



RULE INTERPRETATION DETERMINATION

Determination #: 2018-003

Title: *Classification of Food and Beverage Related Wholesale Operations*

Drafted by: *Land Development Division, Zoning Section*

Rule in Question: *Section 35-311-2 "Non-Residential Use Matrix"*

Department Action: This RID is for clarification purposes and includes a suggested UDC amendment. The Director concurs with staff's position regarding the clarification of Food and Beverage-related uses set forth in Table 35-311-2 "Non-Residential Use Matrix".



Michael Shannon, PE, CBO
Development Services Director


Date

Effective Date of Determination: *(Immediately or identify specific date)*

Please note RIDs often result in direct or related UDC amendments to codify the clarification addressed within the RID. RIDs can also be superseded by subsequent RIDs or UDC amendments. The Development Services Department will remove RIDs from the website when they are no longer valid.

Staff Analysis: The intent of this RID to is to clarify the classification and use regulations for Food and Beverage related uses in Table 35-311-2 "Non-Residential Use Matrix". Currently, the use matrix contains six food or beverage-related uses, but each requires different zoning. This discrepancy has created confusion among customers and staff, and a clarification is needed.

TABLE 311-2 NONRESIDENTIAL USE MATRIX

	PERMITTED USE	O-1 & O-1.5	O-2*	NC	C-1	C-2	C-3	D	L	I-1	I-2	ERZD	(LBCS Function)
Wholesale	Bakery - Wholesale								S	P		P	3520
Wholesale	Dairy Products - Wholesale									P		P	3520
Wholesale	Fish Market - Wholesale								P	P		P	3520
Wholesale	Food Products - Wholesale And Storage								P	P		P	3520
Wholesale	Fruit And Produce - Wholesale								S	P		P	3520
Wholesale	Grocery - Wholesale									P	P	P	3520

Each of the above-referenced uses list the same associated Land Based Classification Standards (LBCS) code. Per LBCS, Code 3520 is listed as:

“Non Durable Goods (3520): Establishments in the nondurable goods subcategory sell or arrange the purchase or sale of nondurable goods to other businesses. These establishments wholesale products, such as paper products, chemicals, drugs, textiles, apparel, footwear, groceries, farm products, petroleum products, alcoholic beverages, books, magazines, newspapers, flowers, and tobacco products. Nondurable goods generally have a life expectancy of less than three years.

Listed within the LBCS definition of non durable goods are several products that are sold as part of the operations of each of the different wholesale uses. For example, businesses that sell fruit and produce may also be selling dairy or paper products, otherwise known as groceries. This has caused confusion for businesses and staff in trying to classify the use as one of the three (3) different permitted uses described in Table 35-311-2 including: Fruit and Produce – Wholesale, Dairy Products – Wholesale, Grocery – Wholesale. The use matrix is creating confusion for the businesses where the operation consists of components of each different use.

Additionally, staff has been approached by several wholesale operations seeking clarification on the permissibility of on-site, accessory retail and consumption. Pursuant to Section 35-370(a)(2), such accessory uses should be authorized, subject to the limitations set for in Section 35-370, including the limitation that no more than twenty-five (25) percent of the floor area may be occupied by such accessory use.

Staff Position and Interpretation: It is staff’s position that the three (3) permitted uses of Fruit and Produce – Wholesale, Dairy Products – Wholesale, and Grocery – Wholesale be classified similarly as these types of businesses consist of components of each product and be permitted in similar zoning districts with a Specific Use Authorization in “L” Light Industrial District and Permitted by Right in “I-1” Light Industrial District and “I-2” Heavy Industrial District, as follows:

TABLE 311-2 NONRESIDENTIAL USE MATRIX												
PERMITTED USE	O-1 & O-1.5	O-2*	NC	C-1	C-2	C-3	D	L	I-1	I-2	ERZD	(LBCS Function)
Dairy Products - Wholesale								<u>S</u>	P	<u>P</u>	P	3520
Fruit And Produce - Wholesale								S	P	<u>P</u>	P	3520
Grocery - Wholesale								<u>S</u>	P	P	P	3520

Further, it is staff's position that accessory uses to such wholesale operations, including, but not limited to, on-site retail, and on-site consumption of said Food or Beverage Products, shall be permitted, pursuant to Section 35-370 *Accessory Uses*.

Future UDC Amendments: Staff recommends that Table 35-311-2 "Non-Residential Use Matrix" be updated as shown in the table below. Additionally, staff recommends that the other uses of "Bakery – Wholesale", "Fish Market – Wholesale", and "Food Products – Wholesale and Storage" be reviewed for similar classification in the permitted use matrix in the 2020 UDC Amendment process.

TABLE 311-2 NONRESIDENTIAL USE MATRIX												
PERMITTED USE	O-1 & O-1.5	O-2*	NC	C-1	C-2	C-3	D	L	I-1	I-2	ERZD	(LBCS Function)
Dairy Products - Wholesale								<u>S</u>	P	<u>P</u>	P	3520
Fruit And Produce - Wholesale								S	P	<u>P</u>	P	3520
Grocery - Wholesale								<u>S</u>	P	P	P	3520