

## AGENDA

ANC 6A Economic Development & Zoning Committee  
Tuesday, February 28, 2006, 7-9 PM  
Capitol Hill Towers (900 G St, NE)  
Community Room

1. Community comment
2. ZC 06-06: emergency text amendment on public schools.
3. Discussion of possible zoning text amendment to clarify the definition of “fast food restaurants” and other eating establishments.
4. Additional community comment (time permitting)

Everyone is welcome! Call Commissioner Rice with questions at 544-3734.

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## AGENDA ITEM 2

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF PLANNING



Office of the Director

### MEMORANDUM

**TO:** Zoning Commission for the District of Columbia

**FROM:** Ellen M. McCarthy  
Director

**DATE:** February 3, 2006

**SUBJECT:** Report for **Setdown** for Emergency Text Amendments to change public school regulations, initiated by the Office of Planning.

This report serves as the Prehearing Filing required by 11 DCMR § 3013 as a prerequisite to the advertisement of this proposed text amendment.

### **RECOMMENDATION**

The Office of Planning recommends the following action **on an emergency basis** and that the matter be set down for hearing:

That the Zoning Commission adopt following text amendments

- a. The amended definition of public school;
- b. Amendment to the matter-of-right public school standards;
- c. Amendments to §§ 400, 401, & 403;
- d. Amendment to §206 to include public schools;
- e. Inclusion of public schools as a matter-of-right in the SP, CR, & W districts; and
- f. Amendments to the parking requirements for pre-elementary schools.

The Office of Planning also requests that the Commission authorize the issuance of a Notice of Proposed Rulemaking for the text and that the Commission allow the immediate advertisement of the text, without waiting for the submission of a supplemental report. This will allow for full consideration of the proposed rule within the 120-day length of the emergency.

The Office of Planning has coordinated this proposal with the District of Columbia Public Schools.

## **BACKGROUND**

Charter schools in the District are granted charters by one of two bodies, either the District of Columbia Board of Education or the District of Columbia Public Charter School Board. The United States Congress has mandated that the District of Columbia treat charter schools the same as public schools for the purposes of the Zoning Regulations. This requirement causes the need for modifications to the Zoning Regulations based on the differences between traditional public schools and charter schools.

Traditional public schools must be approved by the City Council for funding and have therefore been lightly monitored by zoning. They are static uses that, once approved, do not change location without further Council approval. Conversely, charter schools require only a charter from one of the two chartering bodies and no public hearing. Further, once a charter school has received its charter, it is not tied to a particular site and may move to any building in any zone district in the city where public schools are allowed. This can cause friction in small sites in residential neighborhoods where access is limited or the affects of a school would be more acute.

This emergency text amendment is designed to address several aspects of public/charter schools in the zoning regulations. First, it defines public schools to include public charter schools. Second, it allows collocation of school uses with other uses and sharing of recreational facilities. Third, it amends the lot area, lot width, FAR, and lot occupancy of public schools in residential zones to provide consistent standards that ensure neighborhood compatibility. Fourth, any schools in residential zones not meeting the requirements are proposed to be allowed as special exceptions. Fifth, it amends the regulations to allow public schools in the SP, CR, and W zones. Finally, this text amendment creates standards for preschools where none currently exist.

## **PROPOSAL**

### **Proposed Text**

#### ***1. Amend first sentence of definition of “Public School” §199.1 as follows:***

A building or use within a building operated ~~and maintained~~ or chartered by the District of Columbia Board of Education or the District of Columbia Public Charter School Board for educational purposes and other such community uses as deemed necessary and desirable.

#### ***2. Amend §201.1(k) to change matter of right uses in R-1 as follows:***

- (k) Public school, subject to the provisions of chapter 21 of this title; Public schools may collocate with other permitted schools or uses provided all applicable requirements of this title are met. Public schools may share common on-site recreation space including gymnasiums, playgrounds, and fields, and these shared recreational spaces may count toward the

minimum lot area; On-site office use must be ancillary and necessary to the operation of the particular school.

**3. Amend §§ 400, 401 and 403 as noted below as “Proposed” for Public Schools<sup>1</sup>**

Res Zone	Minimum Lot Area (§ 401) <sup>2</sup>		Minimum Lot Width (§401)		Maximum FAR (§402)- <b>no change proposed</b>	Maximum Lot Occupancy (§403)		Maximum Height (§400.10-11) <sup>3</sup>	
	Existing	<b>Proposed</b>	Existing	<b>Proposed</b>		Existing	<b>Proposed</b>	Existing (res max)	<b>Proposed</b>
R-1-A	7,500 sf	<b>15,000 sf</b>	75'	<b>120'</b>	0.9	60% *	60% *	60' (40')	60'
R-1-B	5,000 sf	<b>15,000 sf</b>	50'	<b>120'</b>	0.9	60%*	60%*	60' (40')	60'
R-2	4,000 sf	<b>9,000 sf</b>	40'	<b>120'</b>	0.9	60%*	<b>70% max</b>	60' (40')	60'
R-3	4,000 sf	<b>9,000 sf</b>	40'	<b>120'</b>	1.8	60%*	<b>70% max</b>	90' (40')	<b>60'</b>
R-4	4,000 sf	<b>9,000 sf</b>	40'	<b>120'</b>	1.8	60%*	<b>70% max</b>	90' (40')	<b>60'</b>
R-5-A	None	<b>9,000 sf</b>	None	<b>120'</b>	1.8	60%*	60%*	90' (40')	90'
R-5-B	None	<b>9,000 sf</b>	None	<b>120'</b>	1.8	60%*	60%*	90' (50')	90'
R-5-C	None	<b>9,000 sf</b>	None	<b>120'</b>	3.0	75% *	75% *	90' (60')	90'
R-5-D/E	None	<b>9,000 sf</b>	None	<b>120'</b>	3.0	75% *	75% *	90' (90')	90'

\* Currently §403.3 allows for public schools to exceed lot occupancy subject to limitations on height and pedestrian access. Proposed there would be a maximum of 70% in the R-2, R-3 and R-4 zones

1 = Any public school that does not meet the proposed limitations of 401, 402 or 403 may request relief through the special exception process.

2 = Minimum lot area may include adjacent parcels that are separated only by a public alley.

3 = (res max) = the maximum height permitted for a residential structure in these residential zones

Amendments include:

400.10 In an R-1, R-2, R-3, and R-4 District, a public school building or structure may be erected to a height not exceeding sixty feet (60 ft).

400.11 In an ~~R-3~~, ~~R-4~~, R-5-A, R-5-B, and R-5-C District, a public school building or structure may be erected to a height not exceeding ninety feet (90 ft).

The table in 401.3 would be amended to Add a public school category to every residential zone district with the above noted lot area and lot width.

401.8 For public schools minimum lot area may include adjacent parcels under the same ownership that are separated only by a public alley.

403.1 A public school building may occupy the lot upon which it is located in excess of the permitted percentage of lot occupancy prescribed in §403.2; provided, that the portion of the building excluding closed courts exceeding the lot coverage shall not exceed twenty feet (20 ft.) in height or two (2) stories; and provided further, that direct pedestrian access not less than ten feet (10 ft) in width from at least two (2) public rights-of-way shall be provided to each roof area used for these purposes. The roof area shall be used only for open space, recreation areas, or other athletic and field equipment areas in lieu of similarly used space normally located at ground level. In the R-2, R-3, and R-4 zones, the total lot occupancy should not exceed 70 percent.

***4. Amend §206 to include Public Schools as a Special Exception in the R Districts as follows:***

206 PUBLIC AND PRIVATE SCHOOLS AND STAFF RESIDENCES (R-1)

206.1 Use as a public school that does not meet the requirements of chapter 4 of this title or as a private school, but not including a trade school, and residences for teachers and staff of a private school, shall be permitted as a special exception in an R-1 District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

206.2 The private school shall be located so that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, number of students, or otherwise objectionable conditions.

206.3 Ample parking space, but not less than that required in chapter 21 of this title, shall be provided to accommodate the students, teachers, and visitors likely to come to the site by automobile.

***5. Add §771.10 to allow for public school use in the C-1 zone up to a maximum FAR of 1.8***

771.10 In a C-1 District, the maximum floor area ratio requirements may be increased for specific public school buildings or structures, but shall not exceed the floor area ratio 1.8

***6. Add §501.1(i) to matter of right uses in SP-1 as follows:***

(i) Public School, subject to the provisions of chapter 21 of this title.

**7. Add §601.1(u) to matter of right uses in CR as follows:**

(u) Public School, subject to the provisions of chapter 21 of this title.

**8. Add §901.1(v) to matter of right uses in W districts as follows:**

(v) Public School, subject to the provisions of chapter 21 of this title.

**9. Amend 2101.1 “Parking for Schools” to add a standard for pre-elementary and pre-kindergarten schools as follows:**

<b>SCHOOLS</b>	
<u>Pre-elementary schools and pre-kindergarten schools or facilities:</u>	<u>2 for each 3 teachers and other employees</u>

**ANALYSIS**

**1. Amend first sentence of definition of “Public School” §199.1**

This amendment accomplishes two purposes. It expands the definition of public school to include D.C. charter schools and to include schools collocated with other uses. This language is necessary to ensure that charter schools are considered public schools in terms of the Zoning Regulations. The collocation of schools with other uses, such as churches, allows for a more efficient use of land and allows the opportunity to locate schools with other large uses in residential zones where adequately sized lots might not otherwise be available.

**2. Amend §201.1(k) to change matter of right uses in R-1**

This language further addresses the collocation issue, specifically permitting it. It also addresses sharing of recreation space including gymnasiums, playgrounds, and fields. This provision allows opportunities for efficiency in land use where there are existing recreational facilities that may be underutilized. Finally, this change includes language that would limit office space in the school to offices ancillary to the school use.

**3. Amend §§ 400, 401 and 403 for Public Schools**

This section proposes minimum limits for lot area and lot width as well as maximum limits for height and lot occupancy. The proposal is for a minimum lot area of 15,000 square feet in the R-1 districts and 9,000 square feet in the R-2 through R-5 districts. R-1 districts allow only single family detached homes as residential uses. The larger lot size in these districts should help to maintain the open, detached character of existing residential neighborhoods and provides space for the activity and impacts associated with schools. The R-2 through R-5 districts all allow some type of attached residential structures on various lot sizes.

The 9,000 square foot minimum lot size in these districts recognizes the smaller lot sizes and greater densities in these zones while still requiring adequate space for a public school use.

The attached charts show land area for D.C. public schools and current D.C. public charter schools. Significantly, the proposed lot areas are greatly exceeded by every existing D.C. public school and all but one existing D.C. charter school.

This section also calls for minimum lot width of 120' for public schools in residential districts. This regulation is an attempt to address the need of public schools for areas to load and unload children from buses or cars. While it would be generally preferable for this activity to be located on the site rather than in the street, the survey of existing schools showed that a large percentage of schools would be made non-conforming by a requirement for onsite student drop-off and pick-up. The compromise solution requires 120' of lot width, or street frontage to allow space that would ideally be marked for loading during school hours. 120' offers room for five to six cars to stop at once for drop-off/pick up.

The proposed text would also lower the maximum allowable height for schools in the R-3 and R-4 zones from 90 feet to 60 feet. In the R-1 through R-4 zones the maximum height for any structure other than a public school is 40 feet. The proposed change would ensure closer compatibility of future school buildings with the surrounding area and provide a more consistent change between the R-5 zones and lower zones in terms of height.

Currently, Section 403.3 allows public schools to exceed lot occupancy subject to limitations on height and pedestrian access. The proposed text amendment would amend Section 403.3 to limit that additional lot occupancy in the R-2, R-3, and R-4 zones to 70%. Currently, 70% is the maximum allowed for single family homes in these zones R-3 and above that go through the Section 223 special exception process.

*4. Amend §206 to include Public Schools as a Special Exception in the R Districts*

This amendment would simply add “a public school that does not meet the requirements of chapter four of this title” to the special exception standards for private schools. This amendment allows the option to develop schools that do not meet the new or existing requirements through a special exception.

*5. Add §771.10 to allow for public school use in the C-1 zone up to a maximum FAR of 1.8*

C-1 sites in the District tend to be individual properties or small areas in residential neighborhoods. Currently, the C-1 zone limits all development to an FAR of 1.0. This tends to be lower than the allowed FAR of surrounding zoning districts which for schools is usually 1.8. Raising the maximum FAR in the C-1 zone for public schools would allow use of these sites at similar density to what

would be allowed in the surrounding neighborhood while still less than would be allowed in larger commercial areas.

6. Add §501.1(i) to matter of right uses in SP districts

7. Add §601.1(u) to matter of right uses in CR district

8. Add §901.1(v) to matter of right uses in W districts

Public schools are not currently permitted in the SP, CR, or W zone districts.

These amendments would clean up what appears to be an oversight and effectively allow public schools to locate in any zone district in the city.

9. Amend 2101.1 “Parking for Schools” to add a standard for pre-elementary and pre-kindergarten schools

The existing parking regulations of chapter 21 do not specifically address pre-elementary schools. Since schools of this type would have similar parking needs as elementary schools, the parking standards for elementary schools have been used as the suggested standard for preschool uses. The requirement would be two parking spaces for every three teachers or other employees.

### **COMPREHENSIVE PLAN**

The text amendment is not inconsistent with any of the Comprehensive Plan themes, goals, objectives and policies. No policies specifically address the placement or impacts of public schools. The major themes of the Plan tend to promote maintaining or improving the character of neighborhoods as well as enhancing public safety. The proposed changes further the goals of both of these themes and not inconsistent with any specific areas of the Plan.

### **EMERGENCY ACTION**

The Office of Planning recommends that this text amendment be effective immediately upon setdown. This text is needed to clean up an existing ambiguity regarding charter schools in the Zoning Regulations. There are currently over fifty charter schools in the district and several more are granted charters each year. This language is needed to specifically equate charter schools to D.C. public schools and clarify the guidelines for public school buildings. Further, the text amendment would immediately open up some zones of the city that currently do not allow public schools. Delaying the effective date of this amendment until the final order would leave the issues resolved here in limbo and the standards and timing ambiguous for projects to happen later this year.

### **AGENCY COMMENT**

OP has been in contact with DCPS throughout the process. DCPS has provided attached information regarding the lot areas and enrollment of existing schools. They have also reviewed the proposed changes. While no written report has been submitted, verbal discussions have indicated no objections to the proposals.

### **COMMUNITY COMMENT**

OP has worked closely with charter school groups including FOCUS and interested stakeholders. Comments were solicited throughout the month of January. We have tried



to address a multitude of issues and ideas in this proposal and believe that we have reached a proposal that accomplishes the cities goals for public schools while offering the widest possible latitude for matter-of-right public school uses and balance impacts on adjoining residential neighbors.

### **CONCLUSION**

The proposed text amendments are not inconsistent with the Comprehensive Plan goals and objectives and will serve an function in allowing charter schools the same opportunities as public schools in our city. The Office of Planning recommends that the proposed amendments to 11 DCMR (ZONING) be set down and advertised for hearing.

Attachments

EM/tp

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF PLANNING



Office of the Director

**MEMORANDUM**

**TO:** Zoning Commission for the District of Columbia

**FROM:** Ellen M. McCarthy  
Director

**DATE:** February 3, 2006

**SUBJECT:** Supplemental Report for **Setdown** for Emergency Text Amendments to change public school regulations, initiated by the Office of Planning.

In addition to the text changes identified in the OP report dated February 3, 2006, the following amendment is being proposed:

**10. Add §401.9 to address public schools on split zoned lots.**

401.9 For public schools on split-zoned lots, the minimum lot width and minimum lot area requirements, if any, of the less restrictive zone shall apply to the entire lot as long as the lot was in existence as of February 13, 2006.

Since public schools on commercial lots do not have minimum lot widths or areas in the existing or proposed language, it would be inappropriate to apply minimum lot width and area to lots split between residential and commercial. Moreover, a lot split between two different residential zones will be allowed to provide the lot area of the less restrictive zone.

OP recommends that this language be included in the charter school text amendment and setdown and advertised for public hearing.

NAME	ADDRESS	Zoning	CH_BODY	LANDAREA
Latin American Montessori Bilingual PCS (ES)	1401 Michigan Avenue NE	R-1-B	Board of Education	90000+**
Barbara Jordan PCS (ES/MS)	100 Peabody Street NW (same building)	R-1-B	Board of Education	297283
Kamit Institute For Magnificent Achievers (KIMA) PCS (HS)	100 Peabody Street NW (same building)	R-1-B	Board of Education	297283
Ideal Academy PCS (ES/MS)	100 Peabody Street NW (same building)	R-1-B	Board of Education	297283
Friendship Edison PCS/Woodridge (ES)	2959 Carlton Avenue NE	R-1-B	Public Charter School Board	114694
Washington Academy Public Charter School (K-6) (new since Sept. 2005)	3000 Pennsylvania Avenue SE	R-1-B	Public Charter School Board	78594
HOPE Community PCS	3855 Massachusetts Ave NW	R-1-B	Public Charter School Board	35482
JOS-ARZ Academy PCS (HS) (new address- TLC old site)	1401 Brentwood Parkway NE	R-1-B**	Board of Education	10000+**
Mary McLeod Bethune Day Academy PCS (PK-K)	4103 Benning Road NE (at boysclub)	R-2	Public Charter School Board	72000+**
Maya Angelou PCS (HS) (Evans)	5600 East Capitol St NE	R-2	Public Charter School Board	364400
Seed PCS (MS/HS)	4301 C Street SE	R-2	Public Charter School Board	334075
Paul Junior High PCS (MS)	5800 8th Street NW	R-2	Public Charter School Board	328800
Integrated Design & Electronics Academy (IDEA) PCS (MS/HS)	1027 45th Street NE	R-2	Board of Education	75612
Maya Angelou PCS (HS) (Shaw)	1851 9th Street NW	R-4	Public Charter School Board	11516 (including p
Hyde Leadership PCS (ES/MS/HS)	101 T Street NE	R-4	Board of Education	900470
Two Rivers PCS (ES)	1830 Constitution Avenue NE (Eliot JHS)	R-4	Public Charter School Board	233322
Friendship Edison PCS Blow-Pierce Campus (MS)	725 19th Street NE	R-4	Public Charter School Board	159217
The Community Academy PCS (ES/MS)	1300 Allison Street NW	R-4	Board of Education	151596
Carlos Rosario PCS (HS)	1100 Harvard Street NW	R-4	Public Charter School Board	95138
Sasha Bruce PCS (MS/HS)	1375 E Street, N.E.(same building as Options)	R-4	Public Charter School Board	74497
Options PCS (ES/MS)	1375 E Street, N.E. (same building as Sasha)	R-4	Board of Education	74497
Friendship Edison PCS/Chamberlain (ES)	1345 Potomac Avenue SE	R-4	Public Charter School Board	46577
Cesar Chavez PCS For Public Policy (HS)	709 12th St, SE	R-4	Public Charter School Board	12896
Community Academy (Amos Early Childhood)	1351 Nicholson Street NW	R-5-A	Board of Education	160000**
Arts and Technology Academy PCS (ES)	5300 Blaine Street NE	R-5-A	Public Charter School Board	206201
Cesar Chavez PCS For Public Policy (MS/HS)	3701 Hayes Street NE (new structure)	R-5-A **	Public Charter School Board	85000**
Community Academy (Rand Tech Campus)	33 Riggs Road NE	R-5A**	Board of Education	100000+**
Children's Studio School PCS (ES)	1301 V St NW	R-5-B	Board of Education	31720
Elsie Whitlow Stokes Community Freedom PCS (ES)	3220 16th St NW	R-5-B	Board of Education	27619
Capital City PCS (ES/MS)	3047 15th St NW	R-5-B	Public Charter School Board	12085
Next StepPCS (HS)	1419 Columbia Road NW	R-5-B	Board of Education	9097

Meridian PCS (ES/MS)	1328 Florida Avenue NW	ARTS/C-3-A	Public Charter School Board	18261
Booker T Washington PCS For Technical Arts (HS)	1346 Florida Avenue NW	ARTS/C-3-A	Board of Education	15616
Roots PCS (PK-K)	6222 N Capitol Street NW	C-1	Board of Education	9750**
Freindship South East Elm Academy (K-6)	645 Milwaukee Place SE	C-2-A	Public Charter School Board	140000+**
City Lights Public Charter School (9-12) (new since Sept. 2005)	62 T Street NE	C-2-A	Public Charter School Board	100000+**
Thurgood Marshall Academy PCS (HS)	2427 Martin Luther King Jr. Ave SE	C-2-A	Public Charter School Board	80858
Roots PCS (ES/MS)	15 Kennedy Street NW	C-2-A	Board of Education	19688
DC Bilingual PCS (ES)	1420 Columbia Road NW	C-2-B	Public Charter School Board	22520
E.L. Haynes PCS (ES)	3029 14th Street NW	C-3-A	Public Charter School Board	14408
Friendship Edison PCS/Woodson Senior Academy (HS)	4095 Minnesota Avenue NE	C-3-A/ R-5-A/GOV split	Public Charter School Board	106557
New School For Enterprise & Development PCS (HS)	1920 Bladensburg Road NE	C-M-1	Public Charter School Board	30000
Tree Of Life Community PCS (ES/MS)( new location since 2005)	<del>1401 Brentwood St, NE</del> 2315 18th Place NE	C-M-1	Public Charter School Board	25200
Young America Works PCS (HS)	6015 Chillum Pl, NE	C-M-1	Board of Education	24354
DC Preparatory Academy PCS (ES)	701 Edgewood St NE	C-M-2	Public Charter School Board	20777
William E. Doar, Jr. PCS (ES)	705 Edgewood Street, Second Floor NE	C-M-2	Public Charter School Board	9042
Marriott Hospitality PCS (HS)	410 8th Street NW	DD / C-4	Public Charter School Board	5100
KIPP DC/KEY Academy (ES/MS)	770 M St SE	ES/C-3-A	Public Charter School Board	71256
Eagle Academy PCS (ES)	770 M St SE	ES/C-3-A	Public Charter School Board	71256
Washington Math Science Technology PCS (HS)	770 M St SE	ES/C-3-A	Public Charter School Board	71256
Tri-Community PCS (MS)	3700 North Capitol Street (Soldiers Home), NW	GOV	Public Charter School Board	100000**
Community Academy (Butler Bilingual)	5 Thomas Circle NW	SP-2	Board of Education	75595
WVSA Auto Arts Academy PCS (HS)	1100 16th Street NW (same building as SAIL)	SP-2	Public Charter School Board	5725
SAIL -- School For Arts In Learning PCS (ES)	1100 16th Street NW (same building as WVSA)	SP-2	Public Charter School Board	5725
Mary McLeod Bethune Day Academy PCS (ES/MS)	5413 16th St NW (K-5)	SSH/ R-1-B	Public Charter School Board	34548
Howard Road Academy PCS (ES)	701 Howard Rd SE	W-3	Public Charter School Board	77530

### AGENDA ITEM 3

#### **Existing DC Eating Establishment Definitions (11 DCMR 199.1)**

**Caterer, catering establishment** - a person or business that prepares and provides food or beverages or both, along with the necessary accessories for serving these products, for ordinary home consumption. The food and beverages are provided for events that are located off the business establishment's premises. Any establishment that receives more than seventy-five percent (75%) of its sales from orders placed less than three (3) hours prior to delivery or pick-up will not be considered a catering establishment. (40 DCR 3744)

**Dinner Theater** - a restaurant with a stage or performing area where the main activity is the serving of dinner and, following dinner, the performance of a play or musical theater. (39 DCR 8328)

**Food delivery service** - a restaurant, delicatessen, or fast food restaurant in which the principal use is delivery of prepared food by motor vehicle to customers located off the business premises. Seating and tables for customers may or may not be provided for on premises consumption, but if present are clearly subordinate to the principal use of delivering prepared food to off-site customers. Any establishment that derives more than seventy-five percent (75%) of its sales from delivery orders will be considered a food delivery service in all cases. This definition does not include catering establishments. (40 DCR 3744)

**Restaurant** - a place of business where food, drinks, or refreshments are prepared and sold to customers primarily for consumption on the premises. This term shall include but not be limited to an establishment known as a cafe, lunch counter, cafeteria, or other similar business, but shall not include a fast food restaurant. In a restaurant, any facilities for carryout shall be clearly subordinate to the principal use providing prepared foods for consumption on the premises. (32 DCR 4374)

**Restaurant, fast food** - a place of business devoted to the preparation and retail sale of ready-to-consume food or beverages for consumption on or off the premises. A restaurant will be considered a fast food restaurant if it has a drive-through. A restaurant will be considered a fast food restaurant if the floor space allocated and used for customer queuing for self-service for carry out and on-premises consumption is greater than ten percent (10%) of the total floor space on any one (1) floor that is accessible to the public, and it exhibits one (1) of the two (2) following characteristics:

(a) At least sixty percent (60%) of the food items are already prepared or packaged before the customer places an order; and/or

(b) The establishment primarily serves its food and beverages in disposable containers and provides disposable tableware. (This definition does not include an establishment known as a retail grocery store, convenience store, ice cream parlor, delicatessen, or other business selling food or beverages as an accessory use or for off-premises preparation and consumption.) (32 DCR 4374-4375)

**Digest of Zoning Definitions of Restaurant & Fast Food Establishments**

<b>Jurisdiction:</b>	<b>Fast Food (or nearest similar use):</b>	<b>Restaurant:</b>	<b>Notes:</b>
<b>CA: Calistoga</b>	<p><b>Restaurant, formula.</b> "Formula restaurant" shall mean an eating establishment devoted to the preparation and offering of food and beverages for sale to the public for consumption either on or off the premises which, by contractual or other arrangement, established or recognized business practice, or membership affiliation, maintains any of the following:</p> <p>A. Business name common to a similar business located elsewhere;</p> <p>B. Standardized menus, ingredients, food preparation, uniforms, or other standardized features common to a restaurant located elsewhere;</p> <p>C. Interior decor common to a similar business located elsewhere;</p> <p>D. Architecture or exterior signs common to a similar business located elsewhere;</p> <p>E. Use of a trademark or logo common to a similar business located elsewhere (but not including logos or trademarks used by chambers of commerce, better business bureaus, or indicating a rating organization including, but not limited to, AAA, Mobile or Michelin); or</p> <p>F. A name, appearance, or food presentation format which causes it to be substantially identical to another restaurant within or outside Calistoga.</p>	<p><b>Restaurant.</b> "Restaurant" shall mean a place of business which sells or serves food products and beverages for consumption on the premises within a building consisting of a permanent structure that is fully enclosed with a roof, walls, and where incidental dining may be permitted out-of-doors on a patio, deck or terrace integrated into the building design.</p>	<p>Calistoga Municipal Code §§ 17.04.615, .616 (2005).</p> <p><a href="http://www.web.ci.calistoga.ca.us/planning/">http://www.web.ci.calistoga.ca.us/planning/</a></p>
<b>CA:</b>	<p><b>RESTAURANT, LARGE FAST-FOOD.</b> (a) A retail eating or drinking use which provides</p>	<p><b>EATING AND DRINKING USE.</b> A retail use which provides food and/or beverages for either on or off-site</p>	<p>San Francisco County Planning Code §§ 790.3,</p>

<b>Jurisdiction:</b>	<b>Fast Food (or nearest similar use):</b>	<b>Restaurant:</b>	<b>Notes:</b>
<p><b>San Francisco</b></p>	<p>ready-to-eat food to a high volume of customers at a high turnover rate for consumption on or off the premises, which may or may not provide seating. Such use exhibits the following characteristics:</p> <ul style="list-style-type: none"> <li>(1) A gross floor area of 1,000 square feet or more;</li> <li>(2) A limited menu of ready-to-eat food prepared in advance of customer orders, or food which is able to be quickly prepared for consumption on or off the premises;</li> <li>(3) Food served in disposable wrappers or containers;</li> <li>(4) Food is ordered and served at customer service counter;</li> <li>(5) Food is paid for prior to consumption;</li> <li>(6) Public food service area, including queuing areas and service counters without fixed seats, which counters are designed specifically for the sale and distribution of food and beverages;</li> <li>(7) Food available upon a short waiting time.</li> </ul> <p>It includes, but is not limited to, delicatessens, ice cream and cookie stores, sandwich shops, and bakeries. It does not include retail grocery stores with accessory take-out food activity, as described in Section 703.2(b)(1)(C) of this Code, or retail uses which sell prepackaged or bulk ready-to-eat foods with no on-site food preparation area, such as confectionery or produce stores. When a fast-food restaurant operates within and in conjunction with another retail use, such as a retail grocery store, the area of the fast-food restaurant use shall be measured to include the area devoted to food preparation and service, seating and separate public food service counters, excluding fish, poultry and meat counters.</p>	<p>food consumption including bars, full-service restaurants, large fast-food restaurants and small self-service restaurants. Take-out food establishments are permitted as principal uses under the category of large fast-food restaurants or small self-service restaurants, subject to the use size limitation.</p> <p><b>RESTAURANT, FULL-SERVICE.</b> A retail eating or eating and drinking use which serves food to customers primarily for consumption on the premises, and is not specifically designed to attract and accommodate high customer volumes or turnover. It has seating and serves prepared, ready-to-eat cooked foods for consumption on the premises. Guests typically order and receive food and beverage while seated at tables on the premises and pay for service after the meal is consumed.</p> <p>It includes, but is not limited to, lunch counters, coffee shops, soda fountains and full-service dining establishments. It is distinct and separate from a small or large fast-food restaurant, as defined in Sections 790.90 and 790.91 of this Code.</p> <p>It may provide on-site beer and/or wine sales for drinking on the premises (with ABC licenses 40, 41 or 60). If it serves liquor for drinking on the premises (with ABC licenses 47 or 48), or does not admit minors (with ABC licenses 42 or 61), then it shall also be considered a bar, as defined in Section 790.22 of this Code.</p>	<p>790.34, 790.90, 790.91, 790.92.</p> <p><a href="http://ceres.ca.gov/planning/counties/San_Francisco/zoning.html">http://ceres.ca.gov/planning/counties/San_Francisco/zoning.html</a></p> <p><a href="http://www.amlegal.com/nxt/gateway.dll?f=templates&amp;fn=default.htm&amp;vid=amlegal:sf_planning">http://www.amlegal.com/nxt/gateway.dll?f=templates&amp;fn=default.htm&amp;vid=amlegal:sf_planning</a></p>

<b>Jurisdiction:</b>	<b>Fast Food (or nearest similar use):</b>	<b>Restaurant:</b>	<b>Notes:</b>
	<p>(c) It may provide off-site beer, wine, and/or liquor sales for consumption off the premises (with ABC licenses 20 or 21) or on-site beer and/or wine sales for drinking on the premises (with ABC licenses 40, 41 or 60). If it serves liquor for drinking on the premises (with ABC licenses 47 or 48), or does not admit minors (with ABC licenses 42 or 61), then it shall also be considered a bar, as defined in Section 790.22 of this Code.</p> <p>(d) It shall be conducted in accordance with the following conditions:</p> <p>(1) All debris boxes shall be kept in enclosed structures.</p> <p>(2) The operator shall be responsible for cleaning the sidewalk within a one-block radius daily to maintain the sidewalk free of paper or other litter during its business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code.</p> <p>(3) Noise and odors shall be contained within the premises so as not to be a nuisance to nearby residents or neighbors. (Added by Ord. 69-87, App. 3/13/87; amended by Ord. 445-87, App. 11/12/87)</p> <p><b>RESTAURANT, SMALL SELF-SERVICE.</b></p> <p>(a) A retail eating or eating and drinking use which provides ready-to-eat food for consumption on and off the premises and which may or may not provide seating. Such use exhibits the following characteristics:</p> <p>(1) Contains fewer than 50 seats and less than 1,000 square feet of gross floor area;</p>		



<b>Jurisdiction:</b>	<b>Fast Food (or nearest similar use):</b>	<b>Restaurant:</b>	<b>Notes:</b>
	<p>(2) A limited menu of ready-to-eat food prepared in advance of customer orders, or food which is able to be quickly prepared for consumption on or off the premises;</p> <p>(3) Food served in disposable wrappers or containers;</p> <p>(4) Food is ordered and served at customer service counter;</p> <p>(5) Food is paid for prior to consumption;</p> <p>(6) Public food service area, including queuing areas and service counters without fixed seats, which counters are designed specifically for the sale and distribution of food and beverages;</p> <p>(7) Food available upon a short waiting time.</p> <p>It includes, but is not limited to, delicatessens, ice cream and cookie stores, sandwich shops, and bakeries. It does not include retail grocery stores with accessory take-out food activity, as described in Section 703.2(b)(1)(C) of this Code, or retail uses which sell prepackaged or bulk ready-to-eat foods with no on-site food preparation area, such as confectionery or produce stores. When a fast-food restaurant operates within and in conjunction with another retail use, such as a retail grocery store, the area of the fast-food restaurant use shall be measured to include the area devoted to food preparation and service, seating and separate public food service counters, excluding fish, poultry and meat counters.</p>		

Jurisdiction:	Fast Food (or nearest similar use):	Restaurant:	Notes:
	<p>(b) It may provide off-site beer, wine and/or liquor sales for consumption off the premises (with ABC licenses 20 or 21) or on-site beer and/or wine sales for drinking on the premises (with ABC licenses 40, 41 or 60). If it serves liquor for drinking on the premises (with ABC licenses 47 or 48) or does not admit minors (with ABC licenses 42 or 61), then it shall also be considered a bar, as defined in Section 790.22 of this Code.</p> <p>(c) It shall be conducted in accordance with the following conditions:</p> <ol style="list-style-type: none"> <li>(1) All debris boxes shall be kept in enclosed structures.</li> <li>(2) The operator shall be responsible for cleaning the sidewalk within a one-block radius daily to maintain the sidewalk free of paper or other litter during its business hours, in accordance with Article 1, Section 34 of the San Francisco Police Code.</li> <li>(3) Noise and odors shall be contained within the premises so as not to be a nuisance to nearby residents or neighbors. (Added by Ord. 69-87, App. 3/13/87; amended by Ord. 445-87, App. 11/12/87)</li> </ol> <p><b>Formula Retail Use.</b> Formula retail use is hereby defined as a type of retail sales activity or retail sales establishment which, along with eleven or more other retail sales establishments located in the United States, maintains two or more of the following features: a standardized array of merchandise, a standardized façade, a standardized décor and color scheme, a uniform apparel, standardized signage, a trademark or a servicemark. [continued]</p>		
<b>CA:</b>	<b>Quick Service Restaurant:</b> An establishment which serves food or beverages for immediate consumption	<b>Food Service Establishment:</b> An establishment which in whole or in part prepares food or beverages for	Berkeley Municipal Code § 23G.04.010

<b>Jurisdiction:</b>	<b>Fast Food (or nearest similar use):</b>	<b>Restaurant:</b>	<b>Notes:</b>
<b>Berkeley</b>	<p>either on the premises, or to be taken out for consumption elsewhere. A Quick Service Restaurant is usually characterized as an establishment in which food is cooked on a customer-demand basis, payment is required prior to consumption, and seating or other physical accommodations for on-premises customer dining, with limited or no table service (no waiters or waitresses), is provided. Examples of this type of facility may include, but are not limited to, establishments selling primarily hamburgers or other hot or cold sandwiches, hot dogs, tacos and burritos, pizza slices, fried chicken or fish and chips.</p> <p><b>Carry Out Food Store:</b> A store which serves food or non-alcoholic beverages for immediate consumption not on the premises, but usually in the vicinity of the store. A Carry Out Food Store is usually characterized as an establishment which: serves food altered in texture and/or temperature on a customer-demand basis; puts such food in non-sealed packages or edible containers; requires payment for such food prior to consumption; and provides no seating or other physical accommodations for on-premises dining. Examples of this type of facility include, but are not limited to, delicatessens and other stores without seating which sell doughnuts, croissants, ice cream, frozen yogurt, cookies, whole pizzas and sandwiches. A Bakery or Food Products Store is not considered a Carry Out Food Store.</p>	<p>immediate consumption on or off the premises. The categories of Food Service Establishment are:</p> <p><b>Full Service Restaurant:</b> An establishment which serves food or beverages for immediate consumption primarily on the premises, with only a minor portion, if any, of the food being taken out of the establishment. A Full Service Restaurant is characterized as an establishment in which food is cooked or prepared on the premises on a customer-demand basis, which requires payment after consumption, and provides seating and tables for on-premises customer dining with table service (waiters or waitresses).</p>	<p><a href="http://www.ci.berkeley.ca.us/bmc/default.asp?layout=contents">http://www.ci.berkeley.ca.us/bmc/default.asp?layout=contents</a></p> <p><a href="http://www.ci.berkeley.ca.us/bmc/Berkeley_Zoning_Code/Sub-Title_23F/04/010.html">http://www.ci.berkeley.ca.us/bmc/Berkeley_Zoning_Code/Sub-Title_23F/04/010.html</a></p>
<b>CA: Pasadena</b>	<p><b>Restaurants</b> (land use). An establishment that sells prepared food or beverages either indoors or outdoors in nondisposable containers. A restaurant may provide for the accessory sale of food and nonalcoholic beverages for off-site consumption provided that all food and beverages sold for on-site consumption are</p>	<p><b>Restaurants, Fast Food</b> (land use). A restaurant that sells prepared food either indoors or outdoors in disposable containers (e.g., paper or plastic). These uses include retail bakeries that provide on-site seating. A restaurant with a bar area exceeding 500 square feet or 30 percent of the dining area shall be classified as a</p>	<p><a href="http://www.ci.pasadena.ca.us/zoning/P-8.html">http://www.ci.pasadena.ca.us/zoning/P-8.html</a></p>

Jurisdiction:	Fast Food (or nearest similar use):	Restaurant:	Notes:
	<p>served in nondisposable containers. A restaurant with a bar area exceeding 500 square feet or 30 percent of the dining area shall be classified as a bar.</p> <p><b>Restaurants, with Live Entertainment</b> (land use). A restaurant, including a fast food or formula restaurant, that provides accessory live entertainment, where the performance area does not exceed 75 square feet, and customer dancing does not occur. The use shall be classified as a nightclub (commercial entertainment) if the performance area exceeds 75 square feet or customer dancing is provided. Live entertainment does not include adult businesses.</p>	<p>bar.</p> <p><b>Restaurants, Formula Fast Food</b> (land use). A fast-food restaurant which is required by contractual or other arrangements to offer standardized employee uniforms, exterior design, food preparation, ingredients, interior decor, menus, or signs; or adopts an appearance, food presentation format, or name which causes it to be substantially identical to another restaurant regardless of ownership or location.</p>	
<p><b>CA:</b> <b>Santa Rosa</b></p>	<p><b>1. Counter ordering.</b> An establishment where customers are served from a walk-up ordering counter for either on- or off-premise consumption . . . .</p> <p>(within definition of “restaurant”)</p>	<p><b>Restaurant, Café, Coffee Shop.</b> A retail business selling ready-to-eat food and/or beverages for on or off-premise consumption. These include:</p> <p><b>1. Counter ordering.</b> An establishment where customers are served from a walk-up ordering counter for either on- or off-premise consumption;</p> <p><b>2. Table service.</b> An establishment where customers are served food at their tables for on-premise consumption, which may also provide food for take-out; and</p> <p><b>3. Outdoor dining.</b> An establishment with either counter ordering or table service that provides a defined outdoor area for eating, which may be a sidewalk café where allowed by Encroachment Permit.</p> <p><b>4. Serving Alcohol.</b> Any of the above restaurants, cafes, coffee shops which serve beer, wine or distilled spirits with the meal.</p>	<p>City of Santa Rosa Zoning Ordinance Ch. 7</p> <p><a href="http://ci.santa-rosa.ca.us/default.aspx?PageId=62">http://ci.santa-rosa.ca.us/default.aspx?PageId=62</a></p>

<b>Jurisdiction:</b>	<b>Fast Food (or nearest similar use):</b>	<b>Restaurant:</b>	<b>Notes:</b>
		A restaurant may include ancillary catering services.	
<b>CA: Napa</b>	n/a		
<b>CA: Petaluma</b>	<b>Fast Food Restaurant.</b> Any retail establishment intended to provide primarily short order food services for on-site dining and/or food take-out, including: self-serve restaurants, except cafeterias where food is consumed on the premises; drive-in restaurants; and formula restaurants required by contract or other arrangement to offer standardized menus, ingredients and fast-food preparation.	none	City of Petaluma Zoning Ordinance No. 1072 N.C.S. § 1-203 at 1-6 (2005).  <a href="http://cityofpetaluma.net/cdd/plan-zoning.html#zoningord">http://cityofpetaluma.net/cdd/plan-zoning.html#zoningord</a>
<b>CA: San Diego</b>	n/a	[eating and drinking establishments are a commercial use type:]  The Eating and Drinking Establishments use type refers to establishments or places of business primarily engaged in the sale of prepared food and beverages for on-premise consumption. Typical uses include restaurants, short order eating places or bars.	San Diego County Ordinance No. 5281 §§ 1205(c), 1465 (2005).  <a href="http://www.co.san-diego.ca.us/cnty/cntydept/landuse/planning/zoning/">http://www.co.san-diego.ca.us/cnty/cntydept/landuse/planning/zoning/</a>
<b>CA: Los Angeles</b>	undefined	undefined	County of Los Angeles Zoning Ordinance  <a href="http://lacodes.lacity.org/NXT/gateway.dll/lamc/code00000.htm/chapter00001.htm?fn=document-frameset.htm\$f=templates\$3.0">http://lacodes.lacity.org/NXT/gateway.dll/lamc/code00000.htm/chapter00001.htm?fn=document-frameset.htm\$f=templates\$3.0</a>
<b>CO: Boulder</b>	<b>Eating or Drinking Place, with drive through service</b> Definition: An establishment for the sale and consumption of food and beverages on the premises, which includes drive through service.	<b>Eating or Drinking Place, without drive through service</b> Definition: An establishment for the sale and consumption of food and beverages on the premises, which does not include drive through service.	Boulder County Regulations § 4-512(D), (E) (retail & personal service uses).  <a href="http://www.co.boulder.co">http://www.co.boulder.co</a>

<b>Jurisdiction:</b>	<b>Fast Food (or nearest similar use):</b>	<b>Restaurant:</b>	<b>Notes:</b>
			.us/lu/lucode/useindex.htm
<b>FL: Miami</b>	n/a	<b>Restaurant.</b> A building, room or rooms, not operated as a dining room in connection with a hotel, where food is prepared and served to a group of families, a club or to the public and for consumption on the premises.	Code of Miami-Dade County, Florida § 33-1(88).  <a href="http://www.municode.com/resources/gateway.asp?pid=10620&amp;sid=9">http://www.municode.com/resources/gateway.asp?pid=10620&amp;sid=9</a>
<b>GA: Athens</b>	<b>Fast food restaurant:</b> A drive-through restaurant serving food from an ordering counter. Food can either be consumed on or off of the premises.	<b>Restaurant:</b> A structure that prepares and serves food to customers, including sit down, fast food, drive-through, and drive-in facilities.	Athens-Clarke County Code § 9-2-1.  <a href="http://www.athensclarkecounty.com/documents/code/">http://www.athensclarkecounty.com/documents/code/</a>
<b>GA: Savannah</b>	<b>Restaurant, drive-in.</b> A food establishment that serves meals and/or beverages to persons in automobiles or other vehicles parked in designated spaces on the premises for consumption on the premises.  <b>Restaurant, fast-food or drive-thru.</b> A food establishment which provides meals for takeout and/or meals for drive-thru service.	<b>Full-service meal.</b> A meal, provided by a restaurant, that is prepared within the restaurant's kitchen, and which consists of an entree and/or attendant courses plus beverage(s), and which is served by a waiter or waitress and consumed at a table within the restaurant dining area.  * * *  <b>Restaurant, cafeteria.</b> A food establishment in which customers select meals and beverages while standing in serving lines and consume the meal while seated at a table within the establishment.  <b>Restaurant, sit-down.</b> A food establishment that prepares and serves meals and beverages for compensation to seated customers to consume while seated within the establishment.	City of Savannah § 8-3002.  <a href="http://www.thempc.com/Administrative/SavannahZoning.htm">http://www.thempc.com/Administrative/SavannahZoning.htm</a>
<b>IL:</b>		[Under Commercial Use Group:]	City of Chicago Zoning Ordinance § 17-17-0104-

Jurisdiction:	Fast Food (or nearest similar use):	Restaurant:	Notes:
Chicago		<p><b>Eating and Drinking Establishments:</b> Provision of prepared food or beverages for on- or off-premises consumption. The following are examples of eating and drinking establishments:</p> <p>1) Restaurant An establishment primarily engaged in serving prepared food to the public pursuant to required licenses, including those with outdoor seating areas.</p> <p>a) Limited Restaurant A restaurant in which there is no service of alcoholic liquor or in which the service of alcoholic liquor is clearly incidental and subordinate to the primary activity (prepared food service) and in which live entertainment or dancing, if any, is clearly incidental and subordinate to the primary activity (prepared food service). (Amend. Coun. J. 11-3-04, p. 35433.)</p> <p>b) General Restaurant A restaurant in which alcoholic liquor may be served in conjunction with the primary activity (prepared food service) and in which live entertainment and dancing are permitted in completely enclosed areas. (Amend. Coun. J. 11-3-04, p. 35433.)</p> <p>2) Tavern An establishment that is primarily engaged in serving alcoholic liquor for consumption on the premises and in which the serving of prepared food, live entertainment and dancing are permitted. (Amend. Coun. J. 11-3-04, p. 35433.)</p>	<p>J (2005).</p> <p><a href="http://w14.cityofchicago.org:8080/zoning/default.jsp">http://w14.cityofchicago.org:8080/zoning/default.jsp</a></p>

<b>Jurisdiction:</b>	<b>Fast Food (or nearest similar use):</b>	<b>Restaurant:</b>	<b>Notes:</b>
<b>LA: New Orleans</b>			SITE NOT FUNCTIONAL
<b>MA: Cambridge</b>		<p>Fast Order Food. Food which is (a) primarily intended for immediate consumption rather than for use as an ingredient in or component of meals; (b) available upon a short waiting time; and (c) packaged or presented in such a manner that it can be readily eaten outside the premises where it is sold.</p> <p>Fast Order Food Establishment. A specific operation separate and distinct from any other operation in the location occupied and in the kind of Fast Order Food sold, and which:</p> <p>(a) has as its primary business the sale to the public of Fast Order Food for consumption on or off the premises, and</p> <p>(b) does not meet all of the following conditions:</p> <p>(1) provision of nondisposable plates, cups and utensils to all patrons,</p> <p>(2) availability of printed individual menus for all patrons,</p> <p>(3) provision of seventy-five (75) percent of the seating in the premises at free standing tables, rather than at counters, and</p> <p>(4) at least eighty (80) percent of the revenues from food sales is attributable to food consumed on premises.</p>	<a href="http://www.cambridgema.gov/~CDD/cp/zng/zord/zo_article2_1288.pdf">www.cambridgema.gov/~CDD/cp/zng/zord/zo_article2_1288.pdf</a>
<b>MA: Boston</b>	n/a	<p><b>"Restaurant"</b>, lunch room, restaurant, cafeteria, or other place for the service or sale of food or drinks for on-premises consumption, provided that there is no dancing nor entertainment other than phonograph, radio and television, and that neither food nor drink is served to, or consumed by, persons while seated in motor vehicles.</p>	<p>Boston Zoning Code, Art. 2A</p> <p><a href="http://www.cityofboston.gov/bra/zoning/downloadZone.asp">http://www.cityofboston.gov/bra/zoning/downloadZone.asp</a></p>



Jurisdiction:	Fast Food (or nearest similar use):	Restaurant:	Notes:
		"Restaurant Uses", a drive-in restaurant, restaurant, or take-out restaurant.	
<b>MI: Detroit</b>	<p><b>Restaurant, carry-out:</b> An establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state, and whose design or method of operation includes both of the following characteristics: [1] foods, frozen desserts, or beverages are usually served in edible or disposable containers. [2] the consumption of foods, frozen desserts, or beverages within the restaurant building, within a motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building, is posted as being prohibited, and such prohibition is strictly enforced by the restaurateur.</p> <p><b>Restaurant, Fast Food:</b> An establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state for consumption either within the restaurant building or for carry-out with consumption off the premises, whose delivery of food to the customer may include service via a drive-up or outdoor walk-up pass-through window, and whose design or principal method of operation includes both of the following characteristics. [1] Foods, frozen desserts, or beverages are usually served in edible containers or disposable containers. [2] The consumption of foods, frozen desserts, or beverages within a motor vehicle parked upon the premises, or at other facilities on the premises outside the restaurant building other than designated and approved outdoor eating areas, is posted as being prohibited, and such prohibition is strictly enforced by the restaurateur.</p>	<p><b>Restaurant, Standard:</b> An establishment whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-consume state, and whose design or principal method of operation includes one or both of the following characteristics: [1] Customers are normally provided with an individual menu, are served foods, frozen desserts, or beverages by a restaurant employee at the same table or counter at which said items are consumed. [2] A cafeteria-type operation where foods, frozen desserts, or beverages generally are consumed within the restaurant building</p>	<p>Detroit City Code § 16-61-162 at 586 (2005).</p> <p><a href="http://www3.ci.detroit.mi.us/legislative/BoardsCommissions/CityPlanningCommission/planning_main_frame.htm">http://www3.ci.detroit.mi.us/legislative/BoardsCommissions/CityPlanningCommission/planning_main_frame.htm</a></p> <p><a href="http://www.municode.com/resources/gateway.asp?pid=10650&amp;sid=22">http://www.municode.com/resources/gateway.asp?pid=10650&amp;sid=22</a></p>
<b>MN:</b>	<b>Restaurant, fast food.</b> Any restaurant which meets a number of the following requirements:	<b>Restaurant.</b> A business establishment whose principal business is the preparation, service and sale of food	Arden Hills City Code of Ordinances § 2(d)(125)-

<b>Jurisdiction:</b>	<b>Fast Food (or nearest similar use):</b>	<b>Restaurant:</b>	<b>Notes:</b>
<b>Arden Hills</b>	<p>a. Customarily provides quick service to its customers;</p> <p>b. Offers to its customers a limited, standardized menu of inexpensive food and/or beverages;</p> <p>c. Serves its customers from a counter located within the building on the premises and does not customarily offer service at the table by waiter or waitress;</p> <p>d. Allows customers to consume their orders of food and/or beverages at tables or counters within the building, in their automobiles parked on the premises, or away from the premises as the customers choose;</p> <p>e. Packages and services a substantial proportion of its food and/or beverages in disposable wrappers, containers, cartons, boxes and bags;</p> <p>f. Provides a number of trash, litter, or garbage cans in the parking areas and within the building on the premises for the deposit of the disposable packaging in which the food and/or beverages are provided;</p> <p>g. Prepares and cooks a substantial proportion of its food in volume, in advance of orders by customers, and usually in anticipation of predicted volumes of customers at certain times of the day;</p> <p>h. Specifies the items of food and/or beverage offered to customers on signs, placards, posters, valances, or boards posted in conspicuous places throughout the building rather than on printed menus given to the customers;</p> <p>i. Generates a high volume and rapid flow of in-and-</p>	<p>and beverages to be consumed by customers while seated at tables or counters located within the building on the premises.</p>	<p>(126) (2005).</p> <p><a href="http://www.ci.arden-hills.mn.us/Departments/Community_Development/Zoning_Ordinance/zoning_ordinance.htm">http://www.ci.arden-hills.mn.us/Departments/Community_Development/Zoning_Ordinance/zoning_ordinance.htm</a></p>

<b>Jurisdiction:</b>	<b>Fast Food (or nearest similar use):</b>	<b>Restaurant:</b>	<b>Notes:</b>
	out traffic because of its quick service mode of operation.		
<b>MN: St. Paul</b>	<p>Sec. 65.612. Coffee shop, tea house.</p> <p>An establishment engaged principally in the sale of coffee, tea, and other nonalcoholic beverages for consumption on the premises or for carryout, which may also include the sale of a limited number of food items as allowed under a restaurant C licence.</p> <p>Standards and conditions in the TN1 traditional neighborhood and B1 business districts:</p> <p>A conditional use permit is required for a coffee shop or tea house of more than 800 square feet in gross floor area or for an accessory cabaret. Drive through uses (primary and accessory) are prohibited.</p> <p>Standards and conditions in TN2-TN3 traditional neighborhood districts:</p> <p>See section 65.613, restaurant.</p> <p>Sec. 65.613. Restaurant.</p> <p>A public eating place which serves a substantial portion of its food for consumption at tables or counters located on the premises. This term shall include, but not be limited to, an establishment known as a caf, smorgasbord, diner or similar business. Any facilities for carry-out shall be clearly subordinate to the principal use of providing foods for consumption on the premises.</p> <p>Sec. 65.614. Restaurant, carry-out, deli.</p> <p>A retail food service business, including delis, which</p>	<p>Sec. 65.615. Restaurant, fast-food.</p> <p>A public eating place, other than a carry-out restaurant, designed for rapid food delivery to customers seated in their automobiles or from a counter or drive-through window, with minimal personal service and for consumption on or off the premises. All restaurants with drive-through service are considered fast-food restaurants.</p> <p>Any restaurant whose design or principal method of operation includes four (4) or more of the following characteristics shall be deemed a fast-food restaurant for zoning purposes:</p> <ol style="list-style-type: none"> <li>(1) Forty-five (45) percent or more of the floor area is devoted to food preparation, employee work space and customer service area;</li> <li>(2) A permanent menu board is provided from which to select and order food;</li> <li>(3) If a chain or franchised restaurant, standardized floor plans are used over several locations;</li> <li>(4) Customers pay for food before consuming it;</li> <li>(5) A self-service condiment bar is provided;</li> <li>(6) Trash receptacles are provided for self-service bussing;</li> <li>(7) Furnishing plan indicates hard-finished, stationary seating arrangements; and</li> </ol>	<p><a href="http://www.stpaul.gov/code/lc065.html#sec65.612">http://www.stpaul.gov/code/lc065.html#sec65.612</a></p>

<b>Jurisdiction:</b>	<b>Fast Food (or nearest similar use):</b>	<b>Restaurant:</b>	<b>Notes:</b>
	sells ready-to-eat foods, usually in bulk quantities, primarily for consumption off the premises. A carry-out restaurant that has more than limited seating (twelve (12) or fewer seats), or seventy-five (75) square feet of patron area, shall be deemed to be a restaurant for zoning purposes.	(8) Most main course food items are prepackaged rather than made to order.	
<b>MO: Kansas City</b>	n/a  [drive-in defined (not specific to restaurants)]	undefined	Code of Ordinances of Kansas City, Ch. 80 (2006).  <a href="http://www.kcmo.org/codes.nsf/web/codeord">http://www.kcmo.org/codes.nsf/web/codeord</a>  <a href="http://www.municode.com/resources/gateway.asp?pid=10156&amp;sid=25">http://www.municode.com/resources/gateway.asp?pid=10156&amp;sid=25</a>
<b>NE: Lincoln</b>	n/a	undefined	<a href="http://www.lincoln.ne.gov/city/build/inspect/zoning/">http://www.lincoln.ne.gov/city/build/inspect/zoning/</a>
<b>NJ: Chatham</b>	<b>EATING AND DRINKING ESTABLISHMENTS</b> — Retail establishments selling prepared food and drink within an enclosed building for immediate consumption on or off the premises, such as lunch counters, ice cream parlors, delicatessens, luncheonettes, and pizzerias.	<b>RESTAURANT</b> — An establishment where food and drink is prepared, served and consumed within an enclosed building, and wherein food is served only to be consumed by customers seated at tables on the premises.	Municipal Ordinances of the Borough of Chatham, NJ § 165-9  <a href="http://www.chathamborough.org/municipal_ordinances.php#">http://www.chathamborough.org/municipal_ordinances.php#</a>
<b>NJ: Madison</b>	<b>RESTAURANT, DRIVE-THROUGH</b> — An establishment where food and drink are prepared, served and consumed primarily within the principal building with facilities for drive-through order and/or drive-through pickup.	<b>RESTAURANT</b> — An establishment where food and drink are prepared and/or served and consumed at tables within the principal building, including sidewalk dining where allowed and takeout service without facilities for drive through order and for drive-through pickup.	Code of the Borough of Madison, NJ § 195-7 at 28-29 (2006).  <a href="http://www.e-codes.generalcode.com/codes/0608_A/Chapter_195_LAND_DEVELOPMENT.pdf#xml=http://www.e-">http://www.e-codes.generalcode.com/codes/0608_A/Chapter_195_LAND_DEVELOPMENT.pdf#xml=http://www.e-</a>

<b>Jurisdiction:</b>	<b>Fast Food (or nearest similar use):</b>	<b>Restaurant:</b>	<b>Notes:</b>
			codes.generalcode.com/searchresults.asp?cmd=pd&fhits&index=0608_A&filename=chapter_195_land_development.pdf&fn=D:\siteinfo\ecodes\codebooks\0608_A\Chapter_195_LAND_DEVELOPMENT.pdf
<b>NM: Santa Fe –current</b>	n/a	undefined	Santa Fe County Ordinance No. 1996-XXX  <a href="http://www.co.santa-fe.nm.us/departments/land_use/faq.php#regulations">http://www.co.santa-fe.nm.us/departments/land_use/faq.php#regulations</a>
<b>NM: Santa Fe –proposed</b>	n/a	<b>Restaurants</b> Characteristics: Establishments that prepare and sell food for on- or off-premise consumption.  Proposed uses: Restaurant, fast-food restaurant, pizza delivery facility, drive-in, take-out, yogurt or ice cream shop  Small-scale catering establishment	Santa Fe County Land Development Code § 13.4.5(H) (March 21, 2005 draft).  <a href="http://www.co.santa-fe.nm.us/departments/land_use/misc.php">http://www.co.santa-fe.nm.us/departments/land_use/misc.php</a>
<b>NY: New York</b>	n/a	<b>eating or drinking place</b> (not defined – distinguished by capacity & dancing)	Art. 3 ch. 2 (use group 6).
<b>NY: Red Hook</b>	<b>FAST-FOOD OR DRIVE-IN RESTAURANT</b> — An establishment whose principal business is the sale in disposable packaging of prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off premises. A delicatessen or bakery shall be considered a retail establishment and	<b>RESTAURANT</b> — An establishment licensed by the Dutchess County Health Department where food and drink is prepared, serviced, consumed and sold primarily within the principal building. The term "restaurant" shall not include any type of drive-in or fast-food restaurant whose principal business is the sale in disposable packaging of prepared or rapidly	Code of the Town of Red Hook, Dutchess County, New York, § 143-4.  <a href="http://www.ecodes.generalcode.com/codebook_frameset.asp?t=">http://www.ecodes.generalcode.com/codebook_frameset.asp?t=</a>

<b>Jurisdiction:</b>	<b>Fast Food (or nearest similar use):</b>	<b>Restaurant:</b>	<b>Notes:</b>
	shall not be construed to be a "fast-food restaurant".	prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, elsewhere on the restaurant premises or off premises. See "fast-food restaurant."	tc&p=0424%2D143%2Ehtm&cn=349&n=[1][2][86]
<b>NY: Woodstock</b>	n/a	undefined	Town of Woodstock, Ulster County, New York Zoning Law (1989).  <a href="http://www.co.ulster.ny.us/planning/lu.shtml">http://www.co.ulster.ny.us/planning/lu.shtml</a>
<b>NY: Town of New Paltz</b>	n/a	undefined	Code of the Town of New Paltz, ch. 140
<b>NY: Village of New Paltz</b>	<p><b>RESTAURANT, FAST FOOD</b> — A restaurant serving food to customers by order from a fixed menu which displays the same items for sale every day and which items are dispensed over a counter or through a drive-up window in disposable containers. The ratio of parking spaces to customer floor space, 1:4 or greater, and the other automobile accommodations shall also be determinants in classifying fast food restaurants.</p> <p><b>RESTAURANT, DRIVE-IN</b> — A structure where food and/or drink are prepared and sold ready for consumption and in which packaging practices, service, and internal and external layout serve the convenience of customers who arrive on the site primarily by automobile and who may consume food and/or drink on the premises, either inside or outside the structure.</p> <p><b>RESTAURANT, TAKEOUT</b> — A structure where food and/or drink are prepared and sold ready for consumption and where there is regular provisions for</p>	<b>RESTAURANT</b> — A structure where food and/or drink are prepared and sold solely for consumption within the structure. Any use which packages food and/or drink for off-premises consumption or furnishes facilities (e.g., wastebaskets) for the convenience of customers who wish to consume their purchases on the premises but outside the structure shall not be considered as meeting the above definition.	Code of the Village of New Paltz, New York § 215-5.

<b>Jurisdiction:</b>	<b>Fast Food (or nearest similar use):</b>	<b>Restaurant:</b>	<b>Notes:</b>
	the packaging of food and/or drink for off-premises consumption but where no facilities are provided for consumption on the premises outside the structure.		
<b>OH: Lakewood</b>	<p><b>Food and Beverage Services:</b></p> <p>(3) <b>Fast Food;</b> including delicatessen, drive-in, etc., which provides quickly or previously prepared food to a service counter, the patron carries the food out or to an indoor or outdoor seating area.</p> <p>(4) <b>Carry Out;</b> which provides quickly or previously prepared food to a service counter, the patron carries the food off premises for consumption.</p>	<p><b>Food and Beverage Services:</b></p> <p>(1) Quality Restaurant; including restaurants, lounges, and bars with or without dancing and entertainment facilities, which provide only seated table service.</p> <p>(2) Family Restaurant; without a bar or lounge area which provides food delivered to tables or dining counters, and only incidental carry out service.</p>	<p>City of Lakewood Ohio Zoning Code § 1143.04(b)</p> <p><a href="http://www.lkwdpl.org/city/zoning/">http://www.lkwdpl.org/city/zoning/</a></p>
<b>OH: Columbus</b>	<p>“<b>Fast-food business</b>” means a retail business operation, established on an individual tract of land or lot, occupying less than ten thousand (10,000) square feet of gross floor area, where the products purchased by the customer consist of prepared food and beverages ready for immediate consumption.</p>	none	<p>City of Columbus Administrative Code § 3303.06.</p> <p><a href="http://www.ordlink.com/codes/columbus/_DATA/TITLE33/index.html">http://www.ordlink.com/codes/columbus/_DATA/TITLE33/index.html</a></p>
<b>OR: Portland</b>	n/a	<p>n/a</p> <p>note: Portland does not use specific definitions for uses in its zoning code. It bases zoning decisions on two considerations: general “Use Categories” and a “Comprehensive Plan.” A particular use must conform to both the Use Category and the Comprehensive Plan district in which it is located.</p> <p>All restaurants fall under the Retail Sales &amp; Service commercial use category. However, not all restaurants conform to all Comprehensive Plan districts, because “[t]he decision to allow or prohibit the use categories in the various zones is based on the goals and policies of the Comprehensive Plan. “</p>	<p>City of Portland Code § 33.920.250</p> <p><a href="http://www.portlandonline.com/planning/index.cfm?c=dbgbc">http://www.portlandonline.com/planning/index.cfm?c=dbgbc</a></p>

Jurisdiction:	Fast Food (or nearest similar use):	Restaurant:	Notes:
		Specifically, "Retail Sales and Service firms are involved in the sale, lease or rent of new or used products to the general public. They may also provide personal services or entertainment, or provide product repair or services for consumer and business goods." Examples include "Restaurants, cafes, delicatessens, taverns, and bars . . ."	
<b>PA: Pittsburg</b>	<p>Restaurant means an establishment, other than "Fast-Food Restaurant", where the principal business is the sale of food in a ready to consume state, where there is no service to a customer in an automobile and where the design or principal methods of operation consist of one or more of the following:</p> <ol style="list-style-type: none"> <li>1. A sit-down restaurant where customers are normally provided with an individual menu, are generally served food in non-disposable containers by a restaurant employee at the same table or counter at which the food and beverage items are consumed or</li> <li>2. A cafeteria or cafeteria-type operation where food and beverage generally are served in non-disposable containers and are consumed within the restaurant;</li> </ol> <p>But not including Social Club.</p>	Restaurant, Fast-Food means an establishment where the principal business is the sale of food and non-alcoholic beverage in a ready-to-consume state and where the design or principal method of operation is that of a quick-service restaurant where orders are generally not taken at the customers' tables, where food is generally wrapped in disposable wrapping or containers, and where food and beverage may be served directly to the customer in an automobile.	<a href="http://library8.municode.com/gateway.dll/PA/pennsylvania/227?f=templates&amp;fn=default.htm&amp;npuusername=13525&amp;nppassword=MCC&amp;npac_credentialspresent=true&amp;vid=default">http://library8.municode.com/gateway.dll/PA/pennsylvania/227?f=templates&amp;fn=default.htm&amp;npuusername=13525&amp;nppassword=MCC&amp;npac_credentialspresent=true&amp;vid=default</a>
<b>PA: Philadelphia</b>	Restaurant. A use engaged in the preparation and retail sale of food and beverages, including the sale of alcoholic beverages, on non-disposable ware for consumption by patrons on premises, with a minimum of thirty (30) seats, and which does not provide live entertainment;	115) Restaurant (Take-out). A use engaged in the preparation and retail sale of food and beverages which serves food and/or beverages in disposable packaging and/or containers for consumption by patrons on or off the premises, including but not limited to delicatessens and/or a restaurant with twenty-nine (29) or less seats;	Philadelphia Code § 14-102 (114) –(115). (2005).  <a href="http://municipalcodes.lexisnexis.com/codes/philadelphia/">http://municipalcodes.lexisnexis.com/codes/philadelphia/</a>
<b>PA:</b>	<b>Restaurant, Fast-Food</b> means an establishment where the principal business is the sale of food and non-	<b>Restaurant</b> means an establishment, other than "Fast-Food Restaurant", where the principal business is the	City of Pittsburg Code of Ordinances §§ 926



<b>Jurisdiction:</b>	<b>Fast Food (or nearest similar use):</b>	<b>Restaurant:</b>	<b>Notes:</b>
<b>Pittsburgh</b>	<p>alcoholic beverage in a ready-to-consume state and where the design or principal method of operation is that of a quick-service restaurant where orders are generally not taken at the customers' tables, where food is generally wrapped in disposable wrapping or containers, and where food and beverage may be served directly to the customer in an automobile.</p> <p><b>Restaurant, Fast-Food (Limited)</b> means a Fast-Food Restaurant that does not have a separate curb-cut on a public right-of-way for automobile drive-through service.</p> <p><b>Restaurant, Fast-Food (General)</b> means a Fast-Food Restaurant that has a separate curb-cut on a public right-of-way for automobile drive-through service.</p>	<p>sale of food in a ready to consume state, where there is no service to a customer in an automobile and where the design or principal methods of operation consist of one or more of the following:</p> <ol style="list-style-type: none"> <li>1. A sit-down restaurant where customers are normally provided with an individual menu, are generally served food in non-disposable containers by a restaurant employee at the same table or counter at which the food and beverage items are consumed or</li> <li>2. A cafeteria or cafeteria-type operation where food and beverage generally are served in non-disposable containers and are consumed within the restaurant;</li> </ol> <p>But not including Social Club.</p> <p><b>Restaurant (Limited)</b> means a Restaurant with a gross floor area of less than 2,400 square feet and that does not have live entertainment or dancing.</p> <p><b>Restaurant (General)</b> means a Restaurant with a gross floor area of 2,400 square feet or more or one that has live entertainment or dancing.</p>	<p>(204)-(206), 911.02.</p> <p><a href="http://library8.municode.com/gateway.dll/PA/pennsylvania/227?f=templates&amp;fn=default.htm&amp;npu sername=13525&amp;nppassw ord=MCC&amp;npac_credent ialspresent=true&amp;vid=de fault">http://library8.municode.com/gateway.dll/PA/pennsylvania/227?f=templates&amp;fn=default.htm&amp;npu sername=13525&amp;nppassw ord=MCC&amp;npac_credent ialspresent=true&amp;vid=de fault</a></p>
<b>RI: Bristol</b>	<p><b>Restaurant, fast-food</b> means an establishment that offers quick food service, which is accomplished through a limited menu of items already prepared and held for service, or prepared, fried, or griddled quickly, or heated in a device such as a microwave oven. Orders are not generally taken at the customer's table, and food is generally served in disposable wrapping or containers.</p> <p>* * *</p> <p><b>Formula business</b> means a business which is required</p>	<p><b>Restaurant</b> means an establishment that serves food and beverages primarily to persons seated within the building. This includes cafes, tea rooms and outdoor cafes.</p>	<p>City of Bristol Code of Ordinances §§ 28-1, 28-150(h) (2005).</p> <p><a href="http://www.onlinebristol.com/Town_Hall/index.cfm/ID/2/Page/Town_Government_and_Services">http://www.onlinebristol.com/Town_Hall/index.cfm/ID/2/Page/Town_Government_and_Services</a></p> <p><a href="http://www.municode.com/Resources/gateway.asp?pid=10105&amp;sid=39">http://www.municode.com/Resources/gateway.asp?pid=10105&amp;sid=39</a></p>

Jurisdiction:	Fast Food (or nearest similar use):	Restaurant:	Notes:
	<p>by contractual or other arrangement to maintain one or more of the following items: standardized ("formula") array of services and/or merchandise, trademark, logo, service mark, symbol, decor, architecture, layout, uniform, or similar standardized features and which causes it to be substantially identical to more than five other businesses regardless of ownership or location. Formula businesses can include, but are not limited to: restaurants, retail stores, banks, real estate sales offices, spas, hair and nail salons, and hotel/motel/inn/B&amp;B.</p> <p>* * *</p> <p><i>Special use permit for a formula business in the historic district zone.</i></p> <p>(1) In addition to the standards set forth in subsection 28-409(c)(2), and in addition to any and all conditions imposed by the Bristol Historic District Commission in granting a certificate of appropriateness; in considering a special use permit to a formula business in the historic district zone, the board shall require that all of the following standards be met:</p> <p>a. Approval of the formula business establishment will not alter the identity of the historic district zone in a way which detracts from its uniqueness or contributes to a nationwide trend of standardized downtown offerings;</p> <p>b. Approval of the formula business establishment will contribute to a diverse and appropriate blend of businesses in the historic district zone;</p> <p>c. Approval of the formula business establishment will complement those businesses already in the historic district zone and help promote and foster the</p>		

<b>Jurisdiction:</b>	<b>Fast Food (or nearest similar use):</b>	<b>Restaurant:</b>	<b>Notes:</b>
	<p>local economic base as a whole.</p> <p>d. The formula business establishment will be compatible with existing surrounding uses; has been designed and will be operated in a non-obtrusive manner to preserve the community's character and ambiance; and the proposed intensity of uses on the site is appropriate given the uses permitted on the site and on adjoining sites, including but not limited to the following:</p> <ol style="list-style-type: none"> <li>1. The size of any individual formula business shall not to exceed 2,500 square feet of gross floor area.</li> <li>2. The street frontage of any individual formula business shall not exceed 65 feet in width.</li> <li>3. No drive thru windows shall be permitted.</li> <li>4. The applicant shall submit a plan indicating the provision for rubbish removal, including the dumpster location with proper screening and buffering so that there are not any substantial impacts to abutting properties.</li> <li>5. There shall not be a substantial impact to the public safety from increased traffic. At the discretion of the zoning board, the applicant may be required to submit a traffic study, prepared by a RI Registered Professional Engineer, approved by the board.</li> <li>6. There shall not be any impacts to the roadway or abutting properties from the loading area.</li> <li>7. Advertising, or anything with the corporate logo,</li> </ol>		

<b>Jurisdiction:</b>	<b>Fast Food (or nearest similar use):</b>	<b>Restaurant:</b>	<b>Notes:</b>
	<p>may be forbidden to be displayed in the windows.</p> <p>8. No signs which are internally illuminated shall be allowed.</p> <p>(2) Approval of the formula business establishment will be consistent with the policies and standards of the comprehensive plan and the historic preservation requirements contained in chapter 14 of the Town Code.</p>		
<b>TX: Dallas</b>	<p><b>Restaurant with drive-in or drive through service:</b></p> <ul style="list-style-type: none"> <li>• A restaurant with drive-in service is 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</li> <li>• A restaurant with drive through service is an establishment principally for the sale and consumption of food which has direct window service allowing customers in motor vehicles to pick up food for off-premise consumption</li> </ul>	<p><b>Restaurant without drive-in or drive through service:</b>An establishment principally for the sale and consumption of food on the premises. (This use does not include a restaurant with drive-in or drive-through service.)</p>	<p>“retail and personal uses” at:  <a href="http://www.dallascityhall.com/dallas/eng/zoning/html/zoning_use_regulations.html">http://www.dallascityhall.com/dallas/eng/zoning/html/zoning_use_regulations.html</a></p>
<b>TX: Austin</b>	n/a	<p><b>Restaurant:</b> an establishment engaged in the preparation and retail sale of food and beverages for on-premise consumption or in a ready-to-consume state. Restaurants are further classified as General, Limited, or Drive-In/Fast Food. Only a Restaurant-General may serve alcoholic beverages. At least 51% of the gross income must be derived from the sale of prepared food</p>	<p><a href="http://www.ci.austin.tx.us/development/zonginfo1.htm">http://www.ci.austin.tx.us/development/zonginfo1.htm</a></p>
<b>UT: Park City</b>		<p><b>Restaurant.</b> A Business in which food is prepared and sold for consumption.</p>	<p>Park City Municipal Corp. Municipal Code § 15-15-1.184</p>

Jurisdiction:	Fast Food (or nearest similar use):	Restaurant:	Notes:
			<a href="http://www.parkcity.org/government/codesandpolicies/title_15_c_15.html">http://www.parkcity.org/government/codesandpolicies/title_15_c_15.html</a>
<b>VA: Arlington</b>	<p>Primary Retail With Special Exception Use Permit: * * *</p> <p>Restaurant with drive-through window</p> <p><b>Secondary Retail Uses:</b> Generally, uses that provide personal or business services.</p> <p>Secondary Retail With Special Exception Use Permit: * * *</p> <p>Food delivery service</p>	<p><b>Primary Retail Uses:</b> Generally, uses that provide entertainment or leisure activities, promote high walk-in customer counts, or are shopping destinations.</p> <p>Examples: Restaurant [undefined]</p>	<p>Arlington, VA Columbia Pike Form Based Code, at 15-16.</p> <p><a href="http://www.arlingtonva.us/Departments/CPHD/forums/columbia/current/CPHDForumsColumbiaCurrentCurrentStatus.aspx">http://www.arlingtonva.us/Departments/CPHD/forums/columbia/current/CPHDForumsColumbiaCurrentCurrentStatus.aspx</a></p>
<b>VA: Fairfax</b>	<p><b>FAST FOOD RESTAURANT:</b> Any establishment, which provides as a principal use, the sale of food, frozen desserts, or beverages in ready-to-consume state for consumption either within the restaurant, within a motor vehicle parked on the premises, or off-premises, and whose design or principal method of operation includes one or more of the following characteristics:</p> <ol style="list-style-type: none"> <li>1. Food, frozen desserts, or beverages are served in edible containers or in paper, plastic or other disposable containers. Eating utensils, if provided, are disposable.</li> <li>2. Food, frozen desserts, or beverages are usually served over a general service counter for the customer to carry to a seating facility within the restaurant, to a motor vehicle or off-premises. If consumed on premises, customers generally are expected to clear their own tables and dispose of their trash.</li> <li>3. Forty-five (45) percent or more of the gross floor</li> </ol>	<p><b>EATING ESTABLISHMENT:</b> Any establishment, which provides as a principal use, the sale of food, frozen desserts, or beverages in a state ready for consumption within the establishment, and whose design or principal method of operation includes both of the following characteristics:</p> <ol style="list-style-type: none"> <li>1. Customers are provided with an individual menu and are served their food, frozen desserts, or beverages by a restaurant employee at the same table or counter at which said items are consumed.</li> <li>2. The food, frozen desserts, or beverages are served on nondisposable plates or containers and nondisposable eating utensils are provided. Customers are not expected to clear their table or dispose of their trash.</li> </ol> <p>Notwithstanding the above, a cafeteria where food,</p>	<p>Fairfax County Zoning Ordinance § 20-300.</p> <p><a href="http://www.fairfaxcounty.gov/dpz/zoningordinance/">http://www.fairfaxcounty.gov/dpz/zoningordinance/</a></p> <p><a href="http://www.fairfaxcounty.gov/dpz/zoningordinance/articles/art20.pdf">http://www.fairfaxcounty.gov/dpz/zoningordinance/articles/art20.pdf</a></p>

Jurisdiction:	Fast Food (or nearest similar use):	Restaurant:	Notes:
	<p>area of the establishment is devoted to food preparation, storage and related activities which space is not accessible to the general public.</p> <p>4. Food, frozen desserts, or beverages are served to the occupants of motor vehicles while seated therein, such as through a drive-in window.</p> <p>For the purpose of this Ordinance, a fast food restaurant shall not be deemed an eating establishment.</p>	<p>frozen desserts, or beverages are:</p> <p>(a) generally consumed within the establishment; and</p> <p>(b) served on nondisposable plates or containers, and nondisposable eating utensils are provided shall be deemed an eating establishment.</p> <p>An eating establishment may provide a carry-out service, provided that such carry-out service is clearly not the principal business of such establishment. For the purpose of this Ordinance, a fast food restaurant shall not be deemed an eating establishment. In addition, an eating establishment shall not be deemed to include a snack bar or refreshment stand at a public or non-private recreational facility which is operated solely by the agency or group operating the recreational facility for the convenience of the patrons of the facility.</p> <p>Entertainment which is provided for the enjoyment of the patrons shall be considered accessory to an eating establishment, to include dancing by patrons, provided the space made available for such dancing shall not be more than one-eighth (1/8) of that part of the floor area available for dining. Provisions for dancing made available under this definition shall be subject to the licensing requirements of Chapter 27 of The Code.</p>	
<p><b>WA: Seattle</b></p>	<p>n/a</p>	<p><b>"Eating and drinking establishment"</b> means a retail sales and service use in which food and/or beverages are prepared and sold at retail for immediate consumption.</p>	<p>Seattle Municipal Code § 23.84.010</p> <p><a href="http://www.seattle.gov/dclu/landuse/RelatedCodes-Rules.asp">http://www.seattle.gov/dclu/landuse/RelatedCodes-Rules.asp</a></p>

Jurisdiction:	Fast Food (or nearest similar use):	Restaurant:	Notes:
		<p>1. "<b>Restaurant</b>" means an establishment in which food and/or beverage preparation and service is provided for individual consumption either on- or off-premise. A restaurant may feature the service of alcoholic beverages accessory to the service of food.</p> <p>2. "<b>Drinking establishment</b>" means a licensed enterprise in which alcoholic beverages may be purchased and consumed on premise; which limits patronage to adults of legal age for the consumption of alcohol; and in which limited food service may be accessory to the service of alcoholic beverages. Drinking establishments may include taverns, saloons, brewpubs, bars, pubs, or cocktail lounges associated with restaurants.</p>	
<p><b>WI: Madison</b></p>	<p><b>RESTAURANT, DRIVE-IN:</b> A restaurant that caters to motor vehicle business where the person being served may consume food and/or beverages while sitting in a motor vehicle.</p> <p><b>RESTAURANT, DRIVE-THRU:</b> A restaurant where a patron may be served while remaining in a motor vehicle and may consume food and /or beverages on or off the premises.</p>	<p><b>RESTAURANT:</b> A commercial establishment characterized by table service where food and beverages are prepared, served, and consumed primarily within the principal building. The term encompasses cafes, grills, and lunch counters and includes outdoor customer dining areas and carry-out/take-out service but excludes without limitation drive-in and drive-thru restaurants.</p>	<p>City of Madison Zoning Ordinance § 210(106)-(108).</p>

**Government of the District of Columbia**  
**ZONING COMMISSION**



ZONING COMMISSION ORDER NO. 440

Case No. 83-6

July 8, 1985

(Fast-food Restaurant Provisions of the Regulations)

Pursuant to notice, a public hearing of the District of Columbia Zoning Commission was held on March 19 & 26, and April 2 & 19, 1984. At those hearing sessions, the Zoning Commission, on its own initiative, considered proposals to amend the text of the Zoning Regulations of the District of Columbia relative to the treatment of fast-food restaurants, pursuant to Section 9101 of the Zoning Regulations. The hearing was conducted in accordance with the provisions of Chapter 5 of the Rules of Practice and Procedure before the Zoning Commission.

On May 3, 1983 Advisory Neighborhood Commission - (ANC) 1B filed a petition which requested the Zoning Commission to consider a proposal from the ANC to amend the Regulations regarding fast-food restaurants. ANC-1B indicated that many fast-food restaurants were locating within its boundaries and having a negative impact on the residential character of its neighborhoods. ANC-1B believed that the low density commercial districts; e.g., C-1 and C-2-A Districts, were not intended to permit, as a matter-of-right, the type of commercial uses that generated the levels of activity as did fast-food restaurants. ANC-1B believed that the low density commercial districts that were located adjacent to or near low and medium density residential districts should prohibit or restrict the location of fast-food restaurants.

The present Regulations permit "restaurants" of all types, as a matter-of-right in the C-1 through M Districts and in the CR and W Districts. In the C-1 District, the specific prohibition of "drive-in" restaurant has been interpreted by the Zoning Administrator and the Board of Zoning Adjustment (BZA) to also prohibit "drive-through" restaurants. In the C-2 and less restrictive districts, a drive-through restaurant has been permitted. In the CR and W Districts, the drive-through restaurant is specifically prohibited.

The District of Columbia Office of Planning by memoranda dated August 5, and October 12, 1983, reviewed the ANC-1B petition, proposed amendments to the text of the Regulations



of its own, and recommended that the Commission schedule a public hearing on both proposals in order to provide maximum latitude for Commission consideration.

On December 19, 1983 at its regular monthly meeting the Zoning Commission authorized the scheduling of a public hearing for the proposal from ANC-1B (excluding the definitions), the proposal from the Office of Planning, and any other variation or combination of the proposals which responded to the relevant issues that were identified by the Commission. Those issues included, but were not limited to definition, location, parking, environmental impact, economic and developmental impact, etc.

The petition by ANC-1B proposed the following major amendments to the Zoning Regulations:

- a. Define standard restaurant, cafeteria restaurant and fast-food restaurant;
- b. Prohibit fast-food restaurants in C-1 Districts;
- c. Permit the use, as a special exception, in C-2-A and CR Districts with controls over screening, parking, etc., by the BZA, provided the use is not within 500 feet of an R-1 through R-5-A District. A cumulative impact standard was also imposed. A special exception process was implied for the W District;
- d. Permit the use, as a matter-of-right, in the C-2-B through M Districts, if the use was located 1000 feet or more from a low or medium density residential district; and
- e. Permit the use, as a special exception, in the C-2-B and C-2-C Districts, if located less than 1000 feet from a low or medium density residential district.

The Office of Planning, by memorandum dated March 9, 1984 and by testimony presented at the public hearing, proposed the following major amendments to the Regulations:

- a. Define restaurant, fast-food restaurant, and "drive-through";
- b. Continue to permit fast food restaurants, as a matter-of-right, in the C-3 through M Districts,
- c. Continue to permit the use in the CR and W Districts excluding drive-throughs, as a matter-of-right;
- d. Permit the use in the C-1 District excluding drive-throughs, as a matter-of-right, subject to satisfying provisions that address lot frontage, lot

location, lot separation, and site and dumpster screening criteria;

- e. Permit the use in the C-2 Districts excluding drive-throughs, as a matter-of-right, subject to satisfying provisions that address lot location, lot separation, and site and dumpster screening criteria; and
- f. Permit a drive-through as an accessory use in the C-1, C-2-A, C-3 through M Districts, subject to various provisions of the Regulations.

The District of Columbia Office of Business and Economic Development (OBED), by memorandum dated April 6, 1984 and by testimony presented at the public hearing, reported that the local fast-food restaurants play a very important role in the economy of the city. The OBED believes that the ANC-1B proposal was a disincentive for economic growth and provided little room for compromise. The economic impacts outweighs the occasional nuisance of noise and litter.

City Councilmember H.R. Crawford-Ward 7, by letter dated September 1983 requested the Commission to adopt regulations, on an emergency basis, to prohibit the location of fast-food restaurants in C-1 and C-2-A Districts. On November 21, 1983 at its regular monthly meeting, the Commission determined that "the immediate preservation of the public peace, health, safety, welfare or morals" did not require the adoption of regulations on an emergency basis.

In early February 1984 City Councilmember Frank Smith, Jr. - Ward 1, ANC-1C, ANC-2E, the ANC-2B01 Commissioner, and the 18th and Columbia Road Business Association requested the Commission to adopt emergency regulations to restrict the location of fast-food restaurants in the C-1 and C-2-A Districts. On February 13, 1984, the Commission again found no basis to adopt emergency regulations.

The Citizens Planning Coalition (CPC) presented an alternative proposal of its own at the public hearing. The major features of the CPC proposal were as follows:

- a. Define "drive-through" and restaurant;
- b. Categorize restaurants into Class I or Class II;
- c. Permit Class I Restaurants as a matter-of-right in the C-1 through C-5 (PAD), CR, W, CM, and M Districts with dumpster screening treatment;
- d. Permit Class II Restaurants as a special exception in the C-2, CR, W, and C-3 and CM (if located within 200 feet of a residential district). Districts, subject to

spacing, environmental impact, design and siting, and governmental review controls with a prohibition on drive-throughs, in the C-2 Districts; and

- e. Permit Class II Restaurants as a matter-of-right in the C-3 and CM (if located beyond 200 feet of a residential district), C-4, C-5 (PAD), and M Districts, subject to standard screening and litter controls with drive-throughs permitted.

Advisory Neighborhood Commissions (ANC) 1A, 1B, 1C, 1E, 2B, 2D, 2E, 3B, 3C, 3G, 4A, 4B, 7B, 7D, and 7E, by letters, resolutions, and/or testimony presented at the public hearing supported the proposal of ANC-1B. The issues and concerns that were identified by the various ANCs were primarily related to the affects of adverse impact from the following:

- a. Noise and sound resulting from the presence of a fast-food restaurant;
- b. Visual impact from bright lights, signage, open trash dumpsters, and inadequate buffering;
- c. Litter that is often found on neighboring properties;
- d. Loitering and disruption;
- e. Incompatibility and lack of urban design;
- f. Inadequate on-site parking;
- g. Inadequate vehicular and pedestrian safety controls relative to circulation and ingress/egress patterns;
- h. Cooking odors;
- i. Traffic congestion;
- j. Harbingering neighborhood crime; and
- k. Hours of operation.

The District of Columbia Council, by Resolution 5-641 dated April 30, 1984, urged the Zoning Commission to:

- a. Move expeditiously to amend the Zoning Regulations to provide that the legitimate rights of citizens to have a safe, trash-free environment are given equal consideration with the legitimate rights of businesses to operate in the District; and
- b. Review alternatives to ensure that neighborhood -

serving commercial areas are adequately protected from excessive concentration of fast-food restaurants.

Several City Councilmembers, and many organizations and persons, by letters and by testimony presented at the public hearing, supported, in whole or in part, the ANC-1B proposal, the Office of Planning proposal, and/or the Citizens Planning Coalition proposal. Issues and concerns that have not previously been identified include the following:

- a. On-site Landscaping and the maintenance thereof; and
- b. Loading.

Representatives of several restaurant businesses and chains, by letters and by testimony presented at the public hearing, opposed the proposals, in whole or in part, because they were too restrictive. At least one representative of a fast-food restaurant believed that certain negative spin-off affects were the problem and not the use itself. He recommended more effective controls over negative spin-off affects which resulted from the presence of fact-food restaurants; e.g., screening, siting, buffering, etc.

Representatives from the Marriott Corporation, by testimony presented at the public hearing and by statements submitted into the record, indicated that in 1983 in the District of Columbia, Marriott employed 800 people in twenty stores, paid \$4,037,012 in wages, paid \$146,296 in real estate taxes, and paid \$1,548,000 in sales taxes. The Marriott Corporation believed that its operations are a viable and needed part of the economy of the city, and opposed, in whole, the ANC-1B proposal and the Office of Planning's proposed definition of fast-food restaurant.

The Zoning Commission believes that fast-food restaurants attract or generate certain negative affects on neighboring residential districts. The Commission further believes that it must balance all of the interests involved, including the city, the residential neighborhoods, and the restaurant industry. The Commission however, is mindful that zoning does not resolve all of the problems associated with the advent of fast-food restaurants.

In consideration of all of the issues raised and testimony presented, the Commission is convinced that changes to the Regulations should be made. The Commission has therefore determined to do the following:

- A. Create a definition for a fast-food restaurant. The Commission believes that the impacts, particularly in terms of traffic generation and demand for parking, are such that the Zoning Regulations

can and should distinguish between high volume per square foot and fast turnover restaurants, as opposed to other restaurants where these impacts are not as great. In order to establish such distinctions, the two terms must be defined. The Commission believes that the criteria it has set forth in the definition of fast-food restaurant to distinguish between the two types of restaurants are generally indicative of the kind of restaurant which has a high volume and fast turnover of patrons, thus leading to a greater impact than a restaurant.

- B. Create a definition for a drive-through. In order to establish standards for regulating the queuing aspects of drive-throughs, to prevent congestion by way of back-ups onto public streets and alleys, the drive-through must first be defined.
- C. Continue to allow a fast-food restaurant in W and CR Districts, and continue to prohibit a drive-through. The W and CR Districts are mixed use districts, permitting a wide variety of heavy commercial uses. These districts are mapped in high activity areas. Both districts are designed to discourage automobile traffic, and a number of other automobile related uses are not permitted. It is therefore appropriate to continue to prohibit drive-through windows in fast-food restaurants.
- D. Prohibit a fast-food restaurant in C-1 Districts. According to the preamble to the C-1 District, the district is designed "to provide convenient retail and personal service establishments for the day-to-day needs of a small tributary area, with a minimum impact upon surrounding residential development." Given the generally narrow depth to which the C-1 District is mapped, the Commission believes that a fast-food restaurant should not be permitted in such a district, because the traffic and parking demand will adversely impact adjoining residential areas.
- E. Permit a fast-food restaurant in the C-2-A District, as a special exception, subject to review and approval by the Board of Zoning Adjustment (BZA), with site constraints and environmental impact criteria. The C-2-A District is generally mapped in areas outside the Downtown area, and is most often adjoined by residential areas zoned R-1, R-2, R-3 or R-4. The Commission believes that a fast-food restaurant in such a district may cause adverse affects on the

adjoining low density areas, particularly because of traffic, parking, noise, lighting and trash associated with a fast-food restaurant. The Commission is mindful of the economic benefits to the city that are associated with fast food restaurants. In an attempt to strike a balance between the differing interests, the Commission believes that the BZA process would permit fast food restaurants but would offer the opportunity to consider, on a case-by-case basis, any adverse affects that may be caused by a fast-food restaurant.

- F. Permit a fast-food restaurant in C-2-B and C-2-C Districts, subject to certain site restraints. The C-2-B and C-2-C Districts are generally located in higher density and higher activity areas than either the C-1 or C-2-A District. They more often adjoin areas zoned in the R-5 or less restrictive Districts. Consequently, the Commission believes that a fast-food restaurant can be permitted in the C-2-B and C-2-C Districts, provided that specific controls are included to minimize any direct impacts on adjoining residences.
- G. Permit a fast-food restaurant in C-3, C-4, C-5, C-M and M Districts. Such a use would be consistent with the other types of uses permitted in those zones, and would be generally appropriate in the locations that such zones are mapped.
- H. Establish more stringent parking standards for a fast-food restaurant than for other retail and service establishments in C-2 and C-3-A Districts for a free-standing building. Since the parking demand generated by a fast-food restaurant is significantly higher than for other retail and service uses, the Commission believes it is appropriate to establish a higher requirement for such a use in the C-2 and C-3-A Districts, where the impacts on adjoining areas are likely to be more significant. No additional parking would be required for a fast-food restaurant in row structures. Additional parking could generally not be provided for these structures, and even if it could be provided, it would likely be at the rear of the property facing the adjoining residential areas. In all other zones, a fast-food restaurant would be required to provide the same level of parking as other retail and service uses.

- I. Establish standards for a drive-through use. The Commission believes that standards must be applied to drive-through uses, particularly to prevent cars that are waiting for service from backing up into public streets and alleys, thereby causing congestion in the streets.

As to the concerns of the various ANC's, the Zoning Commission believes that in its action, it has addressed those concerns within its jurisdiction, including the environmental impact of noise, siting, screening, buffering, vehicular circulation, parking, etc. The Commission believes that crime, litter, loitering, and hours of operation are outside the zoning process.

The proposed amendments as approved by the Commission on July 9, 1984, were referred to the National Capital Planning Commission (NCPC) under the terms of the District of Columbia Self Government and Governmental Reorganization Act. The NCPC, by report dated September 6, 1984, determined that the proposal would not adversely affect the Federal Establishment or other Federal interests in the National Capital nor be inconsistent with the Comprehensive Plan for the National Capital.

The Zoning Commission published a notice of proposed rule-making in the D.C. Register on September 7, 1984 and solicited written comments from interested individuals. The Commission reviewed the comments that were received at a special public meeting on November 5, 1984 and its regular monthly meeting on December 10, 1984. As a result of some of those comments, the Commission made some substantive revisions to the proposal, to modify and clarify the definition, and to allow fast food restaurants as special exception in C-2-A Districts.

The revised proposed amendments as approved by the Commission on December 10, 1984, were referred to the NCPC, under the terms of the District of Columbia Self Government and Governmental Reorganization Act. The NCPC, by report dated January 10, 1985, determined that the revised proposal would not adversely affect the Federal Establishment or other Federal interests in the National Capital nor be inconsistent with the Comprehensive Plan for the National Capital.

The Zoning Commission published a revised notice of proposed rulemaking in the D.C. Register on March 1, 1985 and solicited written comments from interested individuals. The Commission reviewed the comments that were received prior to its regular monthly meeting on April 8, 1985.

As a result of some of those comments, the Commission considered revisions to the revised proposal to disallow

fast food restaurants in the C-2-A District as a matter-of-right, and to require all fast food restaurants in C-2-A Districts to go to the BZA.

At that same meeting on April 8, 1985, the Corporation Counsel informed the Commission that the revised proposed definitions would be difficult to administer and/or defend. Consequently, the Commission deferred final action until it could solicit the advise and recommendations of the Corporation Counsel.

On May 13, 1985, at its regular monthly meeting, the Commission did not take final action but, in lieu thereof, approved a second revised proposal, including changes to the definition and to the regulations of fast food restaurants in C-2-A Districts, as described two paragraphs above. The Commission determined that its actions constituted some substantive revisions to the revised proposal that was published in the D.C. Register on March 1, 1985.

At that same meeting on May 13, 1985, the Office of Planning, the Office of the Corporation Counsel, and the Zoning Administrator informed the Commission that there had been an unusual increase in the number of applications for permits to build fast food restaurants in the C-1 and C-2-A Districts in the previous two months.

The Commission believed that the increase in the number of permit applications was motivated, in part, by an attempt to circumvent the proposed regulations. The Commission further believed that it was necessary to take immediate action to protect those low-density residential districts that were adjacent to low-density commercial districts, and to protect the health, safety and general welfare of the District of Columbia.

Pursuant to the authority set forth in Section 1-1506 of the D.C. Code, the Commission determined that an emergency existed and adopted the second revised proposal on an emergency basis, to take effect immediately and not to exceed 120 days "for the immediate preservation of the public peace, health, safety, welfare or morals".

The second revised proposed amendments, as approved by the Commission on May 13, 1985, were referred to the NCPC, under the terms of the District of Columbia Self Government and Governmental Reorganization Act. The NCPC, by report dated June 27, 1985, determined that the second revised proposal would not adversely affect the Federal Establishment or other Federal interests in the National Capital nor be inconsistent with the Comprehensive Plan for the National Capital.



The Zoning Commission published the second revised notice of proposed rulemaking in the D.C. Register on May 24, 1985, and solicited written comments from interested individuals. The only major issue raised that had not been directly considered by the Commission during its previous actions on the matter was whether a fast food restaurant in a C-3-A District that abuts a residential district should be required to be approved as a special exception.

The Commission reviewed the comments that were received and, at its regular monthly meeting on July 8, 1985, took final action on the second revised proposal. The Commission, however, determined that it would reserve final disposition of whether fast food establishments should locate in the C-2-B, C-2-C, and/or C-3-A Districts as a matter of right, or as a special exception. The Commission requested a further report from the Office of Planning on the location and impact of C-3-A Districts, prior to taking action on the request.

The Zoning Commission believes that the amendments to the Zoning Regulations contained herein are in the best interest of the District of Columbia and are consistent with the intent and purpose of the Zoning Regulations and Zoning Act. The new regulations are not inconsistent with the Goals and Policies element of the Comprehensive Plan. The Commission, in making its decision in this case, has accorded the ANCs the "great weight" to which they are entitled.

In consideration of the reasons set forth herein, the Zoning Commission of the District of Columbia hereby orders APPROVAL of amendments to the Zoning Regulations regarding fast restaurants.

The amendments set forth below reference the format and numbering system of 11 DCMR Zoning, dated May, 1984. The numbers contained in brackets reference the numbering system of the Provisional Edition of 11 DCMR, dated August, 1983. The specific amendments to the Regulations are as follows:

1. Amend §199.9 [Section 1202] by adding the following new definitions:

Restaurant - A place of business where food, drinks or refreshments are prepared and sold to customers primarily for consumption on the premises. This term shall include but not be limited to an establishment known as a cafe, lunch counter, cafeteria or othersimilar business, but shall not include a fast food restaurant. In a restaurant, any facilities for carry-out shall be clearly subordinate to the principal use providing prepared foods for consumption on the premises.

Restaurant, fast food - A place of business devoted to the preparation and retail sale of ready-to-consume food or beverages

for consumption on or off the premises. A restaurant will be considered a fast food restaurant if it has a drive-through. A restaurant will be considered a fast food restaurant if the floor space allocated and used for customer queuing self service for carry out and on-premises consumption is greater than ten percent (10%) of the total floor space on any one (1) floor which is accessible to the public, and it exhibits one (1) of the two (2) following characteristics:

- (a) At least sixty percent (60%) of the food items are already prepared or packaged before the customer places an order; and/or
- (b) The establishment primarily serves its food and beverages in disposable containers and provides disposable tableware.

This definition does not include an establishment known as retail grocery store, convenience store, ice cream parlor, delicatessen or other businesses selling food or beverages as an accessory use or for off-premises preparation and consumption.

Drive-through - A system designed to permit customers of a restaurant, fast food restaurant, bank, dry cleaning or other establishment to obtain goods or services by driving through the property and conducting the transaction while the customer remains within a motor vehicle. The system has two (2) major parts: a vehicular queuing lane or lanes, and one (1) or more service locations, where customers place orders or receive services, or both. No part of this definition shall be construed to apply to a gasoline service station.

2. Continue to permit a fast food restaurant in Waterfront Districts by amending existing §901.1(j) [Paragraph 4402.210] concerning private clubs and restaurants to read as follows:

901.1(j) [4402.210] Private club, restaurant or fast food restaurant, provided that a fast food restaurant shall not include a drive-through.

3. Continue to permit a fast food restaurant in CR Districts by amending existing §601.1(i) [Paragraph 4502.211] concerning private clubs and restaurants to read as follows:

601.1(i) [4502.211] Private club, restaurant or fast food restaurant, provided that a fast food restaurant shall not include a drive-through.

4. Prohibit a fast food restaurant in C-1 Districts by amending existing §701.4(q) [Sub-paragraph 5101.33q] concerning restaurants to read as follows:

701.4(q) [5101.33q] Restaurant, but not including a fast food restaurant or a drive-in restaurant.

5. Permit a fast food restaurant in C-2-A Districts as a special exception subject to review and approval by the Board of Zoning Adjustment by adding a new §733 [Paragraph 5102.48] as follows:

733 FAST FOOD RESTAURANTS IN C-2-A DISTRICTS

- 733.1 [5102.48] Fast food restaurants shall be permitted in a C-2-A District if approved by the Board of Zoning Adjustment, in accordance with the conditions specified in §3108 [Section 8207] of chapter 31 of this title, subject to the provisions of this section.
- 733.2 [a] No part of the lot on which the use is located shall be within twenty-five feet (25') of a Residence District unless separated therefrom by a street or alley.
- 733.3 [b] If any lot line of the lot abuts an alley containing a zone boundary line for a Residence District, a continuous brick wall at least six feet (6') in height and twelve inches (12") thick shall be constructed and maintained on the lot along the length of that lot line. The brick wall shall not be required in the case of a building which extends for the full width of its lot.
- 733.4 [c] Any refuse dumpsters shall be housed in a three (3) sided brick enclosure equal in height to the dumpster or six feet (6'), whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face a Residence District.
- 733.5 [d] The use shall not include a drive-through.
- 733.6 [e] There shall be no customer entrance in the side or rear of a building that faces a street or alley containing a zone boundary line for a Residence District.
- 733.7 [f] The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation or other conditions.
- 733.8 [g] The use shall provide sufficient off-street parking, but no less than required by §2101.1 [Sub-section 7201.1], to accommodate the needs of patrons and employees.

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- 733.9 [h] The use shall be located and designed so as to create no dangerous or other objectionable traffic conditions.
- 733.10 [i] There shall be adequate facilities to allow deliveries to be made and trash to be collected without obstructing public rights-of-way or unreasonably obstructing parking spaces, aisles or driveways on the site.
- 733.11 [j] The Board may impose conditions pertaining to design, screening, lighting, soundproofing, off-street parking spaces, signs, method and hours of trash collection or any other matter necessary to protect adjacent or nearby property.
- 733.12 Each application submitted under this section shall be referred to the Office of Planning in accordance with the provisions of §725.

6. Permit a fast food restaurant in C-2-B and C-2-C Districts as a matter-of-right, by adding a new §721.3(s) [Sub-paragraph 5102.33s] as follows:

- 721.3(s) [5102.33s] Fast food restaurant, only in a C-2-B or C-2-C District, provided that:
- (1) No part of the lot on which the use is located shall be within twenty-five feet (25') of a Residence District unless separated therefrom by a street or alley;
  - (2) If any lot line of the lot abuts an alley containing a zone boundary line for a Residence District, a continuous brick wall at least six feet (6') in height and twelve inches (12") thick shall be constructed and maintained on the lot along the length of that lot line;
  - (3) Any refuse dumpsters shall be housed in a three (3) sided brick enclosure equal in height to the dumpster or six feet (6'), whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face a Residence District; and
  - (4) The use shall not include a drive-through.

7. Permit fast food restaurants as a matter-of-right in C-3 and less restrictive districts by adding a new §741.3(c) [Sub-paragraph 5103.333] as follows:

- 741.3(c) [5103.333] Fast food restaurant.

8. Permit a drive-through as an accessory use to a fast food restaurant, delicatessen or carry-out in C-3, C-4 and C-5 (PAD) Districts by adding new §§742.4, 752.4 and 761.6 [Paragraphs 5103.54, 5104.54 and 5105.54] as follows:

- 742.4 [5103.54] A drive-through accessory to a fast food restaurant, delicatessen or carry-out shall be permitted in a C-3 District, subject to the special provisions for drive-throughs set forth in §2304 [Section 7405].
- 752.4 [5104.54] A drive-through accessory to a fast food restaurant, delicatessen or carry-out shall be permitted in a C-4 District, subject to the special provisions for drive-throughs set forth in §2304 [Section 7405].
- 761.6 [5105.54] A drive-through accessory to a fast food restaurant, delicatessen or carry-out shall be permitted in a C-5(PAD) District, subject to the special provisions for drive-throughs set forth in §2304 [Section 7405].

9. Permit a drive-through as an accessory use to a fast food restaurant, delicatessen or carry-out in a C-M or M District by adding new §§801.9 and 821.5 [Paragraphs 6101.38 and 6102.34] as follows:

- 801.9 [6101.38] A drive-through accessory to a fast food restaurant, delicatessen or carry-out shall be permitted in a C-M District, subject to the special provisions for drive-throughs set forth in §2304 [Section 7405].
- 821.5 [6102.34] A drive-through accessory to a fast food restaurant, delicatessen or carry-out shall be permitted in an M District, subject to the special provisions for drive-throughs set forth in §2304 [Section 7405].

10. Establish parking requirements for fast food restaurants by adding to the table of parking requirements in §2101.1 [Sub-section 7201.1] under the general category of "COMMERCIAL BUILDINGS," the following:

Fast food restaurant:

C-2, C-3-A:

In a building having a side yard .....	In excess of 1,500 square feet, one for each additional 100 square feet of gross floor area and cellar floor area
In a building having no side yard.....	Same as required for retail or

service establishment in the  
district in which located

All other Districts ..... Same as required for retail or  
service establishment in the  
district in which located

11. Provide standards for drive-through uses by adding a  
new §2304 [Section 7405] as follows:

2304 [Section 7405] DRIVE-THROUGH USES

2304.1 [7405.1] A driveway serving as a vehicle queuing lane  
for a drive-through shall conform to the standards set  
forth in this section.

2304.2 [7405.11] The queuing lane shall provide a minimum of  
five (5) queuing lane spaces before the first service  
location and one (1) queuing lane space after the last  
service location before entering public space.

2304.3 [7405.12] Each queuing space shall be a minimum of ten  
feet (10') in width by nineteen feet (19') in length and  
shall constitute an exclusive queuing lane.

2304.4 [7405.13] The queuing lane shall not be the only entry  
or exit lane on the premises.

2304.5 [7405.14] The queuing lane shall be paved and  
maintained with materials which form an all-weather  
impervious surface.

2304.6 [7405.15] No vehicular entrance or exit shall be within  
forty feet (40') of a street intersection as measured  
from the intersection of the curb lines extended.

2304.7 [7405.16] Any lighting used to illuminate the queuing  
lane shall be so arranged that all direct rays of that  
lighting are confined to the surface of the queuing  
lane.

Vote of the Commission taken at the public meeting on July 9,  
1984: 3-0 (Lindsley Williams, George M. White, and Walter B.  
Lewis, to approve the proposal as amended - Maybelle T. Bennett  
and John G. Parsons, not present not voting).


Vote of the Commission taken at the public meeting on December  
10, 1984: 3-0 (Lindsley Williams, John G. Parsons, and Maybelle  
T. Bennett, to approve the revised proposal - Patricia N.  
Mathews, not voting not having participated in the case and  
George M. White, not voting not having been present during the  
discussion).


Vote of the Commission taken at the public meeting on May 13, 1985: 4-0 (Lindsley Williams, John G. Parsons, Maybelle T. Bennett and George M. White to approve the second revised proposal - Patricia N. Mathews, not voting not having participated in the case).

This order was adopted by a vote of the Commission taken at the public meeting on July 8, 1985 by a vote of 5-0 (Lindsley Williams, John G. Parsons, George M. White, Maybelle T. Bennett and Patricia N. Mathews to adopt as corrected).

In accordance with Section 4.5 of the Rules of Practice and Procedure before the Zoning Commission, this order is final and effective upon publication in the D.C. Register, specifically on

26 JUL 1985.

  
MAYBELLE T. BENNETT  
Chairperson  
Zoning Commission

  
STEVEN E. SHER  
Executive Director  
Zoning Secretariat

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