
MEMORANDUM

To: Zoning Committee of the Planning Commission (ZOCO) **Date:** May 9, 2023

From: Valerie Weiner, Commercial Development Specialist, Real Estate Development Group, Arlington Economic Development
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Subject: Zoning Ordinance Amendments – Food-Related Uses (Food Delivery Service; Shared Commercial Kitchens)

Introduction

At their Tuesday May 9th meeting, the Planning Commission's Zoning Committee (ZOCO) will review proposed amendments to Arlington County Zoning Ordinance (ACZO) that would amend the use tables of the Commercial/Mixed-use Districts (Article 7), Industrial Districts (Article 8), Overlay and Form Based Code (Article 11), Use Standards (Article 12), Definitions (Article 18), Commercial Form Based Code (Appendix A), and Neighborhoods Form Based Code (Appendix B). The uses to be considered for amendment or addition to the use tables include shared commercial kitchens, large and small scale food catering services, and the delivery of food by restaurants or similar food-related uses within a range of mixed-use, commercial, and industrial zoning districts. These changes include zoning updates to streamline improvements to the regulatory approval process for several food-related uses.

The County Board approved the County Manager's request to authorize advertisement (RTA) at its April 22, 2023 meeting. Public hearings for the proposed amendments are tentatively scheduled for the Planning Commission and County Board meetings in June 2023.

Staff studied the impacts of more inclusive options for food delivery for restaurants, broadening the definition of shared commercial kitchens, and standardizing food-related terms in the ACZO. Staff found the following:

- The outcomes of expanding food delivery to a by-right use supports small business resilience by relieving businesses of unnecessary work.

- Including the full spectrum of shared commercial kitchen business models opens opportunities for new and existing businesses in Arlington. However, different business models could have different land use impacts, and zoning standards can address those differences.
- Multiple ACZO food-related terms warrant consolidation and simplification to modernize the ACZO.

Staff's recommended changes to the ACZO are found in Attachment 1.

Background

On April 26, 2022, the County Manager presented a strategy to the County Board for fostering a resilient commercial market base, now coined as the [Commercial Market Resiliency Initiative \(CMRI\)](#). The key objectives of the CMRI are to provide a new, quicker process for the establishment of commercial uses that are not clearly defined in the ACZO today and to modernize existing uses within the Code.

These updates to food-related terms within the ACZO can simplify permit reviews for County staff, bring clarity to existing application processes for applicants, and allow for expanded food uses within commercial and industrial districts. The background will overview the existing terms and standards in the ACZO, and discussion will present staff's proposal for how to resolve current issues and modernize the Code.

Food Delivery Services

Food delivery has become an essential tool for food businesses. Throughout the pandemic, food-related businesses adopted the service as a primary means of reaching their customers as in-person dining was minimized as a health precaution. Now, post the declared public health emergency, demand for food delivery options has grown and the service is now vital to business resilience. The percentage of off-premises food consumption continues to grow year over year since the pandemic¹. Compared to before the pandemic, more than two-thirds of adults say they are now more likely to order takeout². In response, more restaurants are offering delivery than ever before. According to the National Restaurant Association, almost 80 percent of fine-dining restaurants that offered delivery during the pandemic added the service for the first time, and almost 80 percent plan to continue².

Food delivery is now a permanent fixture for Arlington's food businesses. Staff identified opportunities for updates to the ACZO that would modernize and simplify the County's zoning regulations to reflect this growing market.

Currently, the ACZO does not account for the nuanced effects of modern food delivery services. The term *food delivery service* was originally incorporated in the ACZO on Nov. 22, 1988, along with the terms *restaurant*, *restaurant*, *carryout*, and *restaurant drive-through*. The Board also included a standard that required food delivery from

¹ [National Restaurant Association - Restaurant Industry 2021 and Beyond Webinar \(09.28.2021\)](#)

² [National Restaurant Association- A New Normal Takes Hold \(02.28.2023\)](#)

restaurants to off-site locations be permitted only when it involved less than twenty (20) percent of the amount of the sales from restaurants with drive throughs and restaurants that serve less than fifty (50) percent of food to conventional tables³.

This approach was motivated by the 1988 County Board's concerns around the "recognition that delivery services create unique problems of traffic, congestion, and safety" due to motor vehicles. At the time, staff documented that there was consideration of additional use standards to address potential impacts, but these standards were ultimately not part of the zoning text that was approved by the Board.

The 1988 County Board decided to permit the use subject to a use permit only. In addition this required use permit approval, the Board adopted a standard condition requiring applicants to implement a delivery and driver safety training plan. Since 1988, use permits for food delivery service have consistently been adopted with conditions requiring a similar delivery and driver safety training plan, along with standards like:

- Hours of operation for the restaurant's delivery service,
- Agreement that driver vehicles cannot be parked on the street,
- Agreement on the maximum number of delivery cars allowable,
- Identification of an onsite liaison to respond to community concerns, with the liaison information sent to Zoning Administrator; and,
- Agreement to an annual reassessment.

There were 3 use permit applications for food delivery service in the last 5 years. Staff believes that the July 2020 Continuity of Governance Ordinance (COGO) that relaxed regulation on food delivery, outdoor dining, and other services to support food establishments, contributed to the decline in new food delivery service use permit applications. When the COGO expires in August 2023, the ACZO will be in full effect, requiring restaurants offering food delivery service to obtain a use permit to comply with the existing regulations.

Shared Commercial Kitchens

The term *shared commercial kitchens* was first incorporated into the ACZO as part of a comprehensive study focused on ground story uses for the Columbia Pike Commercial and Neighborhoods Form Based Codes (C-FBC and N-FBC) [in November 2021](#). The County Board's action to adopt the study's recommendations resulted in shared commercial kitchens being permitted as a by-right use without use standards in the C-FBC and FBC use tables. The definition was as follows:

An establishment for preparing, processing, canning, or packaging food and beverage products for on-site consumption, delivery, or small-scale distribution, and whose principal method of operation includes one or both of the following characteristics:

³ [Link to County Board Minute Search for Food Delivery, Please Navigate to Board Minutes -1988-11/22/1988- REGULAR MEETING](#)

- (1) Two or more operators utilizing the same facility for a fee.
- (2) One or more operator utilizing the same facility for food and beverage related workshops.

Shared commercial kitchens are an important use because they can offer flexible use of kitchen space for multiple users like small scale catering companies, food training/incubator spaces, food production and preparation for on and off-site delivery with low costs to the business. The use presents a great opportunity for new and growing food businesses to expand within Arlington's commercial/mixed use and industrial districts. Staff believes this definition can be expanded to include a spectrum of shared commercial kitchens, as long as there is consideration for the respective land use impacts.

Large and Small Scale Catering

This use was defined as the singular 'catering establishment' until 2015, as part of an overall reformatting of the ACZO. Between 2013-2015, the ACZO was reformatted as part of a comprehensive update that reorganized existing standards. The 2013 update included the introduction of 'food catering services' as a new term; the 2015 amendment to this update separated 'food catering service' to the more specific 'large- and small-scale food catering services' within the Use Tables⁴. Also included in this update, large-scale catering was categorized as a manufacturing and production use within the industrial use category. Small-scale catering was categorized as a food establishment within the retail, service, and commercial use category. Large-scale catering is permitted by-right in Industrial districts but prohibited in retail, service, and commercial use categories. No use Standards were established.

While the amendment separated food catering by large and small in the Use Tables, it maintained a single definition for 'food catering service'. This has not been updated since 2015. Food catering service is currently defined in the ACZO as:

Food catering service. A business establishment that provides food or beverages or both, along with the necessary accessories for serving these products for social, institutional or business events at sites off the business establishment's premises. Food or beverages prepared for ordinary, in-home meals or for individual, resident or guest consumption is not "catering" but when delivered, it is a "food delivery service."

Without a delineation of when a catering business transitions from small to large scale, County staff are left to decide administratively. This can take additional time and hold up an application. Staff's preference is to have a clear, set distinction between the two. This delineation will help expedite the decision-making process for County staff by clarifying the difference between the two uses and therein the approval process for a new business.

⁴ [County Board Agenda Item Zoning Amendments/Reformatting Initiative \(09.19.2015\)](#)

Aggregation and Standardization of Restaurant Terms

The following terms either conflict with one another and/or conflict with the more streamlined, modernized approach to the recommended update for the ACZO's treatment of *food delivery services*. The goal with this cleanup is to provide staff more clarity around these food-related terms, and to streamline and modernize the ACZO.

Restaurant, Limited and Restaurant, General

As an additional component of the 2013-2015 ACZO reformatting initiative, the term '*restaurant*' was subcategorized into separate types of restaurants, identified in the use tables as '*restaurant, limited*' and '*restaurant, general*'. Prior to this update, this distinction between '*general*' and '*limited*' was determined, as defined below, through the administrative process⁵.

The reformatting initiative did not incorporate definitions for *restaurant, limited* and *restaurant, general* but did list the uses in the commercial/mixed use, industrial, and columbia pike form-based code use tables. There is only one district where the permissions differ (C-1-R).

The 2015 zoning ordinance amendment carried through the same standard that was set for *food delivery services* in 1988. This standard regulated food delivery based on sales, and is the only use standard associated with these uses:

- For *restaurants, general*, delivery of food and beverages to off-site locations was permitted so long as deliveries accounted for no more than 30% of the amount of the sales from the restaurant. This delivery service was only permitted with the approval of a County Board use permit.
- For *restaurants, limited*, a maximum of 50% of the restaurant's food was permitted to be served to customers seated and dining at conventional restaurant tables. Delivery of food and beverages was limited to a maximum of 20% of the amount of sales for the restaurant.

These use standards conflict with other recommended updates to the code and are difficult to enforce for County staff.

Restaurant, drive through and Restaurant, fast food

Restaurant, drive through was incorporated into the ACZO as part of the previously mentioned 1988 zoning ordinance amendment. The definition was changed to the following in the reformatting initiative in 2013:

⁵ [County Board Agenda Item Zoning Amendments/Reformatting Initiative \(02.21.2015\)](#)

Restaurant, drive-through. Any restaurant constructed to sell, or which sells food and beverages to customers who are in a motor vehicle. See also “restaurant, fast food”.

Restaurant, fast food was also incorporated as part of the reformatting initiative. Prior to 2015, fast food restaurants required a use permit in the C-TH and CPN-FBC districts—the only districts where it was defined as a separate Use⁶. As previously noted, the same 2015 update also introduced the term *Restaurant, limited*. Staff at the time noted that there was some conceptual overlap between the two uses. Staff brought forth an official definition for the term for additional clarify:

Restaurant, fast food. A restaurant where the principal business is the sale of food and/or beverages in a ready-to-consume state for consumption and whose principal method of operation is characterized by the service of food and/or beverages in disposable containers, to be consumed either (1) Within the restaurant building; (2) Within a motor vehicle on the premises; or (3) Off-premises as carry-out orders, including drive-through facilities. (See also §12.9.7)

These two terms, *restaurant, drive through* and *restaurant fast food*, overlap conceptually and the associated land use impacts are managed in other ways throughout the ACZO.

Discussion

The ACZO does not reflect the current and emerging food environment in Arlington. Staff developed the following recommendations to help address this issue, as it relates specifically to food delivery, shared commercial kitchens, and the clean-up of food-related terminology. These draft edits loosen regulation on food delivery, introduce a comprehensive approach to regulating a spectrum of shared commercial kitchens, and clarify contradictory or conflicting food-related terms. Everything proposed in this draft text is in response to patterns and trends that already exist in Arlington. The goal is to modernize the ACZO so that businesses, consumers, and the County can view zoning as a tool to support business growth in a time when support is greatly needed.

Food Delivery Services

In staff's opinion, the existing use permit requirement to provide delivery services does not align with Arlington's increasingly urbanizing development pattern. Successful, diverse food businesses are a crucial component of a thriving, urbanized ecosystem. Food delivery can broaden a food businesses' customer base and long-term viability, and therefore support the resilience of Arlington's commercial cores.

Today, congestion and traffic associated with food delivery are understood and generally accepted norms in Arlington's urbanized planning corridors. These corridors,

⁶ [County Board Agenda Item Zoning Amendments \(02.21.2015\)](#)

which overlap with the ACZO's C, C-FBC, and N-FBC districts, are associated with transit-oriented, mixed-use development with a higher concentration of commercial activity when compared to residential-only neighborhoods.

The County still recognizes that these impacts should be regulated. The County departments responsible for regulating congestion, ticketing, and double parking are investing time and resources into more efficient and effective parking law enforcement methods. The Department of Environmental Services (DES) Transportation Division's [Performance Parking Initiative](#) aims to create a library of information to help staff better understand parking patterns. These data will help both the curbside management team and the police to regulate and enforce parking standards.

DES staff also have the authority to change parking in the right of way at any time. Their continued work on expanding pick-up/drop-off zones and adding short-term parking spots are helping Arlington adapt to this new reality. DES can regulate food delivery more effectively than zoning, however the ACZO can help by adapting to support businesses.

There are four guiding principles behind this proposal:

1. Zoning is ineffective at regulating third party food delivery services.
UberEats and Postmates use an individual's vehicle, which has no associated land use or establishment. This deems zoning ineffective in its' ability to have any effect on the service's business operations. While zoning cannot regulate third party delivery drivers, County staff is aware of the traffic and congestion caused by these drivers and the appropriate departments are working on adaptive and proactive solutions to address it in other ways.
2. The existing use permit process is not being utilized.
Very food establishments submit use permit applications to obtain approval from the County Board for food delivery services. According to County staff, there were only 3 use permits submitted in the last 5 years, while there are over 340 Arlington restaurants that offer delivery on UberEats alone.
3. Businesses are trying to keep up with shifts in the post-pandemic food market. Removing the use permit requirement increases a food establishment's capacity to adapt and be resilient to future change.
Food delivery is a required service post-pandemic, and it is not without its challenges for the business. The upfront costs of joining a third-party service may be lower than the time it takes to submit a use permit and purchase the necessary food delivery infrastructure (a car, hiring a driver). Over time, third-party delivery fees can become prohibitive and even detrimental to a business. It is common for third party delivery services to charge up to 30 percent fees on a restaurant's profits. Local small businesses who lack the capacity to pursue a use permit and/or the infrastructure to offer the service in house, are then stuck relinquishing this profit. Removing the required use permit eliminates some of the pressure on businesses to automatically join a third-party service. It balances the

scales between food establishments and third-party services by making in-house delivery a more viable option.

4. Businesses need guidance once the COGO ends and beyond.

A goal of this proposal is to legalize what is already a common practice in the local restaurant industry, so that food establishments are not burdened with additional requirements once the COGO ends in August 2023. This will also establish an official County stance on small business support beyond the COGO.

Overall, food delivery is a difficult service to regulate. In nearby jurisdictions, food delivery zoning regulations are permitted by-right in commercial and mixed-use districts and third-party delivery services are regulated using other methods. Washington, DC permits food delivery by-right in mixed use, commercial districts, Fairfax County permits 'carryout restaurants' by right in almost all office and commercial districts, and the City of Alexandria also permits in-house delivery services by-right if parking spaces are provided for out of use delivery vehicles. Staff reviewed potential use standards and parking requirements for food delivery service and found any additional regulation would constrain the business without addressing the land use impacts, which is antithetical to this proposal's overall goals.

Recommendation:

Staff recommends that *food delivery service* be permitted as an accessory use to a restaurant without a use permit requirement. This change supports business resilience and flexibility by removing a step that is no longer relevant to today's food delivery patterns. The Arlington County Policy Department and Department of Environmental Services will continue to be the primary regulatory agencies over curbside management, regulating violations of right of way and double parking.

Shared Commercial Kitchens

Shared commercial kitchens further the County's CMRI efforts by supporting food business growth and development. Staff recommends broadening the existing definition to include a spectrum of potential shared commercial kitchens. The outcomes resulting from the draft text would be to better define and set rules around how they should operate moving forward.

For the purposes of differentiation and to acknowledge their disparate land use impacts, staff identified three categories of shared commercial kitchen. These include a *retail/incubator*, *basic*, or *open air* shared commercial kitchen. Including all three types creates greater opportunity for new and existing businesses to grow, as there are already examples of each within Arlington.

All three categories share the same general principles listed within the uses' existing definition; however each supports a different type of business model. Retail/incubators support businesses interested in the lower cost of a shared commercial kitchen as well as greater education, networking, and mentorship. The basic shared commercial

kitchen supports a business interested in only renting or leasing a lower cost preparation space. The open air model gives businesses more freedom of location. The open air model is not tied to a brick and mortar location, allowing the businesses to precisely locate based on demand for goods. Staff found that these three categories of shared commercial kitchens cover a wide spectrum of business models, and it is important to include them all, but that their distinct land use impacts should also be addressed.

Retail/Incubator Shared Commercial Kitchen

The most well-known category of a shared commercial kitchen is a brick-and-mortar site with multiple kitchens that are rented to multiple tenants with some form of retail or incubator program. This model is referred to as the *retail/incubator shared commercial kitchen*.

Tenants share the cost of cleaning and storage, and benefit from instructional support on business topics like marketing and branding.

Arlington's own '[Kitchen of Purpose](#)',

formerly known as La Cocina VA, has operated as a retail/incubator shared commercial kitchen since 2020. Their [Small Business Incubator program](#) offers shared kitchen membership packages to those who own and operate a food business. Figure 2 provides an example of students participate in the organization's Incubator programming. This membership includes professionally equipped stations, video surveillance, utilities and trash removal, as well as a business center with Wi-Fi. Members of the program who complete modules on food business training or operations can receive a 30-percent discount on shared kitchen fees. These discounts allow new food businesses to grow and become profitable at a faster rate. Kitchen of Purpose also offers a café which allows small businesses to sell their product direct to consumer.

[Union Kitchen](#), based in Washington DC, is one of the most successful retail/incubator shared commercial kitchens in the region. Their shared kitchen is also paired with their [accelerator program](#), which similarly helps small business owners grow a product from conception to market. Their outposts around the DMV, including Ballston, sell many of their own businesses' products and act as a showcase for their own small business success stories⁷. The retail and incubator components make this category of shared commercial kitchen the most active in terms of land use.

Due to this activation, staff believes Arlington's commercial and industrial districts offer a natural progression for expansion of this model. The pandemic highlighted the need



Figure 1 Students of the Kitchen of Purpose Incubator Program Credit: kitchenofpurpose.org

⁷ Compass Coffee, a growing regional coffee brand with a strong presence in Arlington, shared their story working with Union Kitchen [here](#).

for innovative approaches to support small businesses, and this model has been and will continue to be integral for many businesses to rebuild or start anew.

Basic Shared Commercial Kitchen

Basic shared commercial kitchens offer the same low cost, commercial kitchen opportunities as a retail/incubator shared commercial kitchen, but without the educational incubator or retail space. This model is also sometimes called 'ghost' or 'shadow' kitchens. Basic shared commercial kitchens are occupied only by employees, and prepared food is provided to customers either by delivery or pickup by third-party services. There are no opportunities for customer or pedestrian engagement with this model.



Figure 2 2 Inside a basic shared commercial kitchen credit: kitchenofpurpose.org

[Cloudkitchens](#) is a national brand of basic shared commercial kitchens with over 70 locations nationally, one of which is in Washington DC's Ivy City. The company offers daily cleaning, software support for managing orders, storage, and help with coordinating delivery/pick-up drivers. A video on how this model works can be found [here](#).⁸ Their Ivy City location, called [Ivy City Food Works](#), is home to over 20 food businesses including established chain restaurants testing innovative food concepts and smaller, local start-up businesses. While there is no public access to this model, it provides a popular service that is well utilized by the local community.

Many consider food businesses that co-locate to be basic shared commercial kitchens, though that is not the case. Unlike a shared commercial kitchen, the physical space is no different than the layout of the original restaurant. The land use impacts are the same, whether one or more businesses use the kitchen. For this reason, this proposal addresses only true basic shared commercial kitchens with multiple tenants sharing commercial kitchen space at the same time.

Open Air Shared Commercial Kitchen

The open air shared commercial kitchen model looks similar to a food truck, though it is technically stationary. It provides the same services as a 'basic shared commercial kitchen' but operates out of a stationary unit with wheels (see Figure 4 for a local example). It can have one or multiple commercial kitchens that are shared by many businesses.

⁸ For more information on CloudKitchens, [this video](#) provides insight on the operations for these basic shared commercial kitchens.

During the pandemic, a national innovator in the ghost kitchen concept (REEF) established a temporary ghost kitchen hub in the heart of Clarendon. Their goal was to create a centralized delivery outpost for innovative food uses, while taking advantage of Arlington's robust food delivery market. In doing so, it provided an entry way for local entrepreneurs and chain restaurants that were seeking an alternative to brick and mortar and mobile food trucks. There are few guidelines on how to regulate this Use. Until now, this Use was permitted based on the relaxed regulations established by the COGO but that regulation ends in August 2023.

The land use impacts of an open-air shared commercial kitchen post-COGO need to be analyzed in a more nuanced study. County staff are still working towards establishing guidelines. Just as with the basic shared commercial kitchen model, neighboring jurisdictions have also yet to identify a common regulatory approach, especially since its recent boom in popularity due to the pandemic.



Figure 3 3 An Open Air Shared Commercial Kitchen, owned by REEF Neighborhood Kitchens in Clarendon. While it has wheels and presents as a food truck, the boot on the back wheel and the privacy fencing indicate a more permanent presence. Credit: Jo DeVoe

Each business model— retail/incubator, basic, and open air shared commercial kitchens—has different land use impacts, and therefore require unique use standards and approval processes within the use tables. This can allow staff to regulate each use independently and appropriately address their potential impacts.

Due to its fast-paced growth, neighboring jurisdictions are still figuring out how and whether zoning is the best method to regulate this use. Some use the 'Industrial'

designation because of the similarities to a distribution warehouse. Many go through the local version of the special exception process because a warehouse alone does not always capture the diversity of services within retail/incubator shared commercial kitchens. Parking regulations are inconsistent and primarily based on the district as opposed to the use. Most jurisdictions emphasize the importance of food safety standards as the primary method of regulation as opposed to zoning. In staff's recommended approach, this is resolved by identifying separate use standards and requirements for each model.

Recommendation

Shared commercial kitchens, in all forms, support small business growth and development. Their unique attributes—minimal upfront costs, shared ongoing costs, optional development coursework and small business support—provide opportunities for food businesses to grow and prosper. For these reasons, staff recommends:

1. Expanding the existing definition of shared commercial kitchen to include all potential iterations of the business model.
2. Staff also recommends incorporating flexible standards in § 11.1.7 and in the C-2 district standards (§ 7.17.6) to account for the manufacturing and production of goods that is inherent in the shared commercial kitchen business model.
3. The three models of shared commercial kitchens are recommended to be permitted as such:

	Commercial/Mixed Use and Columbia Pike Form Based Code Districts	Industrial Districts
Shared Commercial Kitchen, Basic	<ul style="list-style-type: none"> • Use Permit required if it has public access • By-right if it does not have public access <p>Basic shared commercial kitchens do not offer retail/incubator space, so there is little pedestrian/public activity inherent in this model. It is best suited for locations without public access and should require further review for locations with public access, due to the model's lack of engagement with the public.</p>	By-right
Shared Commercial Kitchen, Open Air	<ul style="list-style-type: none"> • Use Permit required <p>This use requires further study. This use has been approved temporarily due to the COGO, allowing it via use permit will provide guidance once the COGO ends and give staff more control over the review process until more permanent guidance is established.</p>	Industrial Districts are well suited for this use, in all its' forms. This in part due to the amount of space and lack of expected pedestrian engagement within these Districts.
Shared Commercial Kitchen, Retail/Incubator	<ul style="list-style-type: none"> • By-right <p>This use offers greater pedestrian, public, or customer activity by its' nature. It is a natural fit for any location in Arlington.</p>	

Additional parking standards were considered, and staff eventually decided, after discussions with DES, that there are existing opportunities in the public right-of-way and loading zones that accommodate the uses' delivery needs. Imposing additional parking standards could happen as part of a larger, more comprehensive review of the

ACZO's approach to parking regulation in the future. For now, the uses will be parked as retail and service commercial uses, other.

Large and Small Scale Catering

The distinction between small- and large-scale catering is important because it can determine where a business can locate—either in commercial/mixed use districts for a small-scale caterer or industrial districts for a large-scale caterer. This distinction is made because the two uses provide different services. Small scale caterers are inherently more retail/restaurant focused, while large scale caterers are more industrial/warehouse-based. The recommended threshold between them is based on the general size of local small- and large-scale catering establishments, while leaving opportunity for small-scale caterers to grow. The inflection point between the two uses is when the caterer requires warehouse or storage space for event furnishing or design. Local examples show these large-scale caterers are much larger than the small-scale, more restaurant or retail-based caterers. The recommended threshold does not prohibit large-scale caterers from locating in industrial districts where there is more space, and similarly does not prohibit restaurant or retail-size caterers from locating in commercial/mixed use districts.



Figure 4 4 Inside Sangam restaurant and small-scale caterer credit: yelp.com

Most small-scale catering usually caters to smaller events and does not offer additional decorating or design services. The size of the establishment can range from 200 to about 10,000 square feet. Locally, Catering Joe LLC and Sangam Catering International added catering services to restaurant spaces of about 210-250 square feet. The Italian Store, considered a retail establishment on their Certificate of Occupancy, offers catering services as a large part of their business model and occupies almost 7,000 square feet⁹. Most, if not all, small-scale caterers have existing on-site retail or dining facilities, making it a natural fit for Arlington's commercial/mixed use districts. Staff's recommendation leaves open the opportunity for a small-scale caterer of up to 8,000 square feet to locate within commercial/mixed use districts, based on both local examples and leaving open the opportunity for growth.

Large-scale catering is different than a small-scale caterer because it typically offers a different suite of services. Most large-scale caterers also use their space as a warehouse for event supplies—furniture, fabrics, flowers, and more. The spaces are therefore inherently larger. [Main Event Caterers](#), located along Four Mile Run Drive, was originally permitted as a warehouse per the businesses' Certificate of Occupancy.

⁹ Fairfax County also established a 6,000 square foot threshold between large- and small-scale catering.

The business primarily provides off-site catering services and occupies a space of approximately 10,000 square feet¹⁰.

[Design Cuisine](#) has a gross floor area of about 38,000 square feet and its indoor space functions as a storage space for materials, furniture as well as catering. The business was approved as a catering food establishment on its' Certificate of Occupancy¹¹. Neither business offers on-site dining, as is the case with many small-scale caterers. The 8,000 square foot threshold would not prohibit or change any processes for these large-scale caterers, as they far exceed this size in gross floor area.

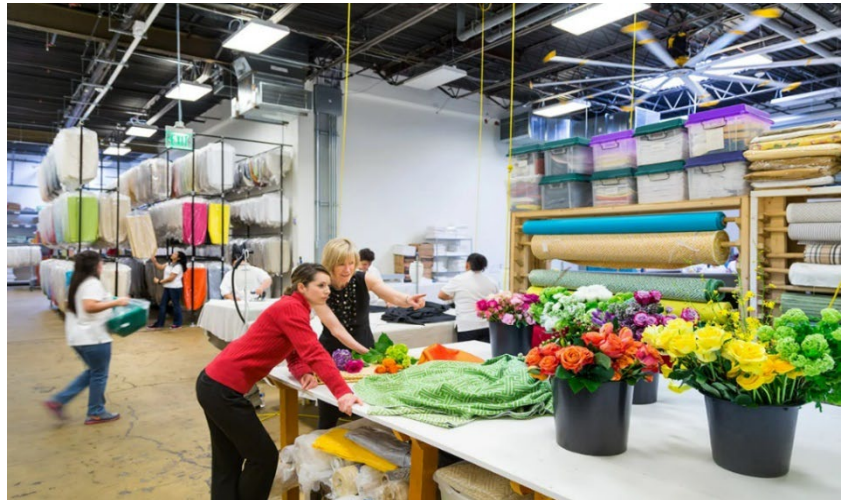


Figure 5.5 Large scale catering Warehouse in Hyattsville credit: Dan Chung Washingtonian

A threshold with clear definitions would bring clarity to the similarities and differences between these uses. This update would also increase clarity for Zoning Division staff, making the application process more streamlined for new businesses.

Recommendation

Staff recommends an 8,000 square foot threshold between small- and large-scale catering.

Aggregation and Clean-up of Restaurant Terms

1. Restaurant, Limited and Restaurant, General

There is little difference between these uses within the use tables, and staff noted that regulating restaurants through a sales percentage-based food delivery use standard does not reflect the current food delivery market. The existing use standards would also conflict with the staff recommendation for food delivery service as a by-right accessory use in the commercial/mixed use and industrial accessory use tables.

Recommendation

Remove the use standards for *restaurant, limited* and *restaurant, general* as delivery is proposed as a by-right accessory use to all food establishments.

¹⁰ [Main Event Caterers Real Estate Assessment](#)

¹¹ [Design Cuisine Certificate of Occupancy](#)

2. Restaurant, drive through and Restaurant, fast food

The two definitions of *restaurant, drive through* and *restaurant, fast food* not only reference one another but are rarely mentioned elsewhere throughout the ACZO. The term *restaurant, drive-through* does not show up anywhere else in the Code, and the term 'fast food' is only listed as an example of a Food Establishment in Article 12's use categories.

The ACZO also accounts for the related land use impacts of both a fast food and drive-through restaurant. Drive-throughs are listed as an accessory use in the Commercial/mixed use and Industrial districts' accessory use tables, and they require a County Board use permit. This use permit requirement, along with staff's recommendation to make food delivery a by-right accessory use, lead staff to conclude that the definitions of *restaurant, drive through* and *restaurant, fast food* unnecessary.

Recommendation

Remove both terms from the ACZO for clarity and conciseness.

Public Engagement

Given the limited impact of this proposed use, staff is using tools primarily from the Communicate levels of engagement. The proposed changes primarily condense and clarify existing terms and concepts within the ACZO. Any policy changes reflect existing market trends whose land use impacts cannot be regulated by zoning. Staff did create a memo describing these uses for additional clarity, which was added to the [Commercial Market Resiliency](#) website in April, 2023.

Level of Engagement: **Communicate**

Staff believe this level of engagement is appropriate. This zoning update would not interrupt service for an extended period of time and residents and/or businesses would not be disrupted for an extended period. It is effectively responding to existing market trends by modernizing and simplifying the current ACZO.

Outreach Methods:

Public notice will be given in accordance with the Code of Virginia § 15.2-2204. Notices of the Planning Commission and County Board public hearings for this zoning ordinance amendment will be placed in the Washington Times in advance of the Planning Commission and County Board public hearing in May/June 2023. In addition to the above legal requirements:

- A Commercial Market Resiliency web page has been established and includes information about this proposal as well as future proposals. Staff contact information is available, along with a comment feedback form for submitting comments about this and other proposed uses directly to staff.
- Staff added an additional memo to the Commercial Market Resiliency website that described the new uses on April 17, 2023.

Anticipated Schedule

- May 9, 2023: Zoning Ordinance Committee Meeting (ZOCO)
- May 31, 2023: Planning Commission public hearing and recommendation
- June 10th Regular Meeting and June 13th Recessed Meeting 2203: County Board public hearing and action

Attachments

- Attachment 1: Draft Zoning Text

Zoning Ordinance Amendment – Food-Related Uses (Food Delivery Service; Shared Commercial Kitchens)

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Proposed amendments are shown with **bold underline** to denote new text, and **~~bold strikethrough~~** to denote deleted text.

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Article 7. Commercial/ Mixed Use (C) Districts

§7.1 Commercial/mixed use (C) Districts Use tables

§7.1.2 Commercial/mixed use (C) districts principal use table

Table §7.1.2 lists the principal uses allowed within the C districts.

COMMERCIAL/MIXED USE (C) DISTRICTS PRINCIPAL USE TABLE																				
Specific Use Types	RA4.8	R-C	RA-H	<u>RA-H-3.2</u>	C-1-P	C-1	MU-VS	C-1-O	C-O-1.0	C-O-1.5	C-O-2.5	C-O	C-O-A	C-O ROSSLYN	C-O CRYSTAL CITY	C-2	C-TH	C-3	C-R	Use Standards

KEY: C = requires use permit and site plan approval; P = allowed by-right; U = requires use permit approval; S = requires site plan approval; Blank cell = not permitted

Retail, Service and Commercial Use Categories (See §12.2.5)

Food Establishments (See §12.2.5.B)	Artisan beverage	S	P	P	P	P		P	P	P	P	P	P	P	P	P	P	P	P	P	§12.5.31	
	<u>Food c</u> Catering establishment, small scale	S	S	S			P		S	S	S	S	P	S	S	P	P	P	S			
	Food delivery services	C	C	C	U	U			C	C	C	C	U	C	C	U	C	U	U			
	Restaurants, general	S	S	S	P	P	P		S	S	S	S	P	S	S	P	P	P	P		§12.5.22	
	Restaurants, limited	S	S	S	P	P	P		S	S	S	S	P	S	S	P	P	P	P		§12.5.23	
	<u>Shared commercial kitchen, basic</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		§12.5.34
	<u>Shared commercial kitchen, open air</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>		<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>	<u>U</u>		§12.5.34
<u>Shared commercial kitchen, retail/incubator</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		§12.5.34	

§7.1.3 Commercial/mixed use (C) districts accessory use table

Accessory uses in commercial/mixed use (C) districts shall include the following uses, activities and structures:

COMMERCIAL/MIXED USE (C) DISTRICTS ACCESSORY USE TABLE

Use Types	RA4.8	R-C	RA-H	RA-H-3.2	C-1-R	C-1	MU-VS *	C-1-O	C-O-1.0	C-O-1.5	C-O-2.5	C-O	C-O-A	C-O ROSSLYN	C-O CRYSTAL CITY	C-2 *	C-TH *	C-3 *	C-R *	Use Standards
KEY: P = allowed by-right; U = requires use permit approval; S = requires site plan approval; Blank cell = not permitted																				
<u>Food delivery services</u>	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

§7.17 C-2, Service Commercial-Community Business District

§7.17.6 Use Limitations

- A. For all uses other than artisan beverage, artisan workshop, and shared commercial kitchens, there shall be no manufacturing, compounding, processing or treatment of products other than that which is clearly incidental and essential to a retail store or business and where all such products are sold at retail at these establishments, ~~except as allowed for food delivery service.~~

Article 8. Industrial (M) Districts

§8.1 Industrial (M) Districts Use tables

§8.1.2 Industrial (M) districts principal use table

Table §8.1.2 lists the principal uses allowed within the M districts.

INDUSTRIAL (M) DISTRICTS PRINCIPAL USE TABLE

Use Category	Specific Use Types	C-M	M-1	M-2	Use Standards
KEY: P = allowed by-right; U = requires use permit approval; S = requires site plan approval; Blank cell = not permitted					
Retail, Service and Commercial Use Categories (See §12.2.5)					
Food Establishment s (See §12.2.5.B)	Artisan beverage	P	P	P	§12.5.31
	Food delivery services	U	U	U	
	Food c Catering establishment, small scale	P	P	P	
	Restaurant, general	P	P	P	§12.5.22
	Restaurant, limited	P	P	P	§12.5.23
	Shared commercial kitchen, <u>basic</u>	P	P	P	§12.5.34
	<u>Shared commercial kitchen, open air</u>	P	P	P	§12.5.34
	<u>Shared commercial kitchen, retail/incubator</u>	P	P	P	§12.5.34
Industrial Use Categories (See §12.2.6)					

INDUSTRIAL (M) DISTRICTS PRINCIPAL USE TABLE					
Use Category	Specific Use Types	CM	M-1	M-2	Use Standards
KEY: P = allowed by-right; U = requires use permit approval; S = requires site plan approval; Blank cell = not permitted					
Manufacturing and Production (See §12.2.6.B)	Distribution plants, parcel delivery, ice and cold storage plant, bottling plant, and food commissary or food large scale catering establishments, large scale		P	P	P

§8.1.3 Industrial (M) districts accessory use table

Accessory uses in Industrial (M) districts shall include the following uses, activities and structures:

INDUSTRIAL (M) DISTRICTS ACCESSORY USE TABLE				
Use Types	CM*	M-1*	M-2*	Use Standards
KEY: P = allowed by-right; U = requires use permit approval; S = requires site plan approval; Blank cell = not permitted				
Food delivery services		P	P	P

Article 11. Overlay and Form Based Code Districts

§11.1 CF-FBC, Columbia Pike Form Based Code District

§11.1.5. Columbia Pike Form Based Code district principal use table

The following use table summarizes the principal use regulations of the CP-FBC district.

COLUMBIA PIKE FORM BASED CODE DISTRICT PRINCIPAL USE			
	Specific Use Types	CP-FBC	Use Standards
Retail, Service and Commercial Use Categories (See §12.2.5)			
Food Establishments (See §12.2.5.B)	Artisan beverage	P	§12.5.31
	Food c Catering establishment, small scale	P	
	Food delivery service	U	
	Restaurant, general	P	§12.5.22
	Restaurant, limited	P	§12.5.23
	Shared commercial kitchens, basic	P	§12.5.34
	Shared commercial kitchen, open air	U	§12.5.34
	Shared commercial kitchen, retail/incubator	P	§12.5.34

§11.1.6. Columbia Pike Form Based Code districts accessory use table

Accessory uses in Columbia Pike Form Based Code districts shall include the following uses, activities and structures.

COLUMBIA PIKE FORM BASED CODE DISTRICTS ACCESSORY USE TABLE	
Use Types	CP-FBC Use Standards
<u>Food delivery services</u>	P

§11.1.7. Use limitations

- A. Except for artisan beverage and artisan workshop manufacturing, shared commercial kitchens, there shall be no manufacturing, compounding, processing or treatment of products other than that which is clearly incidental and essential to a retail store or business and where all such products are sold at retail at these establishments.
- B. Steam exhausts for cleaning and laundering establishments shall be fully contained within the building that contains the cleaning and laundering establishment.

Article 12. Use Standards

§12.2. Use Categories

§12.2.5. Retail, service and commercial use categories

B. Food Establishments

1. Characteristics

Establishments that prepare and sell food for on- or off-premise consumption.

2. Examples

Examples of ~~F~~food ~~E~~establishments include bakery; food catering establishments, small scale; coffee shops; fast food; outdoor vendors with permanent facilities; shared commercial kitchens (basic, open air, or retail/incubator); ~~food delivery establishments~~; restaurants, ~~general; restaurant, limited~~; and yogurt, ice cream or other specialty food shops.

3. Accessory uses

Accessory uses include decks and patios for outdoor seating; drive-through facilities; live music; hookah bars; off-street customer and employee parking; outdoor cafés or service areas; food delivery services; classrooms or meeting spaces; and valet parking facilities.

4. Uses not included

Food catering establishment, large scale ~~Large-scale catering~~ (see Light

Industrial Service).

§12.2.6. Industrial use categories

A. Light industrial service

2. Examples

Examples of light industrial service include agricultural implement sales/service; building, heating, plumbing or electrical contractors; building maintenance facilities and services; **food** catering establishments, large scale; contractors and others who perform services off-site, but store equipment and materials or perform fabrication or similar work on-site; carpet cleaning plants; clothing or textile manufacturing; commercial bakeries; crematoriums; dry cleaning plants; exterminators; mailing and stenographic services; manufacture or assembly of consumer equipment, instruments (including musical instruments), precision items and other electrical items; manufacture or production of artwork and toys; medical or dental laboratories; photo-finishing laboratories; printing, publishing and lithography, small scale; production of artwork and toys; research, testing and development laboratories; sign making; storage areas used as manufacturing uses; maintenance or repair yards and buildings; truck stop or truck plaza; vehicle and equipment maintenance facilities; vehicle storage lots and towing services; welding, machine and tool repair shops; woodworking, including cabinet makers and furniture manufacturing.

3. Uses not included

Manufacture and production of goods from composting organic material (see Waste-related Service); and **food** catering establishments, small-scale (see Food Establishments);

B. Manufacturing and production

2. Examples

Bakery, large scale; boatworks, small; **food** catering establishment, large-scale; food and related products processing; food processing and packing; lumber mills; manufacture or production of chemical, rubber, leather, clay (previously pulverized only), bone, plastic, stone, or glass materials or products; manufacture or assembly of appliances, heating or ventilating ducts and equipment, machinery, or vehicles; manufacture and maintenance of electric and neon signs, billboards, or commercial advertising structures; manufacture, production or fabrication of metals or metal products including enameling and galvanizing, manufactured housing unit production and fabrication; monument works; ornamental iron work shop; printing, publishing and lithography, large scale; pulp and paper mills and other wood products manufacturing; research laboratory, including but not limited to pure research, product development, pilot plants and research manufacturing facilities; weaving or production of textiles or apparel.

§12.5. COMMERCIAL/MIXED USE STANDARDS**§12.5.34. Shared Commercial Kitchens**

Shared Commercial kitchens are permitted as follows:

A. Shared Commercial Kitchen, Basic

1. In commercial/mixed use (C) districts:

(a) Permitted by use permit pursuant to the requirements in §15.4: Adjacent to street right of way and located in floor space with direct public access.

(b) Permitted as a by-right use: Not located in floor space with direct public access.

2. In industrial (M) districts:

(a) Permitted by right.

B. Shared Commercial Kitchen, Open Air

1. In commercial/mixed use (C) districts:

(a) Permitted by use permit pursuant to the requirements in §15.4.

2. In industrial (M) districts:

(b) Permitted as a by-right use.

C. Shared Commercial Kitchens, Retail/Incubator

1. In commercial/mixed use (C) districts:

(a) Permitted as a by-right use.

2. In industrial (M) districts:

(b) Permitted as a by-right use.

§12.5.22. ~~Restaurant, general~~

~~Delivery of food and beverages to off-site locations is permitted when it involves less than 30 percent of the amount of the sales from these restaurants, subject to approval of a use permit pursuant to the requirements of §15.4~~

§12.5.23. ~~Restaurants, limited~~

~~Less than 50 percent of the food is served to conventional restaurant tables at which customers sit to order and eat. Delivery of food and beverages to off-site locations is permitted when it involves less than 20 percent of the amount of the sales from these restaurants.~~

§14.3 Parking and Loading

§14.3.6. Parking in Metro station areas

2. Retail and service-commercial uses

Retail and service-commercial uses for the first 5,000 sq. ft. of floor area per main building, except the following uses which shall not be granted the exemption blueprinting or photostating; **food** catering establishment, large scale; feed or fuel store; frozen food lockers; ice storage house; indoor swimming pools; medical or dental offices, clinics and laboratories; vehicle sales, rental or leasing facilities ; vehicle storage lots; music conservatory or music instruction; plumbing or sheet metal shops; printing, lithographing or publishing; public service, including electric distribution substation, fire or police station, telephone exchange and the like; sign making shop; trade or commercial school; vehicle service establishment.

Article 18. Definitions

§18.2 General Terms Defined

Food catering **establishment service, large scale.** A business establishment **of greater than 8,000 square feet** that provides food or beverages or both, along with the necessary accessories for serving these products for social, institutional or business events at sites off the business establishment's premises. ~~Food or beverages prepared for ordinary, in-home meals or for individual, resident or guest consumption is not "catering" but when delivered, it is a "food delivery service."~~

Food catering establishment, small scale. A business establishment of no more than 8,000 square feet that provides food or beverages or both, along with the necessary accessories for serving these products for social, institutional, or business events at sites off the business establishment's premises.

Food delivery service. **A service provided by a food establishment, as specified in §12.2.5.B, that preparation of food and beverages to fills delivers orders of prepared food and beverages to off-site locations for customers via automobile, pedestrian, bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard or scooter, moped.**

~~Restaurant, drive-through. Any restaurant constructed to sell, or which sells food and beverages to customers who are in a motor vehicle. See also "restaurant, fast food".~~

~~Restaurant, fast food. A restaurant where the principal business is the sale of food and/or beverages in a ready-to-consume state for consumption and whose principal method of operation is characterized by the service of food and/or beverages in disposable containers, to be consumed either (1) Within the~~

~~restaurant building; (2) Within a motor vehicle on the premises; or (3) Off-premises as carry-out orders, including drive-through facilities. (See also §12.9.7)~~

Shared commercial kitchen. An establishment for preparing, processing, canning, or packaging food and beverage products ~~for on-site consumption, delivery, or small-scale distribution~~, and whose principal method of operation includes two or more operators utilizing the same facility for a fee; one or both of the following characteristics:

~~(1) Two or more operators utilizing the same facility for a fee.~~

~~(2) One or more operator utilizing the same facility for food and beverage related workshops.~~

Shared commercial kitchen, basic. A shared commercial kitchen which provides services including delivery, small-scale manufacturing and distribution, and/or small-scale catering and does not include retail/incubator facilities.

Shared commercial kitchen, open air. A shared commercial kitchen which provides services including delivery, small-scale manufacturing and distribution, and/or small-scale catering that is a mobile food unit as specified in Code of Virginia § 58.1-3715.1 and does not qualify for a vendor, peddler, canvasser permit, as required by Chapter 30 of the Arlington County Code.

Shared commercial kitchen, retail/incubator. A shared commercial kitchen which provides services including delivery, small-scale manufacturing and distribution, and/or small-scale catering, as well as additional services including but not limited to retail sales, on-site dining, culinary instruction, and/or culinary business incubator support services.

Commercial Form Based Code (Appendix A)

Section III. The Regulating Plans

Table 3.1

FORM BASED CODE GROUND STORY USE TABLE				
Use Category	Specific Use Types	Permitted (P) or Use permit (U)	Restricted on Principal Arterials per III.B.5.D	ACZO Use Standards
Retail, Service and Commercial Use Categories				
Food Establishments	Restaurant, general	P		§12.5.22.
	Restaurant, limited	P		§12.5.23.
	Food Delivery Service	P U	Yes	
	Food Catering Establishment, Small Scale	P U-on Principal Arterials	Yes	
	Shared Commercial Kitchens (basic, open air, or retail/incubator)	P U		§12.5.34.

Neighborhoods Form Based Code (Appendix B)

Part 9. Building Use Standards

901. Building Use table

BUILDING USE TABLE			
Use Category	Specific Use Types	Permitted (P) or Use permit (U)	ACZO (§) and N-FBC (Section) Use Standards
Ground Story Commerce			
Food Establishments	Shared Commercial Kitchens (basic, open air, or retail/incubator)	P U	§12.5.34.
	Food Catering Establishments, Small Scale	P	
	All other food establishments		
Retail			
Food Establishments	Restaurants, limited	P	§12.5.23
	Food delivery services	U-P	
	Restaurants, general	P	§12.5.22