

DRAFT WARRANT ARTICLE

ZONING BYLAW AMENDMENT

Restaurant - Prohibited Uses - Parking

ARTICLE XX. To determine whether the Town will vote to amend Zoning Bylaw Section 4.5.4 Restaurant and Section 4.7.1 Prohibited Uses to establish a difference between a Full-service Restaurant and Fast-food Restaurant and remove the prohibition on Fast-food and amend Table IV to add a parking requirement for a Fast-food Restaurant so that these Sections read as follows (*changes shown in bold italics and strikethrough for clarity purposes only*); or take any other action relative thereto:

4.5.4 Restaurant

4.5.4.1 Restaurant, Full-service: Restaurant, cafeteria, lunchroom or similar establishment whose principal business is the sale of prepared foods or beverages and whose principal method of operation includes **(Add a statement about service being with non-disposable plates and utensils?)** either (1) service by a restaurant employee to a table or counter where the food or beverage is consumed, or (2) a cafeteria-type operation where foods and beverages are consumed within the restaurant building. **(Add a statement that some take-out as an accessory use in disposable containers is permitted?)** Provided, however, in the West Concord Business District a restaurant shall not occupy more than 5,000 square feet of gross floor area; and, provided further, in the West Concord Village District a restaurant shall not occupy more than 4,000 square feet of gross floor area, unless a special permit is granted to allow a larger restaurant in the West Concord Village District by up to thirty percent (30%), in which case a maximum of 4,800 square feet may be located on the ground/first floor. A special permit shall be granted by the Planning Board only upon a written determination as provided in Section 11.6 and that the larger restaurant serves a public purpose or has a public benefit.

4.5.4.2 Restaurant, Fast-food: Principal business is the sale of foods or beverages in a ready-to-consume state, for consumption within the building or off-premises, and whose principal method of operation includes the sale of foods and beverages in paper or other disposable containers that meet the Town's Polystyrene Prohibition in Food Service Wares Bylaw.

4.7.1 Prohibited uses: Salvage yard, junk yard, and all open-air storage of junk, waste products and salvage materials (including non-operable automobiles) are expressly prohibited in all zoning districts of the Town as are trailer without a valid registration, trailer used for habitation on the property, mobile home, trailer camp, mobile home park, trailer and mobile home sales and service, billboard, outdoor movie theater, commercial dump, slaughterhouse, rendering plant, fertilizer plant, race track, commercial extraction of sand, gravel or minerals and all other uses which would be obnoxious, hazardous or injurious to the neighborhood or to property in the vicinity are expressly prohibited in all zoning districts in the Town as are all uses not specifically permitted by this Bylaw.

~~Drive-in or fast food restaurants are expressly prohibited. A drive-in or fast food restaurant is defined as any establishment whose principal business is the sale of foods or beverages in a ready to consume state, for consumption within the building or off premises, and whose principal method of operation includes: (1) sale of foods and beverages in paper, plastic or other~~

disposable containers; or (2) **includes the** service of food and beverages directly to a customer in a motor vehicle.

TABLE IV MINIMUM PARKING

Principal Use BUSINESS USES:	Required Spaces
Restaurant, <i>Full-service</i>	One (1) space per three (3) seats rated capacity (excluding seasonal outdoor seating), plus one (1) space per employee on the largest shift.
<i>Restaurant, Fast-food</i>	

7.7.2.10 Off-street loading: For every building or part thereof which is to be used by retail, industrial, hospital, hotel, extended-stay hotel or similar uses requiring the regular receipt or distribution by vehicles of materials or merchandise, off loading space(s) shall be provided according to the following schedule:

Sq. Ft. of Gross Floor Area in Use	No. of Loading Spaces
0 to 10,000	None
10,000 to 50,000	1
50,000 to 100,000	2
Each additional 100,000 or fraction thereof	1

However, an assisted living residence, as defined in Section 4.3.6, shall not be required to install more than one off-street loading space provided that the facility has no more than 100,000 square feet of gross floor area.

A Fast-food Restaurant shall have ?? loading space(s).

Should the bylaw amendment include a requirement that any change in use, even from a full-service restaurant to a fast-food restaurant shall be considered a change of use pursuant to Section 11.8.3 and require Site Plan Review? The only time this would not be required would be a change from one fast-food restaurant to another fast-food restaurant and no additional parking was required. I will need to get input from the Building Commissioner on how this requirement would factor into a mixed use building.

Explanation: In 1981, Town Meeting adopted a prohibition on drive-through and fast-food restaurants as a primary use. The explanation for this amendment stated:

As of now, Concord has not special restrictions pertaining to take-out businesses, although there are certain problems connected with such operations. For example, fast-food restaurants generate significantly more traffic than other types of commercial uses, creating congestion and safety hazards. Usually, fast-food operations are connected with franchisers who promote

standardized, highly recognizable building and sign designs. These operations generate noise, smells, lights and litter and often attract loiterers. The primary intent of Article 44 is to prohibit such fast-food operations. Take-out operations would only be allowed as accessory uses (e.g., Brigham's, Friendly's, the deli counters at Start Market and Stop & Shop). Operations such as the Walden Sandwich Shop, Café Parasol and New London Style Pizza would no longer be allowed under the by-law although the existing businesses could continue as legally nonconforming uses. The primary intent of this article is to prohibit "attractive nuisances" such as national chain fast-food operations."

A fast-food restaurant is defined as any establishment whose principal business is the sale of foods or beverages in a ready-to-consume state, for consumption within the building or off-premises, and whose principal method of operation includes the sale of foods and beverages in paper, plastic or other disposable containers. As noted in the 1981 Warrant Article explanation, this does not just mean a national fast-food chain restaurant, but also small local restaurant owners, such as New London Style Pizza, Bedford Farm Ice Cream shop,

Many things have happened since 1981 that makes the previous explanation obsolete and the prohibition on fast-food restaurants unwarranted and a hinderance to the economic vitality of the Town's commercial centers.

- 1) There is no evidence that a fast-food restaurant generates more or less traffic than a sit-down restaurant. The traffic generated by a restaurant has to do more with the size of the restaurant, adequate parking and site circulation, and honestly, how the restaurant is run and people's desire to eat there. There is evidence that drive-thrus do create parking and circulation issues that can impact adjacent roadways. Drive-in restaurants will still be prohibited.
- 2) Adoption of the Town's Polystyrene Prohibition in Food Service Wares Bylaw
- 3) Lighting Bylaw requirements
- 4) No evidence that a fast-food restaurant in Concord attract loiterers

Furthermore, the proposed bylaw amendment includes specific language that requires Site Plan Review

Need more explanation