



**Date of Council Meeting: December 7, 2015**

**TOWN OF LEESBURG  
TOWN COUNCIL WORK SESSION**

**Subject:** On-Premises Food Service in Convenience Food Stores and Service Stations

**Staff Contact:** Christopher Murphy, Zoning Administrator

**Council Action Requested:** Council initiation to amend the Zoning Ordinance to allow on-premises food service in convenience stores and service stations.

**Staff Recommendation:** Staff recommends Council adopt an initiating resolution to amend the Zoning Ordinance.

**Commission Recommendation:** None at this time. If initiated by Council, this ordinance amendment will be reviewed by the Planning Commission.

**Fiscal Impact:** There is no known fiscal impact that will result from adoption of these regulatory changes.

**Work Plan Impact:** The work impact will be relatively minor because staff has a reasonable understanding of the language changes that would be required to change the Zoning Ordinance to allow on-premises food service in convenience stores and service stations.

The list below includes active projects and projects which have previously been initiated by Council that remain on the Department of Planning and Zoning work plan:

- Mobile Hope text amendment – A Planning Commission Public Hearing was held on November 5, 2015 and it was referred to a work session. Anticipated for Town Council Public Hearing on January 26, 2016.
- 2015 Zoning Ordinance Batch - Planning Commission Public Hearing was held on November 19, 2015 with continued discussion on December 17, 2015. Town Council Public Hearing is anticipated for January 26, 2016.
- Floodplain Ordinance – On hold pending completion of key land development applications. Anticipate resumption of staff work in winter/spring 2016 with Planning Commission and Town Council public hearings in Spring/early summer 2016.
- East Market Street Small Area Plan – Staff anticipates starting this project in January with a completion by the end of calendar year 2016.
- Low Impact Development regulatory changes – The start date of this project has been planned upon the completion of the Floodplain Ordinance. However, it should not start before the completion of the East Market Street Area Plan. As such, staff anticipates this starting in 2017. This project is expected to take approximately six to eight months.

**Executive Summary:** The current definitions of Convenience Food Store (Sec. 18.1.39) and Service Station (Sec 18.1.169) were first adopted as part of the 1990 Zoning Ordinance. At that time, Convenience Stores and Service Stations were two separate and distinct uses whose only commonality was the sale of prepackaged snack foods intended for off-premises consumption.

Within the last decade, the convenience store/service station/fast food use such as Sheetz, Wawa, 7-11, and Circle K have melded the uses. Most recently, the industry has begun to develop “Expanded Convenience Stores” ranging in size from 2,800 to 3,600 square feet, and “Hyper Convenience Stores” ranging in size from 4,000 to 5,000 square feet where everything is sold from traditional convenience store items, gasoline, groceries, take-out food, and sit-down food to order.

Due to the limitations presented by the current Zoning Ordinance definitions of Convenience Food Store and Service Station, these Expanded and/or Hyper Convenience Store-types of uses cannot be accommodated within the Town. If Town Council wishes to permit these types of uses, then a Zoning Ordinance text amendment must be processed.

**Background:** The Zoning Ordinance’s current use definitions relating to convenience stores and service stations were first adopted as part of the 1990 Zoning Ordinance, and reflect the most common models of those uses at that time as separate and distinct uses. The current Zoning Ordinance requirements are cited below:

***18.1.39 Convenience Food Store***

*Structure which contains less than 5,000 square feet of gross floor area and which is used for the retail sale of food or food and other items generally purchased in small quantities but not including the sale of gasoline. Convenience food store is not designated for on-site consumption of the products purchased on the premises, and characterized by the rapid turnover of customers and high traffic/trip generation; and,*

***18.1.169 Service Station***

*Buildings and premises in which the primary use is the supply and dispensing at retail sales of one or more of the following: motor fuels, lubricants, batteries, tires, motor vehicle accessories; and wherein additional mechanical services may be rendered and sales made, but only as accessory and incidental to the primary occupation. Uses permissible at a service station shall not include body work, straightening of body parts, painting, welding, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in service stations. **Snack foods, tobacco, hot and cold drinks, newspapers and similar convenience goods may be sold as accessory to the principal use. Prepared foods such as sandwiches and cooked foods limited to off-premises consumption are permitted as an accessory use to the extent permitted by the special exception approved for the service station.***

As currently defined, Convenience Food Stores are retail outlets for food and other small quantity retail items that do not sell gasoline, e.g., the 7-11 on Dry Mill Road and in the Exeter Shopping Center. Service Stations primarily sell gasoline, and may also sell convenience items, e.g., Jock's Exxon, Liberty gas station and Sunoco on E. Market Street. However, neither the convenience store nor service station use permits the sale of food items for on-premises consumption.

The current market trend in convenience retail is toward what the industry calls "Expanded Convenience Stores" and "Hyper Convenience Stores" where expanded convenience retail sales, gasoline sales, made-to-order carry-out and/or sit down food service is available in stores ranging in size from 2,800 to 5,000 square feet. Because of the prohibitions on fuel sales and food for on-premises consumption found in the definition of Convenience Store, and the primary sales of fuel and oil products and prohibition of on-premises food in the definition of Service Stations, neither of these types of stores is permissible in the town.

- Attachments:**
1. Resolution for Initiation of a Zoning Ordinance Text Amendment relating to Convenience Retail Uses

PRESENTED: December 8, 2015

RESOLUTION NO. \_\_\_\_\_

ADOPTED: \_\_\_\_\_

A RESOLUTION: INITIATING AMENDMENTS TO ARTICLES 9 USE REGULATIONS AND 18 DEFINITIONS OF THE LEESBURG ZONING ORDINANCE IN ORDER TO REDEFINE AND/OR ESTABLISH UPDATED STANDARDS FOR CONVENIENCE FOOD STORE AND SERVICE STATION USES

WHEREAS, the current definitions of Convenience Food Store and Service Station found in the Zoning Ordinance were originally adopted a part of the 1990 Zoning Ordinance at a time when such uses were typically separate, distinctive uses;

WHEREAS, within recent years convenience retail uses have evolved/are evolving into uses that combine traditional and expanded convenience retail, fuel sales and fast food into a single use;

WHEREAS, the current Zoning Ordinance definitions of Convenience Food Store and Service Station provide specific prohibitions and limitations on said uses that do not permit the type of use(s) now evolving in the convenience retail industry;

WHEREAS, in order for the town to accommodate ongoing changes within a viable market sector, it will be necessary to amend the Zoning Ordinance; and,

WHEREAS, the public necessity, convenience, general welfare and good zoning practice require consideration of the proposed amendments.

THEREFORE, RESOLVED by the Council of the Town of Leesburg in Virginia that:

SECTION 1. Amendments to the Zoning Ordinance are hereby initiated and referred to the Planning Commission to make amendments to, or to establish regulations and/or definitions

RESOLUTION:       INITIATING AMENDMENTS TO ARTICLES 9 USE REGULATIONS  
AND 18 DEFINITIONS OF THE LEESBURG ZONING ORDINANCE  
IN ORDER TO REDEFINE AND/OR ESTABLISH UPDATED  
STANDARDS FOR CONVENIENCE FOOD STORE AND SERVICE  
STATION USES

pertaining to convenience retail and service stations in order to address evolving trends within  
that market sector.

SECTION 2. The Planning Commission shall hold a public hearing to consider these  
amendments to the Zoning Ordinance and report its recommendation to Town Council pursuant  
to Chapter 22, Title 15.2-2204 of the 1950 Code of Virginia, as amended.

PASSED this \_\_\_\_day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Kristen C. Umstattd, Mayor  
Town of Leesburg

ATTEST:

\_\_\_\_\_  
Clerk of Council