



Requesting Department:  
Development Services

**TO:** Planning and Zoning Commission

**THRU:** Brett Burningham, Development Services Director

**FROM:** Erik Swanson, Planning Administrator  
Mallory Ress, Planner I

**RE:** **Public Hearing and Possible Action on P21-0134 Drive-thru Conditional Use Permit Zoning Ordinance Text Amendment**, a staff initiated text amendment to the Zoning Ordinance recommending a Conditional Use Permit for drive-thru restaurants that are located within 1,200-feet of a residential zoning district.

**DATE:** July 14, 2021

**STAFF RECOMMENDATION**

The request is for a staff initiated text amendment to the Zoning Ordinance recommending a Conditional Use Permit be required for drive-thru restaurants that are located within 1,200 feet of a residential zoning district. Staff recommends approval of P21-0134 Drive-thru Conditional Use Permit Zoning Ordinance Text Amendment.

**PROPOSED MOTION**

Move to recommend approval of P21-0134 Drive-thru Conditional Use Permit Zoning Ordinance Text Amendment.

**RELEVANT COUNCIL GOAL**



Effective Government

**SUMMARY**

In 2019, with an intention to encourage growth and provide community services more expeditiously, Town Council sought direction from Staff for ways to reduce zoning and building approval times and streamline the review process. As a result, Staff recommended the elimination of the Conditional Use Permit requirement for restaurants with drive-thru facilities (termed “in-vehicle service facilities”). It was understood that these types of uses would generally locate within commercial centers and away from residential uses. As commercial development has occurred since the elimination of the CUP requirement, this separation of uses has not been implemented as initially thought. In response, Staff seeks to remedy any future nuisances that may arise from these uses locating too close to residences such as

after-hour noises, lighting, and increased traffic. To this end, Staff recommends requiring a CUP for any new drive-thru restaurants located within 1,200 feet of a residential zoning district measured from the drive-thru restaurant property line to any residentially zoned property line. Drive-thru restaurants separated from residential development by an arterial street would be excluded from the 1,200 foot separation requirement.

**DISCUSSION**

With the rapid increase of residential development throughout the Town, as well as pandemic related impacts to restaurant dining, interest by the commercial development community to construct restaurants with drive-thru uses has increased. The increase in the construction of these uses may result in drive-thru uses being constructed closer to residential development than what is generally advisable. Recognizing that additional design requirements may be necessary to achieve a balance between the interests of the commercial development community and the Town’s residents, Staff suggests that drive-thru restaurants that are located within 1,200-feet of a residential zoning district be required to receive a CUP approved by Town Council. Planning Staff is recommending the 1,200-foot separation as a means to ensure that locations are sufficiently buffered from adjacent residential areas. This process will allow review by staff for any potential design impacts, greater involvement by the adjoining residential community through the neighborhood meeting process, and review by the Planning Commission and Town Council. It is anticipated that this will add 1-2 months to the review process. It is important to note that CUPs were required for all drive-thru restaurants prior to the text amendment in 2019, and the proposed amendment is to return to that process for only those drive-thru restaurants proposed within the proposed 1,200 buffer. Drive-thru restaurants outside of the 1,200 buffer would not be required to receive a CUP.

The proposed text amendment does not alter the already adopted specific supplemental use and design criteria found in the Zoning Ordinance and all drive-thru uses shall continue to meet these requirements. Instead, the text amendment allows for a closer review of these high-turnover drive-thru uses to ensure that they are designed in such a way that any traffic, noise, lighting, or other use related elements will not negatively impact the surrounding residential neighborhoods. Requiring a CUP provides for the expanded review necessary of these uses to confirm compatibility with the surrounding community. Below is a summary of the changes proposed to the Zoning Ordinance:

Summary of Changes

Article 1, Section 1.14, Definitions

- Clarify language from previous text amendment

Article 4, Table 4.6-1, *Permitted Uses*

- Add row for Restaurant with Drive-thru that is located within 1,200feet of a residential zoning district which would require a CUP within the MU, C-1, C-2, and C-3 zoning districts. Drive-thru restaurants are not permitted within any other zoning district.

Article 6, Section 6.5, *In-Vehicle Service Facilities*

- Clarify when a Conditional Use Permit is required
- Establish the parameters for the calculation of the 1,200-foot distance requirement

**ATTACHMENTS**

1. Zoning Ordinance Redline Article 1, Section 1.14, *Definitions*
2. Zoning Ordinance Redline Article 4, Table 4.6-1, *Permitted Uses Approval Procedures*
3. Zoning Ordinance Redline Article 6, Section 6.5, *In-Vehicle Service Facilities*

# ARTICLE 1 – GENERAL PROVISIONS

**DIRECTOR.** The Development Services Director of the Town, or his or her designee.

**DISPOSITION.** A transfer of all or part of a title or equitable interest in land; a lease or an assignment of an interest in land; or any other transfer or conveyance of an interest in land.

**DRIVE-IN.** A facility customarily providing parking spaces for the ordering, delivery, and consumption of a product or service in a parked vehicle.

**DRIVE-THROUGH COMMERCIAL ESTABLISHMENT.** A commercial retail or personal service establishment designed or intended to enable a customer in a motor vehicle parked on or moving through the premises to transact business with a person outside the motor vehicle. Such establishments include, but are not necessarily limited to financial institutions, restaurants, and dry cleaning stores. Such establishments may require a Conditional Use Permit.

**DRIVEWAY.** A private, vehicular access connecting a house, carport, parking area, garage, or other buildings with the street.

**DRIVEWAY, PRIMARY.** The driveway, which by virtue of its width and location, carries the majority of ingress and egress vehicular trips between a parking lot or structure, and the frontage street.

**DUST-FREE.** Property that is paved in one (1) of the following methods: (1) asphaltic concrete, (2) cement concrete, (3) penetration treatment of bituminous material and a seal coat of bituminous binder and a mineral aggregate, or (4) the equivalent of the above.

**DUPLEX.** A building containing two (2) single-family dwelling units totally separated from each other by an unpierced wall extending from ground to roof.

**DWELLING.** A building or portion thereof designed or used exclusively for residential occupancy, including single-family dwellings, two-family dwellings, duplexes, townhouses, triplexes, manufactured homes, mobile homes, modular homes, and multiple-family dwellings, but not including hotels, boarding and lodging houses.

**DWELLING, ATTACHED.** A building containing two (2) or more residential units, attached along and sharing one (1) or more common walls between any two (2) units or stacked one (1) above the other or attached to a non-residential use.

**DWELLING, MULTIPLE.** A building or portion thereof designed for occupancy by three (3) or more families.

**DWELLING, SINGLE-FAMILY.** A building designed for occupancy by one (1) family.

**DWELLING, SINGLE-FAMILY, DETACHED.** A single family dwelling that is not attached to any other dwelling by any means and is surrounded by open space or yards.

**DWELLING, SINGLE-FAMILY, ATTACHED.** A single family dwelling that attached to one (1) other dwelling by a common vertical wall, with each dwelling located on a separate lot.

**DWELLING UNIT.** Any structure or part thereof designed to be occupied as the living quarters of a single housekeeping unit. Examples of dwelling units include, but are not limited to single family homes, apartments, dormitory rooms, or boarding house rooms.

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**EARTH TONE.** Earth tone color means any of a group of colors which are dull and achromatic, between red and yellow in hue (light brown or tan) or between white and black in hue (gray), of low lightness, of moderate to low saturation, and with a reflectance level not exceeding 0.3.

**EASEMENT.** An interest in land that is less than fee title which entitles the holder to a specific limited use or enjoyment.

**EASEMENT, NON-ACCESS.** An easement prohibiting vehicular access from a public street.

**ENGINEER.** A person licensed as an Engineer by the Arizona Board of Registration.

**EQUESTRIAN TRAIL.** A natural surfaced path for equestrian use designed in accordance with standards on file with the Development Services Department.

## ARTICLE 4 – PERMITTED USE TABLE

**Table 4.6-1** Permitted Uses (Continued)

Use Category	Specific Use Type	Residential Zoning Districts					Non-Residential Zoning Districts										
		A1 R1-190 R1-145 R1-108	R1-54 R1-43 R1-35	R1-18 R1-15 R1-12	R1-9 R1-8 <sup>1</sup> R1-7 R1-6 <sup>1</sup> R1-5 R1-4	HDR/ MDR	AT	RC	DC	MU	C-1	C-2	C-3	EMP A	EMP B	PRC	PQP
<b>Commercial (Continued)</b>																	
Eating and Drinking Establishments (Continued)	* Restaurant, with In-Vehicle Service	--	--	--	--	--	--	--	--	--	C	P	P	P	--	--	--
	* <a href="#">Restaurant, with In-Vehicle Service (Drive-thru) within 1200ft of a Residential Zoning District</a>	==	==	==	==	==	==	==	==	==	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	==	==	==
	Coffee Houses (see Section 4.6.D.11)	--	--	--	--	--	P	C	P	P	P	P	P	P	--	--	--
* Home-based occupations	All (when AT, DC, MU is residential use)	P	P	P	P	P	P	P	P	P	--	--	--	--	--	--	
Office	General Offices (see section 4.6.D.4)	--	--	--	--	--	W	P	P	P	P	P	P	P	--	--	
	Coworking space (Business Incubator)	--	--	--	--	--	P	P	P	P	P	P	P	P	P	--	
	All other offices	--	--	--	--	--	C	C	C	C	C	C	P	--	--		
Parking, Commercial	Commercial Parking Lot or Parking Structure	--	--	--	--	--	--	--	C	C	C	C	C	C	C	--	
Entertainment Event Major	Indoor Facilities	--	--	--	--	--	P	--	P	P	C	C	P	P	P	C	
	Outdoor Facilities	--	--	--	--	--	P	--	C	C	C	C	C	P	P	C	
Recreation and Entertainment Outdoor	Campgrounds and Camps (see Section 4.6.D.2)	W	W	--	--	--	W	--	--	--	--	--	--	W	W	W	
	Commercial Ranch, Commercial Stable, Outdoor Guest Ranch	C	C	--	--	--	P	--	--	--	--	--	--	--	--	--	
	Equestrian boarding and riding arenas, (setback 500 feet from all property lines)	--	--	--	--	--	P	--	--	--	--	--	--	C	C	--	
	Equestrian facilities in conjunction with an approved single family residential development	--	--	--	--	--	P	--	--	--	--	--	--	--	--	C	
	Hunting, fishing, game preserves and recreational clubs or camps - not including recreational vehicle campgrounds.	--	--	--	--	--	P	--	--	--	--	--	--	--	--	P	
	Resort, Cabins and Lodges	C	C	--	--	--	P	--	--	C	--	P	C	C	C	C	

## ARTICLE 6 – SUPPLEMENTAL USE REGULATIONS

13. Storage of goods and materials shall be inside and shall not include flammable, combustible or explosive materials;
14. Outside storage of heavy equipment or materials shall be prohibited; and,
15. No generation of dust, odors, noise, vibration or electrical interference or fluctuation shall be perceptible beyond the property line.
16. Home Day Care:
  - a. Six (6) or fewer children per day allowed in all zoning districts.
  - b. Up to twelve (12) children per day allowed in R1-35 and larger zoning districts.

### 6.5 In-Vehicle Service Facilities

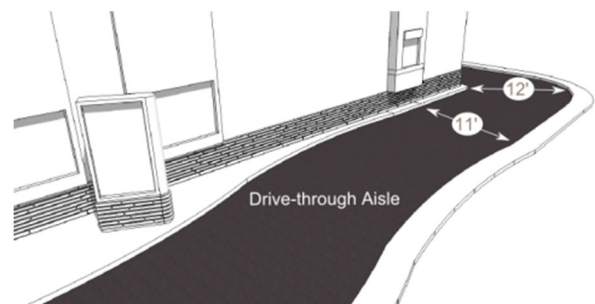
- A. *Description.* In-vehicle sales and service uses include all uses which perform sales and / or services in vehicles, or to vehicles which may be occupied at the time of such activity. Such uses often have traffic volumes which exhibits their highest levels concurrent with peak traffic flows on adjacent roads. Examples of such land uses include drive-in, drive-up, and drive-through facilities, vehicular fuel stations, and car washes. If performed in conjunction with a principal use, in-vehicle sales and service land uses shall be considered accessory.

B. Restaurant with Drive-thru. Drive-thru Restaurants that are located within 1200ft of a residential zoning district are required to receive a conditional use permit approved by Town Council. The 1200ft distance shall be measured as a straight line from the drive-thru restaurant property line to any residentially zoned property line, where the drive-thru use is not separated by an arterial street.

B.C. Performance Standards. All in-vehicle services facilities are subject to a conditional use permit review procedure. The following standards apply to

#### all establishments with In-Vehicle Services Facilities:

1. Pedestrian walkways should not intersect the drive-through drive aisles, but where they do, they shall have clear visibility, and they must be emphasized by enriched paving, such as products to similar to boomanite, stone, etc.)
2. Drive-through aisles shall have a minimum twelve foot (12') width on curves and a minimum eleven foot (11') width on straight sections.



3. *Vehicle Stacking.* Drive-through lanes for all restaurants shall provide at least 160 total feet of stacking distance (80 feet of stacking distance between pick-up windows and order-placing speakers, and at least 80 feet of stacking distance between order-placing speakers and the entry to the drive-through lane). Distances shall be measured along the centerline of the drive-through lane. Vehicle stacking for all other businesses with drive-through lanes (i.e. banks, car washes, pharmacies, etc.) shall be determined at the time of site planning. For redevelopment areas or unique properties an alternative standard may be approved by the Planning Administrator.
4. Landscaping shall screen drive-through or drive-in aisles, payment, and pick-up windows from the public right-of-way and shall be used to minimize the visual impact of menu boards, and directional signs.