

**SUMMARY**  
**RESTAURANTS ZONING ORDINANCE AMENDMENT**  
**July 5, 2017**

Background

The Zoning Ordinance addresses places to purchase or eat prepared food as either an Eating Establishment, a Fast Food Restaurant or a Quick Service Food Store. The present definitions, adopted in 1981, have been reviewed in light of trends in retail and food establishments, as well as County experiences with trying to determine which uses belong in which category. Restaurants are an increasingly important component of the retail economy, and their operations have and will continue to evolve. For example, the popular fast casual restaurants, such as Panera Bread and Pei Wei Asian Diner, blur the distinctions between the classic sit-down restaurant and the traditional fast food establishment. These trends have highlighted problems with the way we currently classify and limit restaurants based on their operational characteristics. The current regulations can limit restaurant business practices and opportunities to establish restaurants in appropriate locations, and do not accommodate new types of restaurant uses. Overall, this amendment proposes to clarify and simplify regulations in order to keep pace with the industry and to respond to this important sector of the County's economy.

The amendment proposes to address three major areas: definitions of various types of restaurants; how they are permitted in the various zoning districts; and, parking requirements.

Definitions

- Current definitions:
  - The definition of an eating establishment captures sit-down restaurants and requires customers to be provided with a menu and be served by an employee at a table or counter on non-disposable plates.
  - A fast food restaurant, such as McDonalds, may or may not include a drive-through window, and service is usually provided over a counter. Food is served in edible or disposable containers and customers generally clear their own tables.
  - A quick-service food store is defined as a building with less than 5,000 square feet of net floor area devoted to the retail sale of food or food and other items. This broad definition encompasses a typical convenience store such as a 7-Eleven, but also applies to specialty food sales such as a small grocery store, a bakery or a butcher shop.
- The proposed amendment would classify restaurants as either:
  - a restaurant (general);
  - a restaurant with a drive-through; or,
  - a carryout restaurant.
- The proposed definitions (see attached) have been revised to remove obsolete operational characteristics, such as whether non-disposable plates are used or whether ordering takes place at a counter, as these distinctions do not reflect current or future trends, are not indicative of land use impacts, and are generally difficult to enforce.

- This amendment would also clarify that a quick-service food store, such as convenience store, is characterized by the frequent turnover of customers and the retail sales of food, beverages or recurrently needed items. However, small grocery, specialty or gourmet food stores, which have different impacts, would be classified as retail sales.

### Permitted Zoning Districts

- The attached table illustrates which zoning districts would permit restaurants, carryouts and restaurants with a drive-through, as well as how they are permitted – whether by right or through a special exception.
- With the proposed amendment, the newly defined restaurants, including the popular fast casual restaurants, would be permitted by right in most commercial districts.
- Special exception (SE) approval would continue to be required for all restaurants with a drive-through in commercial districts, and within the Highway Corridor Overlay District.
- In general, use limitations have been simplified or removed. In the office districts (C-2 through C-4), restaurants would be permitted as a principal use on a ground level within a building that contains at least three floors. This would permit restaurants in smaller office buildings than currently allowed, which may assist with repurposing/repositioning of those buildings.
- The current use limitations for fast food restaurants within a retail shopping center (C-5 through C-8 Districts) are difficult to interpret, and are no longer relevant given that there are fewer distinctions and differences in impacts by type of restaurant. Acknowledging the declining presence of retail sales, even in shopping centers, the amendment proposes to delete these limitations as unnecessary impediments to filling vacant spaces.
- Similarly, the more restrictive use limitations for fast food restaurants in the PDC District would be deleted to be consistent with those in the PRM District. This will remove the need for a separate SE for fast food restaurants in addition to the rezoning and final development plan approvals. Issues of compatibility, layout and circulation would remain considerations during the review and approval of the rezoning. Restaurants with a drive-through and carryout restaurants would continue to be subject to the use limitations for secondary uses.

### Parking

- Current parking requirements are:
  - eating establishments – the number of seats and employees (1 space/4 table seats + 1 space/2 counter seats + 1 space/2 employees).
  - fast food restaurants – the number of seats (1 space/2 seats), unless the restaurant is located within a shopping center where it can be parked at the shopping center rate according to the overall square feet of gross floor area (GFA) of the center (4 – 4.8 spaces/1,000 SF).
  - carryout restaurants – the square feet of gross floor area at the corresponding shopping center rate, or at the quick-service food store rate if not located within a shopping center (6.5 spaces/1,000 SF).

- The proposed amendment offers two options for consideration:
  - Option 1 – Convert the basis for restaurant parking requirements to the square feet of gross floor area, which would be a more stable unit of measurement than seats and employees.
    - Staff is continuing to do research to determine the appropriate conversion of the rates.
    - Within shopping centers, parking for larger restaurants (over 5,000 square feet), which tend to be sit-down with a longer turn-over, would be tabulated at the restaurant rate. Smaller restaurants would be parked at the shopping center rate, as currently allowed for fast food restaurants.
    - The parking rate for the newly defined carryout establishments would remain the same as that for quick-service food stores, which is 6.5 spaces/1,000 square feet of gross floor area for freestanding establishments or the applicable shopping center rate.
  - Option 2 – Retain the current rates pending further study, applying the current eating establishment rate to restaurants, the fast food rate to restaurants with a drive-through, and the quick-service food store rate to carryout restaurants. Within shopping centers, all restaurants with more than 5,000 square feet would be parked at the restaurant rate.

## Restaurants by Zoning District

P = permitted by-right, P\* = by-right with use limitations, SE = special exception

District	Restaurant with Drive-Through	Restaurant	Carryout	Comments or Use Limitations*
C-2 – C-4 (Office)		P*, SE	P*, SE	*Restaurants and carryout restaurants permitted by right when located on a ground level of a building containing a minimum of three (3) floors. Other restaurants and carryout restaurants allowed by special exception
C-5 – C-8 (Retail)	SE	P	P	Restaurants would be by-right and the use limitations currently applicable to fast food would be deleted. All drive-through facilities would require SE approval.  Carryouts are typically less than 2500 SF and as such are currently permitted by right.
PDH (Planned Development Housing)	SE	P (secondary)	P (secondary, Cat. 5)	Restaurants would be permitted as secondary uses when shown on the FDP. Drive-through restaurants would require SE approval.
PDC (Planned Development Commercial)	P (secondary, Cat. 5)	P	P (secondary, Cat. 5)	Permitted as principal (restaurants) or secondary uses (drive-through and carryout) when shown on the FDP, or by SE.  Delete existing use limitations under Par. 10 of Sect. 6-206 which specifically apply to fast food restaurants.
PRC (Planned Residential Community)	P (Cat. 5)	P	P (Cat. 5)	Permitted when shown on an approved development plan, and not permitted in areas designated Residential.
PRM (Planned Residential Mixed-Use)		P (secondary)	P (secondary)	Restaurants and carryouts permitted as secondary uses when shown on the FDP.
PTC (Planned Tysons Corner)	P	P	P	Permitted when shown on the FDP – No change to current provisions.
I-I (Industrial Institutional)		P* (accessory)		No change to use limitations other than name of use.
I-2 – I-4 (Light – Medium Industrial)		SE		
I-5 – I-6 (General – Heavy Industrial)	SE	SE	SE	

## Proposed Definitions

### RESTAURANTS

RESTAURANT, GENERAL: Any establishment that provides, as a principal use, the preparation and sale of food and/or beverages in a ready-to-consume state for consumption on or off the premises. A RESTAURANT WITH DRIVE-THROUGH or a CARRYOUT RESTAURANT as defined herein, shall not be deemed to be a GENERAL RESTAURANT.

This use shall be referenced as a RESTAURANT and ~~In addition, an eating establishment~~ shall not be deemed to include a snack bar or refreshment stand at a public or non-private recreational facility which is operated solely by the agency or group operating the recreational facility for the convenience of the patrons of the facility.

Entertainment ~~which that~~ is provided for the enjoyment of the patrons shall be considered accessory to ~~an eating establishment a restaurant~~, to include dancing by patrons, provided the space made available for such dancing shall not be more than one-eighth (1/8) of that part of the floor area available for dining. Provisions for dancing made available under this definition shall be subject to the licensing requirements of Chapter 27 of The Code. [Text not underlined is copied from the existing definition for Eating Establishment.]

RESTAURANT WITH DRIVE-THROUGH: Any establishment that provides, as a principal use, the preparation and sale of food and/or beverages in a ready-to-consume state for consumption on or off the premises, and which contains a drive-through. A FOOD TRUCK that does not comply with the provisions set forth in Sect. 2-510 shall be deemed a fast-food restaurant Restaurant with Drive-through. [Text not underlined is copied from the existing definition for Fast Food Restaurant.]

RESTAURANT, CARRYOUT: Any establishment that provides, as a principal use, the preparation and sale of food and/or beverages in a ready-to consume state, primarily for consumption off the premises. A carryout restaurant shall not include drive-through facilities, and up to six (6) seats may be provided for on-site consumption and/or customer waiting.

REVISE:

QUICK-SERVICE FOOD STORE: Any building, except a service station or service station/mini-mart, which contains less than 5000 square feet of net floor area and which is used for the retail sale of food or food and other items. A quick-service food store, also referred to as a convenience store, is characterized by the frequent turnover of customers, and the retail sale of food, beverages, and other frequently or recurrently needed items for household use. This definition shall not include a SERVICE STATION or SERVICE STATION/MINI-MART; and is not intended to include small grocery, specialty or gourmet food stores, which shall be deemed a RETAIL SALES ESTABLISHMENT.

