



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

## PLANNING AND ZONING BOARD STAFF REPORT

### Limited Indoor Dining

Meeting	File No.	Application Type
June 17, 2024	2024-163-LDR	Amendment to the Land Development Regulations
Applicant	Property Owner	Agent
City of Delray Beach	Not applicable.	Not Applicable.

**Request**  
 Provide a recommendation to the City Commission on Ordinance No. 20-24, amending Section 4.6.9, "Off-Street Parking Regulations;" to adopt parking regulations for establishments with limited indoor dining, and Appendix A - "Definitions" of the Land Development Regulations (LDR), to adopt a definition for Limited Indoor Dining.

### Background Information

The proposed LDR amendment establishes provisions for limited indoor dining at establishments selling food and beverages on a primarily retail basis. The impetus for this LDR Amendment is multiple requests received by Development Services for small establishments, with an expressed interest in providing limited indoor seating.

The LDR specifies permitted, conditional, and accessory uses within zoning districts, which are defined within Appendix A, Definitions. For example, the sale of antiques, cosmetics, meats, foods, music and musical instruments, sporting goods, and many other categories are considered retail. Generally, retail uses are not intended for consumption or use on site, but it does occur in some instances. Ice cream shops are generally approved as a retail use, and are one such example of an establishment where both the retail sale and consumption occurs on site. The parking regulations in the LDR do not govern ice cream shops or similar types of uses, however. The proposed new definition of limited indoor dining, along with clarifications to parking requirements, provides establishments with the ability to provide no more than eight interior seats, without being subjected to a higher parking requirement for restaurants. Multiple establishments have either requested similar considerations or have modified business operations due to the zoning and parking requirements. Some instances include Whit's Frozen Custard, Deke's in Delray, Kilwin's, Gelatto Go, Cream, Ben and Jerry's, Delray Goodies, Serenity & Tea by the Sea, A Kitchen DB Empanadas, and Ramen 369.

The LDR provide direction for similar uses if the limited seating is located outdoors, and an establishment qualifies as a Sidewalk Café:

*All other uses (deli, sandwich shops, coffee shops, sub shops, etc.) not classified as a restaurant, but otherwise qualifying for a sidewalk café permit which have no inside seating shall be considered a general commercial use with respect to parking requirements. All other uses (deli, sandwich shops, coffee shops, sub shops, etc.) which have inside seating shall be considered a restaurant use with respect to parking requirements (LDR Section 4.6.9(C)(3)(d).*

For establishments with both indoor retail sales of food or beverages and limited indoor dining, however, the LDR does not clearly define whether or not this type of establishment would be classified as a restaurant or retail use, due to both inconsistencies in language and the rise in popularity of new restaurant types that do not fit into any of the existing categories. Thus, the parking requirements are not clear for such establishments. Staff has been reviewing the parking requirements for these types of applications based on an administrative interpretation, rather than clear standards within the LDR. This amendment would clarify the parking required for establishments that serve food primarily for take-out consumption, with limited indoor dining.

NOTE: A similar request (File No. 2020-160-LDR) was brought to the Planning and Zoning Board on January 23, 2023 as Ordinance No. 40-22. The request had all the provisions for limited indoor dining presented as Ordinance No. 20-24, but all updates to terminology related to restaurants are removed from consideration until a later date.

## Description of Proposal

The proposed LDR amendment adopts a definition for Limited Indoor Dining, and corresponding parking regulations for restaurant or retail establishments with Limited Indoor Dining to reflect changes to the restaurant and food services industry. Major changes are summarized as follows.

### Appendix A: Definitions

The following new definition is proposed:

LIMITED INDOOR DINING. A restaurant or retail establishment where food or beverages are prepared, processed, or assembled for customers to consume on or off site, with no more than eight seats provided indoors. Retail establishments providing limited indoor dining shall meet Florida Statutory and regulatory requirements for a food service license.

### Section 4.6.9, Off-street Parking Regulations

#### Subsection (B), Applicability

- Modified to improve the readability of regulations governing the applicability of parking requirements.

#### Subsection (C), Number of parking spaces required

- Amended to specify that food and beverage establishments can be considered a retail use, in terms of required parking, even if limited indoor seating is provided.
- Eliminates highly specific descriptions of restaurants, in favor of a general requirement that applies to restaurants and standalone bars, which are both subject to the same parking rate (12 per 1,000 square feet).
- The requirement to provide 15 spaces per 1,000 square feet of gross floor area over the initial 6,000 square feet is eliminated.
- General edits to improve readability.

## Review and Analysis

### LDR Section 1.1.6, Amendments

*The text of these Land Development Regulations may from time to time be amended, changed, supplemented, or repealed. No such action however, shall be taken until a recommendation is obtained from the Planning and Zoning Board and until a public hearing has been held by the City Commission.*

### LDR Section 2.4.7(A)

*Amendments to the Land Development Regulations may be initiated by the City Commission, City Administration, or by a member of the public.*

### LDR Section 2.4.7(A)(5), Findings

*For any approval, the City Commission must make a finding that the text amendment is consistent with the Comprehensive Plan, and that the amendment furthers the implementation of an adopted neighborhood plan, if applicable.*

The following Goals, Objectives, and Policies (GOPs) of the adopted Comprehensive Plan are applicable to the proposed amendment:

### Neighborhoods, Districts, and Corridors Element

Objective NDC 3.5 Update Land Development Regulations Regularly review and update the Land Development Regulations to provide timely, equitable and streamlined processes including, but not limited to, building permit processes for residential developments and to accommodate mixed-use developments, address market changes and development trends, and other innovative development practices.

The proposed amendment will improve the development review process by providing clear policies and procedures to staff, property owners, and small businesses within the city.

### Economic Prosperity Element

Objective ECP 6.5 Small Business Growth Support the growth and development of small businesses that enhance the vitality and quality of life in Delray Beach neighborhoods.

Many establishments (both existing and proposed) have requested a policy change that would allow smaller food and beverage establishments that operate closer to a retail model of operations to do so without providing parking at the restaurant rate. Establishing clear, standards for small shops that operate with more of a retail than a restaurant model encourages the leasing of smaller spaces, and provides the opportunity for small businesses to provide a customer amenity that would otherwise be cost prohibitive due to the high cost of providing parking at the restaurant parking rate.

Staff consulted with Neighborhood and Community Services, Clean and Safe Team to establish a reasonable threshold for the Limited Indoor Dining definition that can be counted and enforced. The proposed eight-seat maximum is based on this guidance.

### Review By Others

The amendment was reviewed by the following boards as the more comprehensive ordinance previously drafted to include an update to restaurant regulations in general:

- Pineapple Grove Main Street Advisory Board
- Historic Preservation Board
- Chamber of Commerce
- Parking Management Advisory Board
- Site Plan Review and Appearance Board
- Downtown Development Authority
- Community Redevelopment Agency

The amendment will be reviewed in two (2) hearings before the City Commission at dates to be determined.

### Board Action Options

- Recommend **approval** to the City Commission of Ordinance No. 20-24, amending Section 4.6.9, "Off-Street Parking Regulations;" and Appendix A - "Definitions" of the Land Development Regulations (LDR) to adopt a definition of Limited Indoor Dining, by finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- Recommend **approval** to the City Commission of Ordinance No. 20-24, **as amended**; amending Section 4.6.9, "Off-Street Parking Regulations;" and Appendix A - "Definitions" of the Land Development Regulations (LDR) to adopt a definition of Limited Indoor Dining, by finding that the amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in Land Development Regulations.
- Recommend **denial** to the City Commission of Ordinance No. 20-24, amending Section 4.6.9, "Off-Street Parking Regulations;" and Appendix A - "Definitions" of the Land Development Regulations (LDR) to adopt a definition of Limited Indoor Dining, by finding that the amendment and approval thereof is not consistent with the Comprehensive Plan and does not meet the criteria set forth in Land Development Regulations.

Public and Courtesy Notices

Courtesy Notices are not required.

Public Notices are not required for this request.