

## GENERAL INFORMATION

Applicant: City of Bloomington

Request: Consider an ordinance to change restaurants from conditional to permitted uses in some zoning districts, and to adopt restaurant standards

## CHRONOLOGY

Planning Commission: **01/10/19** Study Meeting

City Council: **06/10/19** Study Meeting

City Council: **09/16/19** Study Meeting

Planning Commission: **01/23/20** Public Hearing

City Council: **02/24/20** Public Hearing

## CHRONOLOGY

Application Date: 11/13/2019

**Applicable Deadline:** **Agency Action Deadline Waived**

Newspaper Notification: Confirmed – (02/13/2020 Sun Current – 10 day notice)

Direct Mail Notification: Not required, but staff used many outreach methods (see Outreach Section below).

## STAFF CONTACT

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## **APPLICABLE REGULATIONS**

Chapter 1 – Interpretation and Enforcement of the City Code  
Chapter 10 – Environmental Control  
Chapter 19 – Zoning  
Chapter 21 – Zoning and Land Development

## **PURPOSE**

The proposed ordinance aims to streamline the development review process for new restaurants by making them permitted uses rather than conditional uses in many cases. As recommended by the Planning Commission, restaurants with drive-throughs or outdoor seating would remain conditional uses. In conjunction with the transition to permitted use status, new standards are proposed to codify conditions that have traditionally been attached to restaurants through the Conditional Use Permit process. The proposed ordinance also includes catering businesses as permitted uses in some zoning districts, new parking standards for take-out only restaurants and catering businesses, and adds organic materials to the solid waste and recycling storage facilities standards.

## **BACKGROUND**

Restaurants are currently conditional uses in most zoning districts, meaning a conditional use permit is required. Many of the conditions attached to the approval of restaurants are similar, and often relate to odor mitigation systems and grease traps.

During outreach for the Comprehensive Plan and at public meetings, staff received feedback that the City's existing approval processes slow the time to market for new restaurants in some locations.

## **PREVIOUS STUDY MEETINGS**

At a study meeting before the Planning Commission, staff requested guidance on whether restaurants should be changed from conditional to permitted uses. The Planning Commission indicated support for making restaurants permitted uses if they do not have drive-throughs or outdoor seating.

At the study meetings, the City Council agreed with the Planning Commission's recommendation to allow restaurants as permitted uses if they do not have drive-throughs or outdoor seating. The Council also suggested reducing the minimum building size requirement for restaurants in some zoning districts.

## ANALYSIS

The proposed ordinance reflects the recommendations of the Planning Commission and the City Council provided at the study meetings. It also includes additional recommendations from staff as follows:

### ***Add major and minor catering businesses to the use table and creating a catering business parking standard***

Catering businesses are considered as restaurants in the existing Code. While both uses involve food preparation, catering businesses more closely resemble a light manufacturing or product assembly use. Catering businesses typically do not have on-site retail sales and may have a larger food preparation space with more equipment. Prepared food is delivered to businesses and events off-site. Given these distinctions, it makes practical sense to call out catering separate from restaurants in the code. Some existing restaurant standards, such as parking requirements and where they are permitted uses, should also be applied to catering businesses. Similar to light manufacturing uses, staff recommends requiring one parking space per 500 square feet for a catering business to accommodate employees and at least one additional space for each delivery vehicle.

The majority of catering businesses are a standalone operation, but sometimes the catering business is a smaller portion of a larger commercial service. This smaller type of catering use is becoming more common, especially among social services. Staff proposes a separate designation of *minor catering business* for those operations that are secondary to a principle use because they would likely have much lower impact on surrounding properties in regard to odor and delivery traffic. A designation of *major catering business* is proposed when the catering operation is the principle use.

Staff recommends allowing major catering businesses in the B-2, C-1, C-2, CR-1, CS-0.5, CS-1, and CO-1 commercial zoning districts, but not in commercial districts that are closely integrated with single-family and mixed-use districts. Staff also proposes major catering businesses as permitted uses in the I-1, I-2, and I-3 industrial zoning districts, which is similar to some of the other commercial services that are allowed in industrial districts. Minor catering businesses are proposed as permitted uses in the B-1, C-3, C-4, and FD-2 zoning districts in addition to all of the districts that would allow major catering businesses.

### ***Clarify parking standards for take-out restaurants***

Parking requirements for restaurants are currently based on the number of seats. Take-out restaurants typically have few, if any, seats. In circumstances where there are no seats, the City Code lacks clarity on how to calculate parking.

Staff proposes creating a new parking requirement for take-out only restaurants that would be calculated the same as retail sales and services. The parking requirements for retail sales and

services are based on total floor area. For instance, one parking space is required per 180 square feet for retail sales uses that are under 10,000 square feet total. Applying the retail sales and services requirements for take-out restaurants would more accurately address the number of parking spaces needed for employees.

***Change restaurants to permitted uses if they have no drive through and no outdoor seating***

Restaurants without drive-throughs and without outdoor seating are proposed as permitted uses in the attached ordinance. As a permitted use, review at a public hearing before the Planning Commission or City Council would only be required in conjunction with Final Site & Building Plan review of a new building, or if a variance or planned development flexibility were requested. This change would decrease the review and approval time and associated fees to establish a restaurant in Bloomington.

***Require restaurants to install grease interceptors***

Allowing restaurants as permitted uses means the typical conditions of approval would need to be codified. Grease interceptors are commonly required through conditions of approval in accordance with City Code Section 11.31. The attached ordinance provides a reference to this section in the proposed restaurant standards.

***Create odor control standards***

Currently, odor control devices are generally required through a conditional use permit for new restaurants that produce grease laden vapors if they are located within 500 feet of a residential building. On occasion, the City has also required new food establishments that produce non-grease laden vapors to have an odor control device, such as bakeries and coffee roasters.

Since restaurants are proposed as permitted uses, the proposed ordinance provides standards for odor control. The standards are provided in Chapter 10 as they pertain to Environmental Health and nuisances. As drafted, an odor control device would be required of all new food establishments and food processing facilities within 250 feet of a residential building. Existing restaurants would only be subject to these standards if they were to change the way they operate. For instance, if a vacant restaurant space remains unoccupied by a licensed food establishment for over a year and is within 250 feet of a residential building, then a new restaurant in that space would need an odor control device if it vents food odors. Or, if an existing restaurant installs a new exhaust hood or food ventilation system that is not already present and is within 250 feet of a residential building, then an odor control device would be required.

Codifying the odor control standard in Chapter 10 ensures consistent application across restaurants and food production uses.

***Create standards for outdoor patios***

The proposed ordinance includes standards for outdoor dining in order to minimize impacts on neighboring properties (e.g., noise, lights), to address safety concerns, and to ensure consistency in the regulations. Many of the proposed standards have been required in the past as part of a conditional use permit. Patio setback standards are proposed to align with the structure setbacks of the underlying zoning district. However, a patio setback of 20 feet would be allowed in zoning districts that have greater building setback requirements. The proposed standard would allow an outdoor patio to be located up to 20 feet away from a property line along a street. The 20 foot setback is consistent with the landscape yard requirements. Standards are also provided to require patio screening if adjacent to residential properties; to require an enclosure such as a fence, structure, or barrier if there are 30 or more seats; and require a vehicle barrier, such as bollards, if the dining area is in direct contact with a vehicle parking or driving area.

***Reducing the minimum building size requirement in some zoning districts***

The proposed ordinance also reduces the minimum building size requirements in some zoning districts. At the September 2019 study meeting, the Council recommended reducing the minimum building size requirements for restaurants in some zoning districts. These include zoning districts that already allow smaller building sizes for restaurants compared to other buildings, which are the CS-0.5, CS-1, C-2, C-4, and IT zoning districts. They also recommended reducing the minimum required building size in the CR-1 zoning district from 20,000 to 6,000 square feet, and in the B-2 zoning district from 3,000 to 2,000 square feet. The building size requirements are intended to ensure the appropriate massing and character in zoning districts. The proposed building size requirements for restaurants are not expected to significantly alter the character of the subject zoning districts.

Zoning District	Proposed Building Floor Area
	Minimum
* * *	
CR-1	20,000 sq. ft.; <u>6,000 sq. ft. for restaurants</u>
* * *	
CS-0.5, CS-1	20,000 sq. ft.; <u>[10,000] 6,000 sq. ft. for restaurants</u>
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B-2	3,000 sq. ft.; <u>2,000 sq. ft. for restaurants</u>
* * *	
C-2	20,000 sq. ft.; <u>[10,000] 6,000 sq. ft. for restaurants and [gas stations] convenience facilities with fuel sales</u>
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C-4	20,000 sq. ft.; [10,000] <u>6,000</u> sq. ft. for restaurants
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IT	20,000 sq. ft.; [10,000] <u>6,000</u> sq. ft. for restaurants
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***Add organic materials to the existing storage space requirements***

Hennepin County recently adopted regulations for organic waste. To align with the County, a provision to address storage space for organic materials was added to the storage space standards for solid waste and recycling in the Bloomington Zoning Code. Consistent with recently approved projects, the proposed ordinance also allows the internal access requirement to be waived if the storage space meets certain criteria, such as attachment to the principle structure and is accessed along a lighted walkway. Since disposal of organic materials is required, staff proposes that the organic materials storage requirements be the same as the storage requirements for solid waste and recycling.

**OUTREACH**

Notice of the public hearing was published in the Sun Current, and was sent via e-mail to registered users of the “Zoning Ordinance Updates” and “Planning Commission” e-subscribe groups. Proposed amendments and supporting information is also posted on the City’s website. Staff also mailed a letter to food establishment licensees, informing them about the proposed ordinance and opportunities to provide feedback.

Understanding that several Code amendments related to restaurant operations are proposed around the same time, staff sent memos by email summarizing the draft amendments in the attached ordinance as well as updates proposed for taprooms/cocktail rooms and food trucks. Memos were sent to representatives of the Chamber of Commerce, the Convention and Visitors Bureau, Hospitality Minnesota, and the Minnesota Restaurant Association. A similar memo was sent to 847 subscribers of the City’s Food Collaborative email list.

Other than the attached correspondence, staff has only received a couple phone calls from business owners asking for clarification on the proposed standards.

**PLANNING COMMISSION MEETING**

The Planning Commission recommended approval of the attached ordinance at its January 23, 2020 meeting. One person from the audience spoke in support of the ordinance, and also provided the attached correspondence.

## RECOMMENDATION

Staff recommends approval via the following motion:

In Case PL2020-5, I move to recommend approval of the Ordinance as attached to the staff report to amend Chapters 1, 10, 19, and 21 of the City Code to establish odor control standards for food establishments and food production facilities, to make restaurants permitted uses in some zoning districts, and to create use standards for restaurants.

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### Attachments

Ordinance  
Resolution directing Summary Publication  
Correspondence Received  
Planning Commission Meeting Minutes 01.23.2020  
City Council Study Meeting Minutes 09.16.2019  
City Council Study Meeting Minutes 06.10.2019  
Planning Commission Study Meeting Minutes 01.10.2019  
Affidavit of Publication