

City of Fayetteville Staff Review Form

2022-0976

Legistar File ID

11/1/2022

City Council Meeting Date - Agenda Item Only
N/A for Non-Agenda Item

Britin Bostick

10/14/2022

LONG RANGE PLANNING (634)

Submitted By

Submitted Date

Division / Department

Action Recommendation:

Approve ADM-2022-0047: Administrative Item: (Amend UDC Chapter 162 – Use Units): Submitted by CITY OF FAYETTEVILLE STAFF. The request is an amendment to add personal services to Use Unit 25.

Budget Impact:

| | | | |
|-----------------------------|----|-------------------|------|
| Account Number | | Fund | |
| Project Number | | Project Title | |
| Budgeted Item? | No | Current Budget | \$ - |
| | | Funds Obligated | \$ - |
| | | Current Balance | \$ - |
| Does item have a cost? | No | Item Cost | \$ - |
| Budget Adjustment Attached? | No | Budget Adjustment | \$ - |
| | | Remaining Budget | \$ - |

V20210527

Purchase Order Number: _____

Previous Ordinance or Resolution # _____

Change Order Number: _____

Approval Date: _____

Original Contract Number: _____

Comments:



MEETING OF NOVEMBER 1, 2022

TO: Mayor; Fayetteville City Council

THRU: Susan Norton, Chief of Staff
Jonathan Curth, Development Services Director

FROM: Britin Bostick, Long Range Planning/Special Projects Manager

DATE: October 14, 2022

SUBJECT: **ADM-2022-0047: Administrative Item: (Amend UDC Chapter 162 – Use Units):**
Submitted by CITY OF FAYETTEVILLE STAFF. The request is an amendment to add personal services to Use Unit 25.

RECOMMENDATION:

City staff and the Planning Commission recommend approval of an amendment to the Unified Development Code amending § 162.02, Establishment/Listing in Chapter 162, Use Units, to include personal services as a permitted use in Use Unit 25, the Use Unit for offices, studios, and related services. The proposed personal services are categorized as barber/salon, dry cleaning, day care, and tailoring.

BACKGROUND:

In the City of Fayetteville Unified Development Code (UDC), Use Units are categories of permitted or conditional uses in the established zoning districts. Use Unit 25, located in UDC Sec. 162.02(Z)(2), is the listing of uses permitted in the category of uses related to offices, studios, and related services. Use Unit 25 is a permitted use in the Residential Office (R-O), Neighborhood Commercial (C-1), Community Services (CS), Thoroughfare Commercial (C-2), Urban Thoroughfare (UT), Central Commercial (C-3), Downtown Core (DC), Main Street/Center (MSC), Downtown General (DG), Heavy Commercial and Light Industrial (I-1), and General Industrial (I-2) zoning districts.

Use Unit 25 requires a Conditional Use Permit in the Residential Multi-Family - Six (6) Units Per Acre (RMF-6), Residential Multi-Family - Twelve (12) Units Per Acre (RMF-12), Residential Multi-Family - Eighteen (18) Units Per Acre (RMF-18), Residential Multi-Family – Twenty-Four (24) Units Per Acre (RMF-24), and Residential Multi-Family - Forty (40) Units Per Acre (RMF-40), Neighborhood Services - Limited (NS-L), Neighborhood Services - General (NS-G), and Neighborhood Conservation (NC) zoning districts.

Personal services in the UDC typically include the uses of day care, dry cleaning, salon/barber shop, and tailoring. Use Unit 25 does not currently permit these four uses, although its description reads, “Unit 25 consists of offices, studios, medical and dental labs, and other supporting services and sales.” The uses that are currently permitted in Use Unit 25 include professional offices, sales

of supplies and equipment, auto parking garages, bail bonding agency, funeral home, insurance sales, small vet clinic, and artist's studio, among others.

Use Unit 25 is permitted in the R-O zoning district. Use Unit 15, however, requires approval of a Conditional Use Permit (CUP). As Use Unit 15 includes personal services, it is the primary request made when a business owner would like to locate a salon, barbershop, dry cleaner, day care, or tailor in the R-O zoning district. The R-O zoning district at present comprises 407 acres and 595 parcels in the City of Fayetteville. The buildings and uses in the R-O zoning district are typically suitable for the type of supportive services that pair well with the primary office and studio uses in the zoning district. In 2021 two applicants for business licenses in R-O zoning districts, one a salon and one a barber shop, were required to have a CUP approved by the Planning Commission before their business license could be issued. So far in 2022 there was one CUP required for an aesthetician in an R-O zoning district, with potentially more applications for similar uses in the R-O zoning district pending. No public comment was received on any of the above-mentioned CUPs, and two were unanimously approved by the Planning Commission, with only one dissenting vote on the third.

DISCUSSION:

The purpose of this amendment is to reduce the administrative hurdles for business owners seeking to open businesses categorized as personal services in the R-O zoning district. While Use Unit 25 is permitted in several more zoning districts than the R-O zoning district, in many of those zoning districts Use Units 12a or 15 are also permitted, allowing for personal services via another use unit. In staff's review of the above mentioned CUPs and in additional review of the compatibility of day cares, dry cleaning establishments, salons, barbershops, and tailors with the uses currently listed in Use Unit 25, staff's consistent findings have been that the proposed uses are of a compatible type, size, and nature for zoning districts in which offices, studios, medical labs, and dental labs are permitted. The Planning Commission has consistently concurred, approving such CUP requests as recently as the October 10, 2022 meeting.

The proposed amendment does not change allowed use or conditional use requirements for any of the established zoning districts. Use Unit 25 would still only be allowed with a CUP in the multi-family residential zoning districts, neighborhood services zoning districts, and Neighborhood Conservation zoning district, where the review for compatibility with surrounding uses and structures may continue to be prudent. Use Unit 25 would also continue to be allowed by right in most of the commercial and industrial zoning districts.

At their September 26, 2022 meeting, the Planning Commission evaluated the amendment described above before forwarding to the City Council, recommending approval. Commissioner Canada made the motion to forward with Commissioner Madden providing the second. A vote of 8-0-0 followed. Staff provided information on environmental concerns and regulations for dry cleaning facilities in response to a question from the prior week's agenda session, and the question of whether massage therapy would be a permitted use was considered, but the Commissioners did not otherwise have questions or discussion on the item as it had been considered in the Long Range Planning Committee. No public comment was received.

BUDGET/STAFF IMPACT:

N/A

Attachments:

- Proposed Ordinance – Exhibit “A”
 - §162.02, Establishment/Listing
- Proposed Ordinance Amendment in Strikeout/Highlight
 - §162.02, Establishment/Listing

EXHIBIT 'A'
ADM-2022-0047

162.01 Establishment/Listing

(Z) *Unit 25. Offices, Studios and Related Services.*

(1) *Description.* Unit 25 consists of offices, studios, medical and dental labs, and other supporting services and sales.

(2) *Included Uses.*

| | |
|--------------------------------|---|
| Medical Clinic: | • Dental office/clinic |
| | • Medical office/clinic |
| Personal services | • Barber/Salon |
| | • Day care |
| | • Dry cleaning |
| | • Tailoring |
| Professional office: | • Accountant |
| | • Architect |
| | • Attorney |
| | • Broker |
| | • Engineer |
| | • Realtor |
| Sale of supplies and equipment | • Architecture, drafting, and art supplies |
| | • Office furnishings and supplies |
| | • Medical, optical, and dental supplies |
| | • Scientific instruments |
| Services: | • Advertising agency |
| | • Animal daycare (ten (10) animals or less) |
| | • Auto parking garage |
| | • Bail bonding agency |
| | • Business or management consultant |
| | • Computing service |
| | • Consultant |
| | • Data processing service |
| | • Drafting service |
| | • Employment agency |
| | • Financial institution |
| | • Funeral home |
| | • Insurance sales |
| | • Interior decorator |
| | • Photocopying or printing |
| | • Social and welfare agencies |
| | • Travel agency |

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| | <ul style="list-style-type: none"> • Veterinary small animal out-patient clinic |
| Studios: | <ul style="list-style-type: none"> • Artist's studio |
| | <ul style="list-style-type: none"> • Photography studio |
| | <ul style="list-style-type: none"> • Studio for teaching any of the fine or liberal arts |

(Code 1965, App. A., Art. 6 (A), (F); Ord. No. 329, 10-1-85; Ord. No. 3165, 2-4-86; Ord. No. 3341, 3-15-88; Ord. No. 1747, 6-29-70; Code 1991, §§118.01, 160.055; Ord. No. 3546, 4-19-91; Ord. No. 3792, §§2, 3, 5-17-94; Ord. No. 3870, §1 (Ex. A), 2-21-95; Ord. No. 3909, §1, 7-18-95; Ord. No. 3971, §§3, 4, 5-21-96; Ord. No. 4024, §3, 3-18-97; Ord. No. 4034, §§1, 2, 4-15-97; Ord. No. 4100, §2 (Ex. A), 6-16-98; Ord. No. 4376, §5 (Ex. E), §6 (Ex. F), 3-5-02; Ord. No. 4423, §1 (Ex. A), 10-02-02, Ord. No. 4728, 7-19-05; Ord. No. 4913, 8-15-06; Ord. No. 4919, 09-05-06; Ord. No. 4930, 10-03-06; Ord. No. 4946, 11-21-06; Ord. No. 5028, 6-19-07; Ord. No. 5128, 4-15-08; Ord. No. 5203, 12-2-08; Ord. No. 5195, 11-6-08; Ord. No. 5226, 3-3-09; Ord. No. 5238, 5-5-09; Ord. No. 5312, 4-20-10; Ord. No. 5312, 4-20-10; Ord. No. 5338, 8-3-10; Ord. No. 5339, 8-3-10; Ord. No. 5352, 9-7-10; Ord. No. 5462, 12-6-11, Ord. No. 5668, 3-18-14; Ord. No. 5735, 1-20-15; Ord. No. 5772, 5-19-15; Ord. No. 5921, §§2, 3, 11-1-16; Ord. No. 5945, §§10—14, 1-17-17; Ord. No. 5990, §1, 8-1-17; Ord. No. 6245, §3, 10-15-19; Ord. No. 6427, §§1(Exh. D), 2, 4-20-21)

Editor's note(s)—Ord. No. 6427, § 2, adopted April 20, 2021, "determines that this ordinance and all amendments to Code sections ordained or enacted by this ordinance shall automatically sunset, be repealed, terminated, and become void twenty (20) months after the passage and approval of this ordinance, unless prior to that date, the City Council amends this ordinance to repeal this sunset, repeal and termination section."

162.01 Establishment/Listing

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| Medical Clinic: | • Dental office/clinic |
| | • Medical office/clinic |
| <u>Personal services</u> | • <u>Barber/Salon</u> |
| | • <u>Day care</u> |
| | • <u>Dry cleaning</u> |
| | • <u>Tailoring</u> |
| Professional office: | • Accountant |
| | • Architect |
| | • Attorney |
| | • Broker |
| | • Engineer |
| | • Realtor |
| Sale of supplies and equipment | • Architecture, drafting, and art supplies |
| | • Office furnishings and supplies |
| | • Medical, optical, and dental supplies |
| | • Scientific instruments |
| Services: | • Advertising agency |
| | • Animal daycare (ten (10) animals or less) |
| | • Auto parking garage |
| | • Bail bonding agency |
| | • Business or management consultant |
| | • Computing service |
| | • Consultant |
| | • Data processing service |
| | • Drafting service |
| | • Employment agency |
| | • Financial institution |
| | • Funeral home |
| | • Insurance sales |
| | • Interior decorator |
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