 regarding microbreweries, mentioning how that has progressed over the past 20 years. Mr. Baillie went on to describe the differences between a distillery and a craft distillery, stating that it comes down to the amount distilled spirits produced. For a Class A, or a distillery, they can produce more than 50,000 gallons of distillate and a Class B, or craft distillery, can produce up to 50,000 gallons of distillate. There is a base level of 600 gallons required to recoup tax costs.

Mr. Baillie stated that the applicant's original proposal was too wordy, but ended his presentation saying that staff has recommended approval of the staff alternative.

Commission Question – Mr. Penn asked if the applicant was ok with the staff's alternative and Mr. Zach Cato, representative of the applicant, stated he was.

Citizen Comment – None.

Motion – A motion was made by Mr. Penn, seconded by Ms. Worth and carried 9-0 (Bell and de Movellan absent) to approve the staff alternative text of PLN-ZOTA-22-00005: AMENDMENT TO LIGHT INDUSTRIAL (I-1) ZONE TO ALLOW CRAFT DISTILLERIES, for the reasons provided by the staff.

4. PLN-ZOTA-22-00001: AMENDMENT TO ARTICLE 17: SIGNAGE REGULATIONS TO ALLOW A DIGITAL MARQUEE (ELECTRONIC MESSAGE DISPLAY) – petition for a Zoning Ordinance text amendment to Article 17: Signage Regulations to allow digital (electronic message display) marquee signs in the Lexington Center Business (B-2B) Zone.

INITIATED BY: Big Picture Ventures, LLC

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: Postponement.

The Staff Recommends: Approval of the staff alternative text, for the following reasons:

2. The proposed staff alternative text amendment allows for the expansion of the use of electronic message display systems within the Lexington Center Business (B-2B) zone to allow an increase in signage opportunity, while also complementing the surrounding land use and can help promote the surrounding attractions.

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.