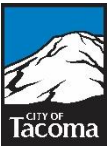


Application 4

Delivery-Only Retail Businesses





**2023 ANNUAL AMENDMENT
TO THE COMPREHENSIVE PLAN AND LAND USE REGULATORY CODE**

**Application:
Code Amendments Regulating Delivery-only Businesses
of Food and Other Consumables**

**Staff Analysis Report
March 1, 2023**

This application, “Code Amendments Regulating Delivery-only Businesses of Food and Other Consumables” (Delivery-only retail businesses) is being considered as part of the 2023 Annual Amendment to the *One Tacoma* Comprehensive Plan and Land Use Regulatory Code (“2023 Amendment”). The intent of this application is to seek appropriate amendments to the Tacoma Municipal Code, Title 13 to include definitions and development/performance standards specific to delivery-only retail business uses.

Project Summary	
Application ID:	Delivery-Only Retail Businesses
Applicant:	Planning and Development Services Department
Staff Contact:	Adam Nolan, Associate Planner, anolan@cityoftacoma.org
Location and Size of Area:	Citywide
Current Land Use/Zoning	Various
Neighborhood Council	Citywide
Staff Recommendation:	<p>Staff proposes:</p> <ul style="list-style-type: none">• To add commissary kitchens as a subset of “Retail” uses in the Tacoma Municipal Code land use tables. The use would be required to meet “Retail” use and development standards;• Additional Requirement setting limitation on commissary kitchen building size to 6000 square feet in a mixed-use district;• Additional Requirement of in-person, direct to customer sale component for retail establishment located on a designated pedestrian street; and• That the Planning Commission accept public comment and begin to develop recommendations to the City Council.
Project Proposal:	See Exhibit “A”, attached



1. Area of Applicability

Citywide - in various zoning districts and geographical areas that allow retail commercial uses.

2. Background

The City of Tacoma has received recent requests to locate “delivery-only” retail businesses within the City. In the process of evaluating development proposal/s, it has been determined that Tacoma Municipal Code does not have a clear use definition or category for classifying delivery-only retail businesses; this also means there are currently no siting and development standards for this use.

Delivery-only retail businesses, a relatively new model, are generally food establishments and/or grocery businesses that are pickup/delivery-based (often through third-party online order/delivery services) and automobile-oriented. Delivery-only retail businesses are similar to retail uses except that there is no in-person dining or customer component. These characteristics (and lack of definition and standards in TMC for this use) have created tensions in determining how to define and regulate this use, including considerations of where this use is appropriately sited, and in considering potential on- and off-site impacts generated by this use.

To further illustrate this, a Director’s Interpretation/Determination was issued regarding the CloudKitchens’ proposal to redevelop a 6750 square foot site (3726 South G St.) that would house up to twenty separate delivery-only food establishments. The site is in a Neighborhood Commercial Mixed-Use Center (NCX) and along a Pedestrian Street. It was determined that unless conditioned properly, the proposed business did not operate in a manner similar to any use allowed outright in NCX districts. Delivery-only retail businesses, lacking an in-person customer component are also in conflict with the City’s Pedestrian Street use restrictions; in general, uses which are permitted are required to have a public-facing component (e.g., office or service area) at sidewalk level. Along with detailing conditions required for the CloudKitchens’ in further consideration of their development proposal, the Director’s Interpretation/Determination also noted that until the TMC can be amended to include an adequate definition of ghost kitchens or other delivery-only retail businesses, any establishment of such a business will be required to pursue an Official Determination and is likely to include similar operating conditions.

Staff has consulted with the Tacoma Pierce County Health Department (TPCHD) about how they handle operational permitting and food safety related to delivery-only businesses. TPCHD utilizes the Washington State Retail Food Code in this work and permits commissary kitchens that can then lease space to individual food establishments (including catering, food trucks, wholesale, and delivery-only businesses). Delivery-only retail businesses would be required to operate out of a commissary kitchen and get a food establishment permit. If the business was only housing delivery-only retail businesses and not actually making food (such as CloudKitchens example), then it would be considered a commissary and need to obtain a commissary permit.

Staff proposes to categorize delivery-only retail businesses as “commissary kitchens,” and further proposes through this amendment application to (See Exhibit A for proposed code changes):

- Add commissary kitchens as a subset of “Retail” uses in the Tacoma Municipal Code land use tables. The use would be required to meet “Retail” use and development standards;
- Add Additional Requirement in mixed-use land use table setting limitation on commissary kitchen building size to 6000 square feet in mixed-use districts; and

- Add Additional Requirement of in-person, direct to customer sale component for retail establishment located on a designated pedestrian street.

3. Analysis

Staff analysis of this application has been conducted in accordance with TMC 13.02.070.F.2, which requires the following four provisions be addressed, as appropriate:

- A staff analysis of the application in accordance with the elements described in 13.02.070.D;
- An analysis of the consistency of the proposed amendment with State, regional and local planning mandates and guidelines;
- An assessment of the anticipated impacts of the proposal, including, but not limited to: economic impacts, noise, odor, shading, light and glare impacts, aesthetic impacts, historic impacts, visual impacts, and impacts to environmental health, equity and quality.

a. A staff analysis of the application in accordance with the elements described in 13.02.070.D;

TMC 13.02.070.D, subsection 5.d.(1), requires that the following objectives shall be met by applications for the annual amendment:

- Address inconsistencies or errors in the Comprehensive Plan or development regulations;

Staff Response: The application addresses inconsistencies in the Comprehensive Plan and development regulations by proposing to define and regulate delivery-only retail business with the intended results of providing clarity to City policy and development regulations.

- Respond to changing circumstances, such as growth and development patterns, needs and desires of the community, and the City's capacity to provide adequate services;

Staff Response: Delivery-only retail businesses do respond to changing circumstances and the City's capacity to provide adequate services. Delivery-only retail businesses are still a relatively new model that illustrate some changing circumstances or character of the food and restaurant industry, entrepreneurship, consumer behaviors, and food access. Proliferation of the delivery-only retail business model was further fueled by the COVID-19 pandemic.

City of Tacoma staff have received requests to locate delivery-only retail businesses within the City. The City lacks a clear categorical definition and development/performance standards for delivery-only retail businesses. This lack of clarity can be a potential barrier to economic development and increased food access, as well as make evaluation of development proposals for this use more burdensome on City staff and operations.

- Maintain or enhance compatibility with existing or planned land uses and the surrounding development pattern; and/or

Staff Response: It is noted that delivery-only retail businesses use does not currently meet compatibility standards of similar commercial land uses. Lack of clarity on defining and regulating this use increases the possibility of conflicts with surrounding land uses and development patterns, as well as various city policy and goals. The proposal intends to address this by providing a definition and development/performance standards for delivery-only retail business.

- Enhance the quality of the neighborhood.

Staff Response: As delivery-only retail businesses are citywide and applicable to zoning districts that allow Commercial uses, assessment of how uses enhance quality of neighborhoods is not applicable in this case. Nonetheless, delivery-only retail business uses may enhance goals around food access, employment opportunities, entrepreneurship, economic development, and other goals.

b. An analysis of the consistency of the proposed amendment with State, regional and local planning mandates and guidelines;

Staff Response: As part of the initial staff assessment report, staff identified specific policies pertinent to the application. Based on those policies, staff does not identify any inconsistencies with State or regional planning mandates and guidelines. Staff notes that this application is an attempt to define and regulate a currently unlisted use in the TMC, and in doing so, ensure broad compatibility with the *One Tacoma Comprehensive Plan* elements. This proposal appears to be consistent with goals and policies detailed in the Urban Form, Design and Development, and Economic Development elements of the Comprehensive Plan.

c. An analysis of the consistency of the proposed amendment with State, regional and local planning mandates and guidelines;

Staff Response: This application seeks to provide some regulatory clarity and consistency that would be helpful in better planning for and mitigating the potential impacts of delivery-only retail uses. Delivery-only retail businesses are automobile-oriented and oftentimes on-demand transactions mitigated through third-party ordering and delivery services. There is no in-person customer component, only possibility of order pickup/delivery. Impacts from delivery-only retail businesses also need to be considered in terms of ranges of the scale of operations or number of food establishments at the site. Below are some considerations of potential impacts:

- **Trip Generation, Parking, and Loading**

Planning staff has consulted with Public Works – Transportation staff. With this use being fairly new, there is not a great deal of data available concerning trip generation, air quality, and parking/loading impacts. Trip generation for more traditional restaurant, retail, or commercial establishments can generally be estimated based on dining/occupancy capacities and/or limitations on food offerings and kitchen space. Delivery-only retail businesses may have multiple food establishments/restaurants operating from a single site and are generally on-demand transactions. This makes it difficult to estimate trip generation, especially since there will be a range of scale of delivery-only retail business operations that could exist. One general assumption is that the more delivery-only food establishments at a site, the greater the trip generation and other associated impacts. Greater trip generation will have potential impacts on surrounding businesses and neighborhoods. Consideration of conflicts with pedestrian and multi-modal goals, policy, and infrastructure also need to be considered.

There are also anticipated impacts with parking and loading to meet the demand of greater trip generation. Pickup/delivery drivers generally use their own personal vehicles from delivery-only retail businesses and will utilize parking/loading near the sites. The different zoning districts have varying levels of required

parking/loading for retail uses, and these considerations and potential impacts need to be taken into account when determining appropriate zoning districts or additional regulations for siting these uses in the City.

- **Air Quality**

With this use being automobile-oriented, it is anticipated that there will be impacts on air quality. These are additional considerations that can be applied in considering parking/loading standards and applicable zoning districts and regulations.

The City has policy that could help address air quality concerns through its overall growth strategy. The Transportation Master Plan (TMP) identifies goals, strategies, and actions to support multimodal infrastructure including for pedestrian, bicycling, and transit priority networks. The TMP also supports the development of “20-minute neighborhoods” where goods and services can be obtained within short distances by using active transportation modes and reducing reliance on automobile trips that generate GHG emissions. There are also programs available through the City (TPU technical and financial assistance programs) and Pierce County (C-PACER program) that incentivize more environmentally sustainable development.

- **Economic Impact**

This application request is generally supportive of economic development policies of the *One Tacoma Comprehensive Plan*. Delivery-only retail businesses are a relatively new model, but there are already some smaller-scale examples in Tacoma. These examples demonstrate that delivery-only retail businesses can provide entrepreneurship opportunities, including providing essential affordable start-up space for small business food establishments, lower overhead/operating costs, concept testing, avenues for scaling-up, and an incubator/innovation role. The use will also provide employment opportunities with potential multipliers (food distribution, etc.).

- **Food Access and Safety**

Planning staff consulted with TPCHD staff concerning food access and safety. Delivery-only retail businesses can have food access and equity implications. Delivery-only retail businesses may play a role in providing greater food accessibility in Tacoma, especially in neighborhoods that currently have lower food access opportunities. Additionally, there can be greater oversight on food and operational safety by providing opportunities for delivery-only retail businesses to be permitted to operate out of commissary kitchens. This can also have broader public safety oversight implications by providing safe, regulated spaces to operate as opposed to people utilizing their home kitchens as food establishments/restaurants.

4. Public Outreach

Planning staff conducted outreach to numerous internal and external stakeholders. TPCHD staff provided insights into their permitting, food safety, and operational policies/standards. A few commissary Kitchen owner/operators in Tacoma were also consulted with to gather a better understanding of siting, infrastructure, and operational characteristics of delivery-only retail businesses. City of Tacoma Public Works – Transportation Department was consulted about potential impacts related to transportation infrastructure, goals, and policies.

The Commission is scheduled to conduct a public hearing on the 2023 Amendment in early 2023. Additional public outreach for all the applications for the 2023 Amendment will be conducted prior to and during the public hearing process.

5. Recommendation

Staff proposes to categorize delivery-only retail businesses as “commissary kitchens,” and further proposes through this amendment application to:

- Add commissary kitchens as a subset of “Retail” uses in the Tacoma Municipal Code land use tables. The use would be required to meet “Retail” use and development standards;
- Add Additional Requirement in mixed-use land use table setting limitation on commissary kitchen building size to 6000 square feet in mixed-use districts; and
- Add Additional Requirement of in-person, direct to customer sale component for retail establishment located on a designated pedestrian street.

Staff recommends that the Planning Commission release this staff report and Exhibit “A” for public review and comment.

After the public hearing, staff will facilitate the Commission’s review of public comments, decision-making, and formulation of recommendations to the City Council, pursuant to TMC 13.02.070.H, as cited below:

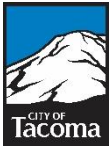
H. Findings and recommendations.

1. Upon completion of the public comment period and review of the public testimony, the Planning Commission will make a determination as to whether the proposed amendments are consistent with the following criteria:
 - a. Whether the proposed amendment will benefit the City as a whole, will not adversely affect the City’s public facilities and services, and bears a reasonable relationship to the public health, safety, and welfare; and
 - b. Whether the proposed amendment conforms to applicable provisions of State statutes, case law, regional policies, and the Comprehensive Plan.
2. The Commission will prepare a recommendation and supportive findings to forward to the City Council for consideration.

6. Exhibit

- Exhibit “A” – “Delivery Only Retail Businesses”- Proposed Code Changes

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**2023 ANNUAL AMENDMENT
TO THE COMPREHENSIVE PLAN AND LAND USE REGULATORY CODE**

“Delivery Only Retail Businesses”- Proposed Code Changes

March 1, 2023

1. Amendment to Retail Definition:

“Retail.” Establishments engaged in retail sales of goods, including, but not limited to, the retail sale of merchandise not specifically listed under another use classification. This classification includes, but is not limited to, department stores, clothing stores, bank branches, furniture stores, pawn shop, pharmacies, and businesses retailing the following goods as examples: toys, hobby materials, food and beverages sales (including catering [and commissary kitchens](#)), hand-crafted items, jewelry, cameras, photographic supplies, electronic equipment, records, sporting goods, kitchen utensils, hardware, appliances, art, antiques, art supplies and services, baseball cards, coins, comics, paint and wallpaper, carpeting and floor covering, medical supplies, office supplies, bicycles, and new automotive parts and accessories (excluding service and installation).

2. Amendment to Retail Definition to establish size limitation for Commissary Kitchens in mixed-use centers.

Insert into “Additional Regulations” in Table 13.06.040 for retail uses within mixed-use districts:

[*Commissary Kitchens are limited to 6,000 SF of net building area and exterior display or storage of equipment is prohibited.](#)

3. Amendment to Retail Ground floor uses on Pedestrian Streets

Insert into “Additional Regulations” in Table 13.06.040 for retail uses within mixed-use districts:

[*Retail uses are required to primarily conduct in-person, direct customer sales along the designated pedestrian street storefront.](#)