



**REQUEST FOR COMMISSION ACTION**  
**CITY OF INDEPENDENCE**  
**October 22, 2020**

Department Administration

Director Approval Kelly Passauer

**AGENDA ITEM** Consider recommendation of the Planning Commission to adopt an ordinance amending Zoning Code Sections Appendix A. “Listing of Permitted and Conditional Uses” to allow “Retail trade not elsewhere listed” as a conditional use in an M-1 or M-2 zone.

**SUMMARY RECOMMENDATION** City Staff recommends adopting an ordinance.

**BACKGROUND** On September 10, 2020 the City Commission initiated a public hearing before the Planning Commission to consider a text amendment to Appendix B-Zoning of the City code including, but not limited to Appendix A. “Listing of Permitted and Conditional Uses” including, but not limited to “Retail trade not elsewhere listed.” This was in response to a new business that is located in an industrial zone that would like to sell their products they manufacture, plus additional unrelated products. Retail sales of related products is allowed in an industrial zone, however, the sale of unrelated products is not. City staff recommends that the permitted and conditional use table be modified to allow “Retail trade not elsewhere listed” in an industrial zone with a conditional use permit. This will allow this business to apply for a conditional use permit for this purpose. On October 6, 2020 the Planning Commission held a public hearing regarding the text amendment and unanimously recommended approval.

**BUDGET IMPACT** There would be no budget impact.

**SUGGESTED MOTION** I move to adopt an ordinance amending Zoning Code Sections Appendix A. “Listing of Permitted and Conditional Uses” to allow “Retail trade not elsewhere listed” as a conditional use in an M-1 or M-2 zone.

**SUPPORTING DOCUMENTS**

1. Staff Report to the Planning Commission
2. Proposed Ordinance

- c. Public hearing to consider text amendments to Appendix B-Zoning of the City code including, but not limited to Appendix A. “Listing of Permitted and Conditional Uses” including, but not limited to “Retail trade not elsewhere listed.”

On September 10, 2020 the City Commission initiated a public hearing before the Planning Commission to consider a text amendment to Appendix B-Zoning of the City code including, but not limited to Appendix A. “Listing of Permitted and Conditional Uses” including, but not limited to “Retail trade not elsewhere listed.”

City code 1604.2 provides the following regarding text amendments:

*1604.1. Recommendations:* Upon the conclusion of the public hearing the planning commission shall prepare and adopt its recommendations and shall submit the same, together with a record of the hearing thereon, to the governing body. Said recommendation may be for approval, disapproval or approval in part and reasons for the recommendations shall be included as appropriate.

*1604.2. Amendments to text:* When a proposed amendment would result in a change in the text of these regulations but would not result in a change of zoning classification of any specific property, the recommendation of the planning commission shall contain a statement as to the nature and effect of such proposed amendment and determinations as to the following items:

- a. Whether such change is consistent with the intent and purpose of these regulations;
- b. The areas which are most likely to be directly affected by such change and in what way they will be affected; and
- c. Whether the proposed amendment is made necessary because of changed or changing social values, new planning concepts or other social economic conditions in the areas and zoning districts affected.

City staff has been approached by a new business located in an industrial district who is manufacturing honey and coffee products who would also like to conduct retail sales both related and unrelated to their operations. 607.2.n. allows “Retail sales for permitted industrial uses when located on the same site as the industrial use.” However, since some of the retail sales are not related to their industrial use it would require modifying the “Listing of Permitted and Conditional Uses” to allow “Retail trade not elsewhere listed” as a conditional use in the M-1 and M-2 industrial districts. Currently, “Retail trade not elsewhere listed” is currently allowed as follows:

Land Use Category	Code	Permitted Zoning District													
		A-1	R-1	R-2	R-3	R-4	R-5	O/P	C-1	C-2	C-3	C-4	M-1	M-2	
Retail trade not elsewhere listed	5990	C								C	P	P	P		

It should be noted that if this text amendment is ultimately approved by the Commission, it would still require the business to go through the conditional use permit process, which is similar to the rezoning process. A public hearing would need to be held before the Planning Commission, and their recommendation would be forwarded to the City Commission for final consideration. The recommendation from the Planning Commission could include additional conditions. If the City Commission approved the conditional use permit, they could also modify the conditions recommended.

If the Planning Commission wishes to approve modifying “Retail trade not elsewhere listed” to allow such use as a conditional use in the M-1 and M-2 districts, then it is recommended that the following determinations be included in the motion:

- a. That such change is consistent with the intent and purpose of these regulations;
- b. That the areas which are most likely to be directly affected by such change will include the M-1 and M-2 districts which will allow “Retail trade not elsewhere listed” with a conditional use permit which does provide an opportunity for property owners within the notification area to voice any concerns to both the Planning Commission and City Commission prior to approval;
- c. The proposed amendment is not made necessary because of changed or changing social values, new planning concepts or other social economic conditions in the areas and zoning districts affected.

Included for your reference are the following documents:

1. Request for Commission Action (RCA) to the City Commission for their September 10, 2020 meeting
2. Public Hearing Notice



**REQUEST FOR COMMISSION ACTION**  
**CITY OF INDEPENDENCE**  
**September 10, 2020**

Department Administration

Director Approval Kelly Passauer

**AGENDA ITEM** Consider initiating a public hearing before the Planning Commission to consider a text amendment to Appendix B-Zoning of the City code including, but not limited to Appendix A. "Listing of Permitted and Conditional Uses" including, but not limited to "Retail trade not elsewhere listed."

**SUMMARY RECOMMENDATION** City Staff recommends initiating a public hearing before the Planning Commission.

**BACKGROUND** The City has been approached by a new business that is located in an industrial zone that would like to sell their products they manufacture, plus additional unrelated products. Retail sales of related products is allowed in an industrial zone, however, the sale of unrelated products is not. City staff recommends that the permitted and conditional use table be modified to allow "Retail trade not elsewhere listed" in an industrial zone with a conditional use permit. This will allow this business to apply for a conditional use permit for this purpose.

**BUDGET IMPACT** There would be no budget impact.

**SUGGESTED MOTION** I move the City initiate a public hearing before the Planning Commission to consider a text amendment to Appendix B-Zoning of the City code including, but not limited to Appendix A. "Listing of Permitted and Conditional Uses" including, but not limited to "Retail trade not elsewhere listed."

**SUPPORTING DOCUMENTS** Public Hearing Notice

City of Independence, Kansas

**NOTICE TO THE PUBLIC**

The Independence, Kansas, Planning Commission will conduct a public hearing on:

Tuesday, October 6, 2020, at 5:30 p.m.

To receive comments to consider text amendments to Appendix B-Zoning of the City code including, but not limited to Appendix A. "Listing of Permitted and Conditional Uses" including, but not limited to "Retail trade not elsewhere listed."

**Case Number:**

2020/ZA/04

The hearing will be conducted in the Civic Center, Memorial Hall, Penn/Locust, Independence, Kansas, and will begin at 5:30 p.m. However, due the social distancing participation is encouraged via conference call: [+1 785-289-4727](tel:+17852894727) Conference ID: 652 632 373#

All interested persons should participate in the meeting and they will be heard. Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer  
Zoning Administrator  
811 W Laurel Street  
Independence, KS 67301  
(620) 332-2506

Information regarding this application is available in the Zoning Administrator's office. If special accommodation is required, please inform the Zoning Administrator.

Kelly Passauer, Zoning Administrator

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

**An Ordinance Setting Forth Text Amendments to the Zoning Code  
on the Subject of Retail Trade not elsewhere listed**

*BE IT ORDAINED* by the Governing Body of the City of Independence, Kansas:

**Section 1.** Appendix B. – Zoning - Appendix A. - List of Permitted and Conditional Uses is amended as follows:

- a. “Retail trade not elsewhere listed” shall be modified to be allowed as a permitted use in the C-2, C-3 and C-4 districts, and as a conditional use in the A-1, C-1, M-1 and M-2 districts.

**Section 2.** This Ordinance shall take effect upon its publication in the official City newspaper.

*Adopted by the Governing Body of the City of Independence, Kansas, on the 22<sup>nd</sup> day of October, 2020.*

\_\_\_\_\_  
LEONHARD CAFLISCH, Mayor

ATTEST:

\_\_\_\_\_  
DAVID W. SCHWENKER, City Clerk