

DATE May 19, 2026

Planning and Development Department
TO Code Compliance Department
Development Community

SUBJECT Development Code Interpretation – Restaurant Use Classification

Purpose: This interpretation is intended to clarify and memorialize existing zoning and certificate of occupancy enforcement principles related to restaurant use classification and related commercial use classifications. This interpretation is further intended to promote consistency in zoning review, certificate of occupancy determinations, permitting, and enforcement and to provide clear, consistent, and defensible standards for evaluating principal use classifications based on actual operational characteristics and business activity.

This interpretation is intended solely to assist with land use classification, certificate of occupancy determinations, and zoning enforcement and does not independently establish operational licensing or criminal enforcement authority.

Code Ref.: Dallas Development Code Sections 51A-4.210 and 51A-4.217, Chapter 52, Section 306, Certificate of Occupancy, Chapter 17, Food Establishments, Texas Food Establishment Rules, 25 Texas Administrative Code Chapter 228

Question 1: What is a restaurant?

Answer: Chapter 51A defines *restaurant without drive-in or drive-through service* as an establishment principally for the sale and consumption of food on the premises and *restaurant with drive-in or drive-through service* as an establishment principally for the sale and consumption of food where food service is provided to customers in motor vehicles for consumption on the premises.

Classification as a restaurant is determined based on the overall operational characteristics of the establishment, including customer activity, floor plan design, timing and duration of food service and entertainment activities, seating configuration, kitchen activity, entertainment features, staffing, and other observable operational factors.

Staff may also consider how the establishment markets or represents itself to the public, including advertising, signage, social media promotion, event promotion, business descriptions, and similar representations, provided such materials shall not be solely determinative of the use classification.

A restaurant's physical space is primarily dedicated to:

- permanent food preparation facilities,
- customer ordering areas,
- seating or dining areas for on-premises consumption,
- and regular meal service during operating hours.

An establishment is not a restaurant merely because it has a food establishment permit, food and beverage certificate issued by Texas Alcoholic Beverage Commission (TABC), serves limited food, offers snacks, or includes a food preparation area. If alcohol sales, entertainment, dancing, amusement, private club activity, catering, or another activity is the principal use, the establishment must be classified under the applicable use category, including but not limited to bar, lounge, or tavern; commercial amusement (inside); dance hall; private club; or other applicable commercial use classifications.

Question 2: Can coffee shops, cafés, bakeries, smoothie shops, or similar establishments be classified as restaurants?

Answer: Yes. Coffee shops, cafés, bakeries, smoothie shops, dessert shops, and similar food or beverage establishments may be classified as restaurants when the principal use involves the preparation and sale of food or beverages for customer consumption, including on-premises, take-out, or drive-through service.

Classification shall depend upon the actual physical and operational characteristics of the establishment, including seating, customer activity, food and beverage preparation, drive-through activity where applicable, and whether the principal operation involves the preparation and sale of food or beverages for customer consumption.

Establishments operating primarily as packaged food sales, retail sales, or incidental food service without restaurant-style food or beverage preparation may instead be classified as general merchandise or food store.

Question 3: Is a take-out only food or beverage establishment considered a restaurant?

Answer: Not necessarily. A take-out only establishment without customer seating, tables, chairs, or on-premises dining areas is generally classified as general merchandise or food store and not a restaurant use.

The mere preparation or sale of food or beverages for off-premises consumption does not automatically establish a restaurant use classification.

Examples may include:

- take-out counters,
- packaged food operations,
- grab-and-go food sales,
- bakeries without seating,
- dessert shops without dining areas,
- nonalcoholic beverage shops,
- or similar retail-style food sales operations.

Staff shall evaluate the operation, floor plan, customer seating, and principal business activities when determining whether a use is properly classified as a restaurant or general merchandise or food store use.

Question 4: Does having a food establishment permit make a business a restaurant?

Answer: No. A food establishment permit is a health-related approval. It does not determine the zoning use classification.
A business may be a food establishment under Chapter 17 and the Texas Food Establishment Rules without being classified as a restaurant under the Dallas Development Code. Examples may include grocery stores, convenience stores, catering services, bars serving food, food trucks, packaged food sales or other retail-oriented food operations where on-premises dining and restaurant-style service are not the principal use.

Question 5: Can a restaurant serve alcohol?

Answer: Yes, if otherwise allowed by applicable law. Chapter 51A allows the sale and service of alcoholic beverages in conjunction with restaurant operations, subject to applicable regulations, including liquor control overlay districts and TABC requirements.
However, alcohol service, entertainment, and related nightlife-oriented activities must remain clearly incidental and subordinate to the principal restaurant use. If the establishment is operated primarily as a bar, lounge, or tavern; private club; dance hall; commercial amusement (inside); or other entertainment-oriented use, the establishment shall be classified under the applicable use category rather than as a restaurant.
Revenue thresholds established by the Dallas Development Code remain applicable; however, staff may also consider observable operational characteristics and actual business activity when evaluating restaurant use classification. TABC permit types and conditions may be considered as supporting information in evaluating restaurant classifications, except where specific zoning regulations expressly rely upon permit type or alcohol-related operational thresholds.

Question 6: When is a food or beverage establishment not classified as a restaurant?

Answer: A food or beverage establishment is not classified as a restaurant when food or beverage service is incidental, secondary, or used primarily intended to support another principal use.
An establishment should not be classified as a restaurant when the principal use is more accurately described as one of the following:

1. Bar, lounge, or tavern
An establishment principally for the sale and consumption of alcoholic beverages on the premises. In accordance with Chapter 51A, a bar, lounge, or tavern derives 75 percent or more of gross revenue on a quarterly basis from alcohol sales or service for on-premises consumption.
2. Commercial amusement inside
A facility wholly enclosed in a building that offers entertainment or games of skill to the general public for a fee. This may include amusement centers, billiard halls, bowling alleys, dance halls, skating rinks, adult cabarets, adult theaters, and similar uses.
3. Dance hall
A dance hall is regulated separately and may not be treated as an accessory use in certain circumstances under Chapter 51A.
4. Private club
An establishment for the association of a group of people for a common purpose, interest, or pleasure. A private club may include a restaurant or bar, but that does not automatically make the principal use a restaurant.
5. Catering service
An establishment that serves and supplies food to be consumed off premises.
6. General merchandise or food store
A grocery store, delicatessen, convenience store without drive-through, or specialty food store is classified separately from a restaurant.

Question 7: What factors should staff consider when determining whether an establishment is a restaurant?

Answer: Staff shall evaluate the actual and proposed operation of the establishment and may also consider business names, marketing materials, food establishment permit status, reported revenue, and similar supporting information.

Determination of principal use may include consideration of observable operational and physical characteristics during peak operating periods.

Relevant factors may include, but are not limited to:

1. Principal source of revenue.
2. Whether food service remains the principal operational focus of the establishment and alcohol service remains incidental and subordinate to dining activities.
3. Whether the kitchen is permanent, functional, and sized for the proposed operation.
4. Whether kitchen operations remain active and food is regularly prepared and served during peak operating periods.

5. Whether seating and floor plan layout are designed primarily for dining.
6. Whether admission, cover charge, memberships, event rentals, or entertainment are major components of the business model.
7. Whether the submitted menu reflects regular meal service or only limited snack or bar food offerings.
8. Ratio of seated dining patrons versus standing or non-dining patrons.
9. Presence of dance floors, DJ booths, stages, entertainment lighting, amplified sound systems, or controlled entry points.
10. Whether cover charges, ticketing, memberships, or admission fees, bottle service, VIP sections, or similar nightlife-oriented operational features are present.
11. Floor area allocation between dining, bar, and entertainment areas.
12. Staffing allocation, including service staff versus security personnel.
13. Documented operational observations made during inspections.
14. Establishment names, marketing materials, social media promotion, advertising, and event promotion materials.
15. Whether customer activity and operational characteristics are primarily consistent with dining activities or entertainment-oriented operations.

Question 8: How should staff evaluate establishments that include multiple operational modes?

Answer: Some businesses may operate under different modes during different periods of the day or week. When evaluating principal use classification, staff may consider the dominant operational characteristics occurring during peak business periods as part of the overall principal use analysis.

A business that operates primarily as a restaurant during certain hours but transitions into entertainment-focused, dance-oriented, nightlife-oriented, or alcohol-focused operations during peak periods may require a different certificate of occupancy, zoning classification, or approval depending on the actual principal use being operated.

Examples of operational changes that may indicate a different principal use include:

- addition of dancing or dance floors,
- DJ or live entertainment operations,
- cover charges or ticketed admission,
- nightclub-style security screening,
- bottle service or VIP sections,
- removal or reduced use of dining areas,
- or reduced food service during peak operating periods.

Question 9: Can an establishment avoid classification as a bar by serving food?

Answer: No. Food service alone does not control the classification. Chapter 51A expressly allows food to be prepared and served as an accessory use to a bar, lounge, or tavern. Therefore, the presence of food does not necessarily make an establishment a restaurant.

Question 10: What is considered an incidental or accessory use?

Answer: An incidental or accessory use is a secondary activity that is clearly subordinate to the principal permitted use of the property. Under Dallas Development Code Section 51A-4.217(a)(3), accessory uses are generally subject to area limitations and may not occupy more than five percent of the floor area of the principal use unless otherwise specifically provided by the code. Any use exceeding applicable accessory use limitations may be considered a separate main use. Examples of incidental or accessory activities may include:

- limited entertainment within a restaurant,
- small accessory retail sales areas,
- incidental food service within another principal use,
- or minor ancillary operations subordinate to the primary business activity.

Entertainment features such as dance floors, stages, DJ booths, amusement activities, cover charges, ticketed entry, or similar features that exceed applicable accessory use limitations or function as a primary operational component of the establishment may be determined by staff to constitute a separate principal use based on observable operational and physical characteristics. An incidental or accessory use may not be used to circumvent zoning regulations or occupancy classifications by establishing a secondary activity that effectively becomes the principal use of the property.

Question 11: Can a restaurant include entertainment?

Answer: Yes. Limited entertainment or other activities may occur as part of a restaurant operation when they remain clearly incidental and subordinate to the principal restaurant use and comply with all applicable codes and ordinances. If entertainment, dancing, amusement, alcohol service, ticketed events, cover charges, memberships, or similar activities become the primary operational component of the establishment, staff may determine that the use is no longer operating as a restaurant and may require a different certificate of occupancy, permit, or zoning approval.

No single operational characteristic, including the presence of entertainment, cover charges, ticketed entry, or alcohol service, shall independently determine use classification. Classification shall be based upon the totality of the establishment's physical and operational characteristics.

The presence of entertainment, cover charges, ticketed events, or similar features does not independently establish a commercial amusement, dance hall, bar, lounge, or tavern, or other entertainment-oriented use classification absent consideration of the establishment's overall operational and physical characteristics.

Question 12: How should staff handle unclear cases?

Answer: When the classification is unclear, staff may request additional information under Chapter 52, including an affidavit or detailed description and land use statement, goods or services offered, hours of operation, and required licenses or permits. Chapter 52 allows the building official to request this type of information as part of the CO process.

The building official or enforcement staff may also request additional information after issuance of a certificate of occupancy when operational conditions, inspections, complaints, observed activities, or other documented information reasonably indicate that the actual use or operation may differ from the approved certificate of occupancy or approved use classification.

When classification is unclear, the burden is on the operator to demonstrate that the principal use complies with the requested or approved certificate of occupancy and applicable zoning regulations.

Staff may also request information including, but not limited to:

1. Proposed menu.
2. Floor plan showing kitchen, seating, bar, stage, dance floor, entertainment area, and outdoor areas.
3. Hours of operation.
4. TABC permit type.
5. Food establishment permit status.
6. Projected revenue breakdown.
7. Prior revenue records for existing businesses.
8. Description of entertainment, dancing, cover charges, valet, bottle service, or event programming.
9. Copies of leases or operating agreements if needed to determine the actual use.

Question 13: How should enforcement staff classify an operating establishment

Answer: Enforcement evaluations should consider the actual use being operated at the time of inspection, including operational conditions occurring during peak business periods.

A certificate of occupancy for a restaurant does not authorize a different principal use. Chapter 52 states that issuance of a certificate of occupancy does not authorize violation of the codes, the Dallas Development Code, other ordinances, rules, regulations, or laws.

A certificate of occupancy issued for a restaurant does not authorize operation as a bar, lounge, or tavern, dance hall, commercial amusement use, private club, event venue, or other unapproved principal use.

If observable operational characteristics demonstrate that an establishment with a restaurant certificate of occupancy is operating primarily as a bar, lounge, or tavern, dance hall, commercial amusement use, private club, event venue, or other use, staff may initiate enforcement for operating outside the approved certificate of occupancy.

Enforcement determinations may consider actual operational conditions observed after issuance of the certificate of occupancy, including repeated documented operational observations, inspection history, customer activity, entertainment features, staffing patterns, floor plan usage, and other operational characteristics relevant to determining the principal use being operated.

Question 14: What is the recommended enforcement standard?

Answer: A restaurant classification must be supported by evidence that the principal business activity is the regular preparation, sale, service, and consumption of food.

Enforcement determinations may be based on direct observation, documented field conditions, floor plan configuration, customer activity, operational patterns, staffing allocation, entertainment features, kitchen activity, and supporting documentation, including revenue records where applicable.

Revenue documentation alone is not sufficient to establish compliance when observable operations indicate a different principal use.

Staff shall document observable conditions during inspections, including:

- active food preparation and service,
- customer behavior and occupancy patterns,
- layout and use of space,
- entertainment features,
- entry controls or security screening,
- alcohol service activity,
- and kitchen operations during peak periods.

Operators seeking a restaurant classification shall ensure that food service remains the principal operational focus of the business and that entertainment or alcohol-related activities remain clearly incidental and subordinate to the restaurant use.

Sam Eskander

M. Samuel Eskander, PE, CBO, CFM, LEED AP BD+C
Deputy Director / Chief Building Official