

# TOWN OF VIENNA

## MEMORANDUM

TO: Town Council

FROM: Patrick Mulhern, AICP, Director of Planning & Zoning

DATE: November 13, 2017

SUBJECT: Public Hearing on November 13, 2017  
Section 18-4. - Definitions  
Section 18-72. - Permitted uses

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Town Council to hold a public hearing on November 13, 2017 to consider Planning Commission-recommended changes on proposed ordinance amendment language to [Section 18-72](#), (Restaurants) C-1 Permitted uses under Article 11 of Chapter 18 and [Section 18-4](#), Definitions under Article 2 of Chapter 18 of the Vienna Town Code.

### *Introductory Comments:*

On July 10, 2017, as part of the approved zoning code review work program, Town Council referred the Zoning Ordinance amendment of the [Section 18-72](#) to the Planning Commission to review and recommend changes.

The proposed amendment is specifically related to the existing requirements for restaurants and where they are permitted. [Section 18-72.2](#) states the following:

### 2. Restaurants.

- a. Intent. It is the intent of this subsection to encourage quality restaurants which will enhance the appearance of the Town; afford the opportunity for dining in an aesthetically pleasing atmosphere; and provide for a variety of restaurant types to appeal to the diverse tastes of a wide range of age, income and social groups.
- b. Where permitted. Restaurants shall be permitted where:
  - (1) Such restaurant, when the sole occupant of a free-standing building, has a seating capacity for 125 or more persons inside the enclosed structure, such seating to be at tables or booths of the following minimum top surface sizes in square inches; for two people (720), for two to four people (1,008); or
  - (2) Such restaurant does not occupy a freestanding building but either is:
    - (a) Located in an office building which principally is occupied and used for professional and administrative offices; or
    - (b) Is operated as an incidental part of a drug store, department store, motel, or similar business; or

- (c) Is the sole occupant of a separate unit within a shopping center group of structures divided by party walls.
- c. Additional requirements. The off-street parking provisions of section 18-130(H); site plan control provisions of section 18-250; and architectural design control provisions of chapter 4, particularly, and all other pertinent sections of this chapter generally shall apply.

The Code specifically restricts restaurants to free-standing buildings with a certain seating capacity (and therefore certain parking capacity), shopping centers, office buildings, or as an incidental part of a drug store, department store, motel, or similar business.

***Background:***



**Figure 1 – The Burger Chef was located at 411 Maple Avenue East, the current location of Wendy's.**

In 1971 the Town Council approved changes to the Code to limit restaurants to freestanding buildings with at least 125 seats, office buildings principally occupied and used for professional and administrative offices, incidental parts of drug stores, department stores, motels, or similar businesses, and shopping centers. Council also added definitions of "restaurant," "restaurant, drive-in," "restaurant, carry-out service," and "carry-out food business," included a section in the Supplemental Regulations article prohibiting drive-in restaurants, and required 1 parking space for every 4 seats in the off-street parking section.

The intent of Council was to limit drive-in restaurants and encourage quality, sit-down restaurants. Minutes from a Council/Planning Commission work session focusing on the proposed ordinance related to restaurants, dated October 10, 1970, have been included with this staff report as a background resource to the Town Council. The “Burger Chef,” pictured on the previous page, was an example of the type of drive-in/carry-out restaurant that the Town Council was trying to limit.

***Shopping Center Amendment:***

Shopping center is currently defined by the Code as “a group of not less than four contiguous retail stores or a building of contiguous retail stores having a total ground floor building area of not less than 10,000 square feet, with immediately adjoining off-street parking facilities as required by this chapter.” As a way to allow restaurants to be permitted in more buildings throughout Town, the definition was amended in 2005 from being a group of not less than **five** contiguous retail stores having a total ground floor area of **not less than 10,000 square feet** to a group of not less than **four** retail stores **or** a building of contiguous retail stores having a total of not less than 10,000 square feet. However, this amendment has not completely allowed restaurants as a by-right use in every building in the commercial zoning districts.

***Existing Conditions:***

As of today, there are at least 18 buildings along Maple Avenue and Church Street that do not meet the criteria of a shopping center, have enough parking to accommodate 125 seats, or meet the other criteria listed under [18-72.2](#) (this analysis does not include banks and automobile service stations, which are laid out in a particular way to accommodate the stacking of vehicles). An additional 5 buildings accommodate non-conforming restaurants that do not meet the current criteria set out in the Code.

The restaurant provisions have limited the types of tenants certain buildings are permitted to house in the commercial zoning districts (C-1, C-1A, C-1B, C-2) and, if there is sufficient parking for the use, in the limited industrial zoning district (CM).

***Recommendations:***

The Planning Commission recommended amending [Section 18-72](#) of the Town Code. The Code should be amended to remove existing minimum seat and location criteria for restaurants and allow restaurants as a by-right use anywhere in the C-1 zoning district (and therefore the C-1A, C-1B, C-2, and CM zoning districts – due to cumulative zoning).

As the result of two work sessions with the Planning Commission (held on August 9<sup>th</sup> and on August 23<sup>rd</sup>), Staff also recommended amending [Section 18-4](#) of the Town Code, to amend

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the definition of *restaurant, carry-out service* and remove the definition of *carry-out food business*. The amendments help clarify that carry-out restaurants are permitted in the commercial zoning districts. Additionally, Planning Commission recommended that the use restrictions should be eliminated for the ground floor of the office building. Currently, office buildings “shall be occupied solely for professional use or the administrative activities accessory to other than professional uses.”