



# Certified Recommendation

Raleigh Planning Commission

CR# 11727

## Case Information: TC-15-16 / Maximum Area devoted to Commercial Limited Uses in RX and OX Districts

### Comprehensive Plan Guidance

<p><i>Applicable Policy Statements</i></p>	<p><b>Policy LU 5.2 Managing Commercial Development.</b> Impacts Manage new commercial development using zoning regulations and through the conditional use zoning and development review processes so that it does not result in unreasonable and unexpected traffic, parking, litter, shadow, view obstruction, odor, noise, and vibration impacts on surrounding residential areas.</p> <p><b>Policy LU 5.5 Transitional and Buffer Zone Districts.</b> Maintain and enhance zoning districts which serve as transitional or buffer areas between residential and commercial districts and which also may contain institutional, non-profit, and office-type uses. Zoning regulations and conditions for these areas should ensure that development achieves appropriate height and density transitions, and protects neighborhood character.</p> <p><b>Policy LU 6.1 Composition of Mixed-Use Centers.</b> Mixed-use centers should be comprised of well-mixed and integrated developments that avoid segregated uses and have well planned public spaces that bring people together and provide opportunities for active living and interaction.</p> <p><b>Policy LU 6.2 Complementary Uses and Urban Vitality.</b> A complementary integration and mixture of land uses should be provided within all growth centers and mixed-use centers and developments to maintain the City's livability, manage future growth, and provide walkable and transit accessible destinations. Areas designated for mixed-use development in the Comprehensive Plan should be zoned consistent with this policy.</p> <p><b>Policy LU 10.3 Ancillary Retail Uses.</b> Ancillary retail uses in residential and office developments located in areas</p>
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	designated High Density Residential, Office Residential— Mixed Use and Office/Research and Development should not be larger in size than appropriate to serve primarily the residents, employees, visitors, and patrons of the primary uses in the area; should preferably be located within a mixed-use building; and should be sited to minimize adverse traffic, noise, and visual impacts on adjoining residential areas.
<i>Action Items</i>	Not applicable

## Summary of Text Change

<i>Summary</i>	Amends the Limited Use Standards within Article 6.4. of the UDO for the following Commercial uses/categories in RX &/or OX districts: Office, Beauty/Hair Salon, Copy Center, Optometrist, Personal Service, Eating Establishment, Retail Sales as well as deletes Section 6.7.3.F. "Nonresidential Accessory Service" from the UDO" in its entirety.
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## Summary of Impacts

<i>Impacts Identified</i>	<p><u>Adoption of TC-2-15:</u></p> <ol style="list-style-type: none"> <li>1. The adoption of the text change would not allow more than 4,000 square feet of gross floor area total per lot to be devoted to Limited Commercial Uses, singularly or cumulatively, within the RX- and OX- districts.</li> <li>2. The adoption of the text change would ensure that predominate uses on a lot in the RX- district would be residential or civic.</li> <li>3. The adoption of the text change would ensure that retail uses would not be a predominate use on a lot in the OX- district.</li> </ol> <p><u>No Action:</u></p> <ol style="list-style-type: none"> <li>1. There could be multiple non-residential uses on an RX- parcel that could collectively exceed the intended 4,000 SF maximum total.</li> <li>2. There could be projects developed in the OX- district that were comprised entirely of retail/restaurant uses.</li> </ol>
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## Public Meetings

<i>Submitted</i>	<i>Committee</i>	<i>Planning Commission</i>
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## Zoning Staff Report – TC-15-16

### Maximum Area Devoted to Limited Commercial Uses in RX and OX Districts

#### Request

<i>Section Reference</i>	<b>Article 6.4 of the Unified Development Ordinance</b>
<i>Basic Information</i>	Amends the Limited Use Standards within Article 6.4. of the UDO for the following Commercial uses/categories in RX &/or OX districts: Office, Beauty/Hair Salon, Copy Center, Optometrist, Eating Establishment, Retail Sales as well as deletes Section 6.7.3.F. "Nonresidential Accessory Service" from the UDO" in its entirety..
<i>PC Recommendation Deadline</i>	

#### Comprehensive Plan Guidance

<i>Applicable Policies</i>	<p><b>Policy LU 5.2 Managing Commercial Development.</b> Impacts Manage new commercial development using zoning regulations and through the conditional use zoning and development review processes so that it does not result in unreasonable and unexpected traffic, parking, litter, shadow, view obstruction, odor, noise, and vibration impacts on surrounding residential areas.</p> <p><b>Policy LU 5.5 Transitional and Buffer Zone Districts.</b> Maintain and enhance zoning districts which serve as transitional or buffer areas between residential and commercial districts and which also may contain institutional, non-profit, and office-type uses. Zoning regulations and conditions for these areas should ensure that development achieves appropriate height and density transitions, and protects neighborhood character.</p> <p><b>Policy LU 6.1 Composition of Mixed-Use Centers.</b> Mixed-use centers should be comprised of well-mixed and integrated developments that avoid segregated uses and have well planned public spaces that bring people together and provide opportunities</p>
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	<p>for active living and interaction.</p> <p><b>Policy LU 6.2 Complementary Uses and Urban Vitality.</b> A complementary integration and mixture of land uses should be provided within all growth centers and mixed-use centers and developments to maintain the City's livability, manage future growth, and provide walkable and transit accessible destinations. Areas designated for mixed-use development in the Comprehensive Plan should be zoned consistent with this policy.</p> <p><b>Policy LU 10.3 Ancillary Retail Uses.</b> Ancillary retail uses in residential and office developments located in areas designated High Density Residential, Office Residential—Mixed Use and Office/Research and Development should not be larger in size than appropriate to serve primarily the residents, employees, visitors, and patrons of the primary uses in the area; should preferably be located within a mixed-use building; and should be sited to minimize adverse traffic, noise, and visual impacts on adjoining residential areas.</p>
<i>Action Items</i>	Not applicable

## Contact Information

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## History/Overview

This text change was initiated by the City Staff after an inquiry from a potential developer regarding these limitations as to whether or not these limitations were cumulative or not. After a strict read of the regulations, the Planning and Zoning Administrator determined they were not and as such felt a need to revise the regulations such that they aligned with what he believed to be the intent of the use limitations.

## Purpose and Need

This text change would make certain that these specified Limited Uses in the RX- and OX districts could not be the predominate use of a parcel. As such, they would only be allowed as ancillary uses and the square footage/percentage of the building limitations on Limited Uses would be cumulative.

## Alternatives Considered

None

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### Staff Evaluation

TC-15-16/ Maximum area devoted to limited Commercial uses in RX and OX

## Scoping of Impacts

Potential adverse impacts of the proposed text change have been identified as follows:

None.

The adverse impacts of taking no action (retaining the existing regulations) have been identified as follows:

The issues and concerns regarding the Use Regulations raised during the initial utilization period as well as those expressed during the UDO Citywide Zoning Map Amendment process wouldn't be addressed.

## Impacts Summary

### Adoption of Proposed Text Change

The adoption of this text change will ensure that appropriate land uses predominate in the RX- and OX- districts and that these specified Limited Uses will be limited in size and scope of the overall development collectively.

### No action

The status quo will be maintained and these Limited Uses are only limited individually and not collectively. As such, sites could be developed with uses that were not intended to be the predominate use of an RX- or OX- parcel, well in excess of the intended square footages/percentages.

**ORDINANCE NO. 2016 – 652 TC 386  
TC-15-16**

**AN ORDINANCE TO MODIFY THE ALLOWED PRINCIPAL USE TABLE IN THE CITY OF RALEIGH UNIFIED DEVELOPMENT ORDINANCE TO REGULATE THE MAXIMUM AREA DEVOTED TO LIMITED COMMERCIAL USES, BOTH SINGULARLY AND CUMULATIVELY, IN THE RX AND OX ZONING DISTRICTS**

***NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH THAT:***

**Section 1.** Section 6.4.4. of the Part 10 Raleigh Unified Development Ordinance, **Office**, is hereby amended by insertion of the following underlined provisions and deleting the language shown with a strike-through:

**A. Office Use Category**

Activities conducted in an office setting and generally focusing on business, professional or financial services. Office includes the following:

1. Business services including, but not limited to, advertising, business management consulting, data processing or collection agency.
2. Professional services including, but not limited to, lawyer, accountant, bookkeeper, engineer, architect, sales office or travel agency.
3. Financial services including but not limited to, lender, investment or brokerage house, bank, call center, bail bonds, insurance adjuster, real estate or insurance agent or mortgage agent.
4. Charitable institution (not providing housing or shelter).
5. Counseling in an office setting.
6. City, county, state, federal government office.
7. Radio, TV or recording studio, utility office.
8. Trade, vocational, business school.

**B. Use Standards**

An office in an RX- District is subject to the following:

1. Must be located on the first floor of a corner unit in an apartment building type located at the intersection of 2 public streets;
2. The unit cannot exceed 4,000 square feet in gross floor area individually or cumulatively in combination with any other allowed Limited Commercial use per lot;
3. Hours of operation can begin no earlier than 6 AM and end no later than 11 PM, including all deliveries; and
4. Drive-thru or drive-in facilities are not permitted.

**Section 2.** Section 6.4.9.D. of the Part 10 Raleigh Unified Development Ordinance, **Beauty/Hair Salon**, is hereby amended by insertion of the following underlined provisions and deleting the language shown with a strike-through:

**D. Beauty/Hair Salon**

**1. Defined**

A facility providing beauty enhancement treatments such as hairdressing, nail, tanning, facials and therapeutic massage. Includes barber.

**2. Use Standards**

A beauty/hair salon in an RX- District is subject to the following:

- a. Must be located on the first floor of a corner unit in an apartment building type located at the intersection of 2 public streets;
- b. The unit cannot exceed 4,000 square feet in gross floor area individually or cumulatively in combination with any other allowed Limited Commercial use per lot; and
- c. Hours of operation can begin no earlier than 6 AM and end no later than 11 PM, including all deliveries.

**Section 3.** Section 6.4.9.E. of the Part 10 Raleigh Unified Development Ordinance, **Copy Center**, is hereby amended by insertion of the following underlined provisions and deleting the language shown with a strike-through:

**E. Copy Center**

**1. Defined**

A facility that provides printing, publishing, photocopying, packing, shipping and quick-sign services.

**2. Use Standards**

A copy center in an RX- District is subject to the following:

- a. Must be located on the first floor of a corner unit in an apartment building type located at the intersection of 2 public streets.
- b. The unit cannot exceed 4,000 square feet in gross floor area individually or cumulatively in combination with any other allowed Limited Commercial use per lot.
- c. Hours of operation can begin no earlier than 6 AM and end no later than 11 PM, including all deliveries.

**Section 4.** Section 6.4.9.F. of the Part 10 Raleigh Unified Development Ordinance, **Optometrist**, is hereby amended by insertion of the following underlined provisions and deleting the language shown with a strike-through:

**F. Optometrist**

**1. Defined**

A primary eye care provider who diagnoses, manages and treats disorders of the visual system and eye diseases.

**2. Use Standards**

An optometrist in an RX- District is subject to the following:

- a. Must be located on the first floor of a corner unit in an apartment building type located at the intersection of 2 public streets;
- b. The unit cannot exceed 4,000 square feet in gross floor area individually or cumulatively in combination with any other allowed Limited Commercial use per lot; and
- c. Hours of operation can begin no earlier than 6 AM and end no later than 11 PM, including all deliveries.

**Section 5.** Section 6.4.9.G. of the Part 10 Raleigh Unified Development Ordinance, **Use Standards for All other Personal Service Uses**, is hereby amended by insertion of the following underlined provisions and deleting the language shown with a strike-through:

**G. Use Standards for All Other Personal Service Uses**

1. A personal service use in an RX- District is subject to the following:

- a. Must be located on the first floor of a corner unit in an apartment building type located at the intersection of 2 public streets.
- b. The unit cannot exceed 4,000 square feet in gross floor area individually or cumulatively in combination with any other allowed Limited Commercial use per lot.
- c. Hours of operation can begin no earlier than 6 AM and end no later than 11 PM, including all deliveries.
- d. Drive-thru or drive-in facilities are not permitted.
- e. Tattoo parlors, body piercing, taxidermists and wedding chapels are not permitted.

2. A personal service use in an OX- District is subject to the following:

- a. Must be within or attached to a multi-tenant building, cannot be located in a standalone building.
- b. The floor area of the use cannot exceed 15% of the gross floor area of the entire building or 4,000 square feet, whichever is greater individually or cumulatively in combination with any other allowed Limited Commercial use per lot.
- c. Hours of operation can begin no earlier than 6 AM and end no later than 11 PM, including all deliveries.
- d. Drive-thru or drive-in facilities are not permitted.
- e. Tattoo parlors, body piercing, taxidermists and wedding chapels are not permitted.

**Section 6.** Section 6.4.10.C. of the Part 10 Raleigh Unified Development Ordinance, **Eating Establishment – Use Standards**, is hereby amended by insertion of the following underlined provisions and deleting the language shown with a strike-through:

**C. Eating Establishment**

1. Defined

A facility that prepares and sells food and drink that may or may not have alcoholic beverage sales. If allowed in no case can alcoholic beverage sales exceed 70% of the business's total annual sales.

2. Use Standards

- a. An eating establishment in an RX- District is subject to the following:
  - i. Must be located on the first floor of a corner unit in an apartment building located at the intersection of 2 public streets.
  - ii. The unit cannot exceed 4,000 square feet in gross floor area individually or cumulatively in combination with any other allowed Limited Commercial use per lot.
  - iii. Hours of operation can begin no earlier than 6 AM and end no later than 11 PM, including all deliveries.
  - iv. Drive-thru or drive-in facilities are not allowed.
- b. An eating establishment in an OX- District is subject to the following:
  - i. Must be within or attached to a multi-tenant building, cannot be located in a standalone building.
  - ii. The floor area cannot exceed 15% of the gross floor area of the entire building or 4,000 square feet, whichever is greater individually or cumulatively in combination with any other allowed Limited Commercial use per lot.

- iii. Hours of operation can begin no earlier than 6 AM and end no later than 11 PM, including all deliveries.
  - iv. Drive-thru or drive-in facilities are not allowed.
  - v. Must be located at least 150 feet from an abutting Residential District (measured in straight line from the nearest point of the building containing the eating establishment to the boundary line of the district boundary line).
- c. An eating establishment in a CMP District is subject to the following:
- i. Drive-thru or drive-in facilities are not permitted.
  - ii. Must be located at least 150 feet from an abutting Residential District (measured in straight line from the nearest point of the building containing the eating establishment to the boundary line of the district boundary line).

**Section 7.** Section 6.4.11. of the Part 10 Raleigh Unified Development Ordinance, **Retail Sales**, is hereby amended by insertion of the following underlined provisions and deleting the language shown with a strike-through:

**Sec. 6.4.11. Retail Sales**

**A. Retail Sales Use Category**

Facilities involved in the sale, lease, or rental of new or used products. Retail sales includes the following uses.

1. Antiques, appliances, art supplies, baked goods, bicycles, books, building supplies, cameras, carpet and floor coverings, crafts, clothing, computers, convenience goods, dry goods, electronic equipment, fabric, flowers, fuel (including gasoline and diesel fuel), furniture, garden supplies, gifts or novelties, groceries, hardware, home improvement, household products, jewelry, medical supplies, music, musical instruments, office supplies, package shipping, pets, pet supplies, pharmaceuticals, photo finishing, picture frames, plants, printed materials, produce, seafood, souvenirs, sporting goods, stationery, tobacco, used or secondhand goods, vehicle parts and accessories, videos and related products.
2. Art gallery.
3. Check cashing, payday loan.
4. Pawnshop.

**B. Pawnshop**

**1. Defined**

A shop where loans are made with personal property as security.

**C. Use Standards**

1. A retail sales use in an RX- District is subject to the following:

- a. Must be located on the first floor of a corner unit in an apartment building type located at the intersection of 2 public streets.
- b. The unit cannot exceed 4,000 square feet in gross floor area individually or cumulatively in combination with any other allowed Limited Commercial use per lot.
- c. Hours of operation can begin no earlier than 6 AM and end no later than 11 PM, including all deliveries.
- d. Drive-thru or drive-in facilities are not permitted.
- e. Vehicle fuel sales, check cashing and payday loan facilities are not permitted.

2. A retail sales use in an OX- District is subject to the following:

- a. Must be within or attached to a multi-tenant building, cannot be located in a standalone building.
- b. The floor area of the retail use cannot exceed 15% of the gross floor area of the entire building or 4,000 square feet, whichever is greater individually or cumulatively in combination with any other allowed Limited Commercial use per lot.
- c. Hours of operation can begin no earlier than 6 AM and end no later than 11 PM, including all deliveries.
- d. Drive-thru or drive-in facilities are not permitted.
- e. Vehicle fuel sales, check cashing and payday loan facilities are not permitted.

**Section 8.** Section 6.7.3.F. of the Part 10 Raleigh Unified Development Ordinance, **Nonresidential Accessory Service**, should be deleted in its entirety and replaced with the following:

**F. RESERVED.**

**Section 9.** All laws and clauses of laws in conflict herewith are repealed to the extent of such conflict.

**Section 10.** If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to this end the provisions of this ordinance are declared to be severable.

**Section 11.** This text change has been reviewed by the Raleigh City Planning Commission.

**Section 12.** This ordinance has been adopted following a duly advertised public hearing of the Raleigh City Council.

**Section 13.** This ordinance has been provided to the North Carolina Capital Commission as required by law.

**Section 14.** This ordinance shall be enforced as provided in N.C.G.S. 160A-175 or as provided in the Raleigh City Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty dollar limit in N.C.G.S. §14-4(a) or similar limitations.

**Section 15.** This ordinance is effective 5 days after adoption.

**ADOPTED:** December 6, 2016

**EFFECTIVE:** December 11, 2016

**DISTRIBUTION:** Planning – Bowers, Crane, Hodge  
City Attorney – Botvinick, Hargrove-Bailey  
Department Heads  
Transcription Services – Taylor

*Prepared by the Department of City Planning*