

ZONING ADMINISTRATOR INTERPRETATION

DATE: March 25, 2010

CODE SECTION: Section 17.80.020 – Definitions - Restaurants with Walk-up Window (Land Uses)

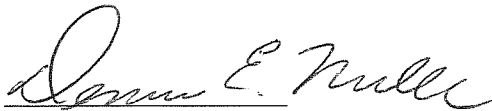
QUESTION NEEDING INTERPRETATION: Is a restaurant with outdoor cooking facilities and which dispenses food outdoors considered to be the use “Restaurant with Walk-up Window?”

INTERPRETATION: A restaurant operator has approached the City requesting to use a portion of their outdoor seating area to setup an outdoor cooking station that consists of a mobile propane burning cart which would be wheeled out in the evening to assist in the preparation of food. Food will be prepared and dispensed at the exterior of the building. Payment and seating will be conducted indoors within the restaurant’s designated seating area. Staff was asked if the proposed use is allowed, or if this would constitute a walk up window, which is only allowed subject to a Conditional Use Permit in certain zoning districts.

In reviewing this issue, staff is making a determination whether the addition of an outdoor cooking and service area to an existing restaurant would change the use into a **Restaurant with Walk-up Window**. The Code defines this use as a, “Restaurant, including fast food or formula fast food restaurant that provides an exterior walk-(up) window in which orders for food are taken and/or customers are served food.”

When this land use was created, the intent was to limit the dispensing of food for outdoor consumption which could potentially lead to loitering in a parking lot and impact adjacent residents. In this case there is no physical barrier such as a window separating the mobile cooking station and the patrons. Furthermore, all transactions, as well as seating occur within the designated indoor and/or outdoor seating area. Under this interpretation, it is understood that the outdoor cooking station is an extension of the primary use occurring within the building and as such is this activity not considered a restaurant with a Walk-up Window. Prior to the establishment of an outdoor cooking facility, the applicant should obtain the appropriate permits from the Health Department.

In the event that a mobile cooking station has different operating hours than the primary use or is placed within a designated parking area, then the use is no longer considered an extension of the primary use occurring on the site. Typically this happens when the landowner subleases a parking lot to a mobile vendor after the primary business has closed for the day. Under this scenario, the use is separate from the primary use and there is an increased possibility the use could become a nuisance since the transaction of money and food consumption will occur in areas that are not designated for seating. In this situation compliance with the Zoning Code will require the vendor to obtain a Conditional Use Permit to establish a Restaurant with Walk-up Window is this use is allowed. .



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Zoning Administrator