



Date of Council Meeting: April 26, 2016

**TOWN OF LEESBURG  
TOWN COUNCIL MEETING**

**Subject:** TLOA-2016-0003, Service Station Zoning Ordinance Text Amendment

**Staff Contact:** Scott E. Parker, AICP, Assistant Town Manager

**Council Action Requested:** Approval of TLOA-2016-0003 to update the definition for “Service Station” to permit sit-down dining as an accessory use.

**Staff Recommendation:** Approval of TLOA-2016-0003 to update the definition for “Service Station” to permit sit-down dining as an accessory use as presented in this report. A draft ordinance may be found in Attachment 1.

**Commission Recommendation:** On April 7, 2016, the Planning Commission recommended approval of TLOA-2016-0003 by a vote of 7-0-0. As part of its approval, the Planning Commission recommended that seating for sit-down dining be allowed by-right in existing service stations as long as parking requirements are met thus not requiring special exception approval to allow seating in existing service station facilities. This change has been incorporated into the draft ordinance in Attachment 1.

**Fiscal Impact:** Approval of TLOA-2016-0003 will generate additional business tax revenue for the Town.

**Work Plan Impact:** None. Processing of these types of applications is part of the core function of the Department of Planning and Zoning.

**Executive Summary:** Within recent years, service stations have evolved into one-stop commercial entities that include the sale of fuels, convenience retail products, and fast food with on-premises dining areas. The Town’s current Zoning Ordinance requires that all service stations obtain special exception approval. The current definition for service station permits a combination of fuel sales, convenience retail products, and fast food service, but strictly prohibits on-site dining regardless of the need for a special exception.

This is evidenced by the recent special exception approvals of the Exxon service station in Oaklawn and another in Potomac Station Land Bay A. In those cases and in previous service station approvals, no seating was approved for on-site consumption of food because the definition of service station specifically prohibits the practice with the phrase “Prepared foods such as sandwiches and cooked foods *limited to off-premises consumption* are permitted . . .” (emphasis added). Convenience foods, also called “fast foods”, such as hamburgers, hot dogs and sandwiches can be sold on the site, but patrons must take them off-site for consumption. This amendment will allow sit-down dining at service stations through special exception approval for new or expanded service stations, and by-right for existing service stations where there is no building expansion and the parking requirements can be met.

**Background:** On December 8, 2015, the Town Council unanimously approved Resolution No. 2015-149 (Attachment 2) to initiate Zoning Ordinance text amendments to establish regulations and/or definitions pertaining to service stations and convenience food stores in order to address evolving trends within that market sector. The issue of what to call a service station that offers convenience foods and sit-down dining has been raised on several occasions most recently during discussions of a possible expansion of the Sheetz station in Leesburg Park and during the Potomac Station Concept Plan and proffer amendment to Land Bay A (TLZM -2014-0001) which approved a service station/convenience store. The current definition of service station permits the sale of convenience foods at a gas station, but does not permit sit-down dining which led the developer of Potomac Station Land Bay A to approach Council to consider amendments to the ordinance to permit this combination of uses.

The current Zoning Ordinance definitions for “Service Station”, “Convenience Food Store”, and “Eating Establishment” were originally adopted in 1990 at a time when such uses were typically separate and distinct. In recent years, service stations have evolved into a single use that includes a variety of services. Although regulations vary, jurisdictions in the region that allow sit-down dining added as an accessory use to a service station include Loudoun County, Fairfax County, Winchester, Herndon, and Manassas. This use is also allowed in Frederick, Maryland.

The proposed amendments to alter the service station definition to permit limited on-site dining for customers will allow service stations in Leesburg to offer a combination of three uses that are permitted in these other jurisdictions: (1) fuel sales as the principal use with; (2) convenience food sales; and (3) sit-down dining as accessory uses. Note that the definition limits the extent of the dining area either to that which was specified under the special exception approved for the service station use or to what was approved under the proffered rezoning which approved the use. In that way, the Planning Commission and Council can entertain an applicant’s proposal and set the specific square footage area for on-premises dining with the caveat that the area must reflect its designation as an accessory use.

Although staff had originally proposed that existing service stations approved by special exception must apply for a special exception amendment to obtain the sit-down use, the Planning Commission recommended that existing service stations be allowed to have on-site seating as an accessory use by-right so long as parking requirements are met. The proposed ordinance reflects this change.

Further detailed information regarding this ordinance amendment can be found in the attached Planning Commission staff report dated April 7, 2016 (Attachment 3).

**Attachments:**

- (1) Draft Ordinance
- (2) Resolution 2015-149
- (3) April 7, 2016 Planning Commission Staff Report

PRESENTED: April 26, 2016

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

ADOPTED: April 26, 2016

AN ORDINANCE: AMENDING ARTICLE 18, DEFINITIONS, OF THE LEESBURG ZONING ORDINANCE TO PERMIT ON-SITE CONSUMPTION OF FOOD ITEMS WITHIN SERVICE STATIONS

The Town Council of Leesburg, Virginia, hereby ordains:

**SECTION I.** That the following sections of the Zoning Ordinance of the Town of Leesburg, Virginia, 2003, as amended, be and the same are hereby amended to read as follows:

**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, and lubricants, ~~Other vehicle-oriented goods, such as but not limited to, batteries, tires, and other motor vehicle accessories may be sold,~~ and wherein additional mechanical services may be rendered and sales made, but only as accessory and incidental to the primary occupation of dispensing fuels. Uses permissible at a service station shall not include vehicle restoration, 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. The sale of Prepared prepared foods such as sandwiches and cooked foods ~~limited to off-premises consumption are~~ is permitted as an accessory use to the extent permitted by the special exception or proffered rezoning approved for the service station. Such prepared foods may be consumed by service station customers on or off of the premises. Any service station existing prior to April 26, 2016 may add on-site dining as an accessory use provided there is no building expansion for the use and parking requirements are satisfied.

**SECTION II.** All prior ordinances in conflict herewith are hereby repealed.

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FOOD ITEMS WITHIN SERVICE STATIONS

**SECTION III.** Severability. If a court of competent jurisdiction declares any provision of this ordinance invalid, the decision shall not affect the validity of the ordinance as a whole or any remaining provisions of the Leesburg Town Code.

**SECTION IV** This ordinance shall be in effect upon its passage.

PASSED this 26<sup>th</sup> day of April, 2016.

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David S. Butler, Mayor  
Town of Leesburg

ATTEST:

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Clerk of Council

The Town of  
**Leesburg,  
Virginia**

PRESENTED: December 8, 2015

RESOLUTION NO. 2015-149

ADOPTED: December 8, 2015

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

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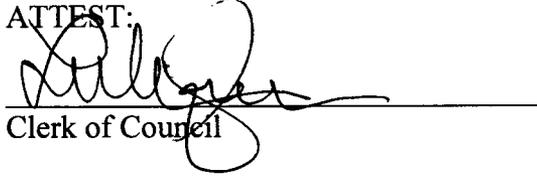
pertaining to convenience retail and service stations in order to address evolving trends within that market sector.

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 8<sup>th</sup> day of December, 2015.

  
Kristen C. Umstatt, Mayor  
Town of Leesburg

ATTEST:

  
Clerk of Council



**Date of Commission Meeting:** April 7, 2016

**TOWN OF LEESBURG  
PLANNING COMMISSION  
PUBLIC HEARING**

**Subject:** TLOA-2016-0003, Service Stations and Convenience Food Stores *Zoning Ordinance* Text Amendments

**Staff Contact:** Scott E. Parker, AICP, Assistant Town Manager

**Proposal:** Amendments to Article 18 of the *Town of Leesburg Zoning Ordinance* (TLZO) to update the definition for “Service Station” to permit sit-down dining as an accessory component.

**Recommendation:** Staff recommends approval of the amendments to the *Zoning Ordinance* as presented in this report.

**Background:** On December 8, 2015, the Town Council unanimously approved Resolution No. 2015-149 (Attachment 1) to initiate *Zoning Ordinance* text amendments to establish regulations and/or definitions pertaining to service stations and convenience food stores in order to address evolving trends within that market sector. The issue of what to call a gas station that offers convenience foods and sit-down dining has been raised on several occasions recently, including discussion of a possible expansion of the Sheetz station in Leesburg Park and during the Potomac Station Concept Plan and proffer amendment to Land Bay A (TLZM -2014-0001) which approved a service station/convenience store. The current definition does permit the sale of convenience foods at a gas station but does not permit sit-down dining, which led Mr. Jay Sotos, developer of Potomac Station Land Bay A to approach Council to consider amendments to the ordinance to permit this combination of uses.

Staff originally proposed to amend the definition and use standards for “Convenience Food Store” and use standards for “Service Station” to update those standards to also meet recent trends. However, staff believes those amendments can be better achieved through the batch process so they are not contained as part of this report and will not be presented as part of the public hearing.

**Existing Regulations:** Current *Zoning Ordinance* definitions for “Service Station”, “Convenience Food Store” and “Eating Establishment” were originally adopted in 1990 at a time when such uses were typically separate and distinct. Within recent years, service stations have evolved into a single use that includes a combination of traditional and expanded convenience retail products, fuel sales and fast food with on-premises dining areas.

The current *Zoning Ordinance* definition for service station does not permit the evolving combination of uses described above. Specifically, a service station permits fuel sales and the sale of convenience foods, as evidenced by the recent approval of the Exxon gas station in Oaklawn and another in Potomac Station Land Bay A. In those cases and in previous service station approvals, no seating was approved for on-site consumption of food because the definition of service station specifically prohibits the practice with these words: “Prepared foods such as sandwiches and cooked foods *limited to off-premises consumption* are permitted . . .” (emphasis added). Convenience foods, also called “fast foods”, such as hamburgers, hot dogs and sandwiches can be sold on the site but patrons must take them off-site for consumption.

**Effect of Existing Regulations:** On-site consumption of purchased foods is not permitted, meaning sit-down dining is also not permitted. That is, seats/tables for customers who have purchased food may not be installed in any service station in town. Instead, all customers must take the food off-site for consumption such as in their car or when they reach another destination. This runs counter to a trend that has seen sit-down dining added as an accessory use to gas stations throughout the United States, including jurisdictions in Virginia such as Loudoun County, Fairfax County and Winchester.

**Impact of Proposed Amendments:** These amendments propose to alter the service station definition to permit limited on-site dining for customers who have purchased convenience foods. That will allow service stations in Leesburg to offer the combination of three uses that is permitted in other jurisdictions: (1) fuel sales as the principal use with (2) convenience food sales and (3) sit-down dining as accessory uses. Note that the definition limits the extent of the dining area either to that which was specified under the special exception approved for the service station use or to what was approved under the proffered rezoning which approved the use. In that way, the Planning Commission and Council can entertain an applicant’s proposal and set the specific square footage area for on-premises dining with the caveat that the area must reflect its designation as an accessory use. Existing gas stations approved by special exception must apply for a special exception amendment to obtain the sit-down use.

**Analysis:** Within the last two decades the service station/convenience store/fast food use combination has become common through vendors such as Sheetz, Wawa, 7-11, and Circle K. Most recently, the industry has begun to develop gas stations with expanded convenience/fast food stores ranging in size to over 5,000 square feet where a wide ranging variety of items are sold besides gasoline, from traditional convenience store items to take-out food and sit-down food to order. The reason for this combination is a growing trend that has demonstrated travelers like the convenience of being able to pull off the road for gas and to have a bite to eat at the same location. Rather than eat in the car on a long trip, customers can sit and quickly eat a meal and be on their way without introducing the distraction or mess of dining in the car or driving to another place to find a meal. This saves time and is, of course, also profitable for the gas station vendor.

Staff believes that given the changing nature of the use and the expectations of customers, the traditional service station described in the Town’s current ordinance, while possible, is probably unlikely to be proposed going forward. More likely scenarios would either be a Vehicle and/or

Equipment Service Facility as defined in Section 18.1.197 (no proposed changes) to accommodate vehicle service and repair, or the business model that has been discussed within

this report that dispenses fuel as part of a larger convenience/food sales orientation that is devoid of traditional repair facilities. There are service stations within the Town that will not be affected by these changes. If these existing service stations were to propose a change, a special exception would be required in order to analyze and evaluate the appropriateness of the changes in addition to the impacts.

It should be noted that currently, a service station requires special exception approval and compliance with the eight use standards set forth in TLZO Sec. 9.3.24. There is no proposed change to this procedure; special exceptions will still be required for service stations.

Note that if a sit-down eating establishment is proposed as part of a service station, TLZO Sec. 11.3 parking regulations must be met. Through the special exception process, a determination can be made as to sufficiency of parking.

**Draft Amendment Language:** The amendment language is provided below for the Planning Commission's review and consideration. Note that:

- Text highlighted in yellow and underlined is proposed new language.
- Text in ~~red and with strikethrough~~ is existing text proposed to be eliminated.

#### **18.1.169 Service Station**

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#### **RECOMMENDATION AND DRAFT MOTIONS:**

Staff recommends the Planning Commission forward TLZO-2016-0003 to Town Council with a recommendation of approval.

#### **Motion for Approval**

I move that *Zoning Ordinance* Text Amendment TLOA-2016-0003, amending the definition of “service station” in Article 18 be forwarded to the Town Council with a recommendation of approval as proposed in the staff report dated April 7, 2016 on the basis that the amendments will serve the public necessity, convenience, general welfare and good zoning practice.

-Or-

**Motion for Approval with Changes**

I move that *Zoning Ordinance* Text Amendment TLOA-2016-0003 amending the definition of “service station” in Article 18 be forwarded to the Town Council with a recommendation of approval on the basis that the amendments will serve the public necessity, convenience, general welfare and good zoning practice. The proposed language shown in the staff report dated April 7, 2016 is revised as follows to incorporate the following changes recommended by the Planning Commission: [list changes]

-Or-

**Alternate Motion**

I move that \_\_\_\_\_ [list reasons].

**Attachment(s):**

1. Town Council Resolution No. 2015-149.

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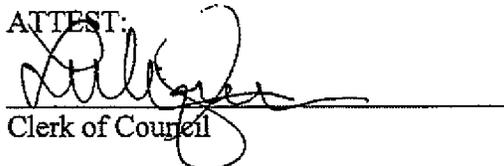
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ATTEST:  
  
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