

ORDINANCE No. \_\_\_\_

**AN ORDINANCE AMENDING SECTIONS 140-24, 140-128, AND 140-152 OF THE OCEAN VIEW LAND USE AND DEVELOPMENT CODE BY DEFINING VARIOUS TYPES OF FAST-FOOD RESTAURANTS, ADDING THEM TO THE TABLE OF PERMITTED USES AS SPECIAL EXCEPTIONS IN CERTAIN ZONING DISTRICTS, ADDING DEVELOPMENT STANDARDS FOR EACH AND AMENDING SECTION 140-121 TO ADD SURGICAL CENTERS FOR RENUMBERING PURPOSES ONLY.**

**WHEREAS**, the Town Council has the power to adopt ordinances for the protection and preservation of town property and for securing the protection and promotion of health, safety, comfort, convenience, welfare, and happiness of the residents of the town; and

**WHEREAS**, the Town Council is desirous of providing for the welfare and happiness of its residents by providing regulations that govern these uses within the Town; and

**WHEREAS**, the Town Council of Ocean View is of the opinion that it promotes the health, safety, morals, beauty, and good appearance of the Town to provide regulations governing various types of fast-food restaurants.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE TOWN COUNCIL OF THE TOWN OF OCEAN VIEW:**

Section 1. Amend Ocean View Code Chapter 140, Article IV, Section 140-24 by amending the Attachment, Permitted Uses and Structures, by adding the following to Retail Uses:

Restaurant, Fast-Food: Permitted by Special Exception in GB-1/GB-2 and MXPC  
Restaurant, Fast-Food with drive-through: Permitted by Special Exception in GB-1/GB-2  
Restaurant, Fast-Food with drive-in: Permitted by Special Exception in GB-1/GB-2.

Section 2. Amend Ocean View Code Chapter 140, Article XVIII, Section 140-121 by deleting the title in its entirety and replacing it with the title, "Clinic, medical or dental, or Surgical Center".

Section 3. Amend Ocean View Code Chapter 140, Article XVIII, Section 140-128 but deleting the Section in its entirety and replacing it with the following:

**§140-128. Fast - Food Restaurant; Fast-Food Restaurant Drive-Through; Fast-Food Restaurant Drive-In.**

A. Purpose. The purpose of this section is to establish additional criteria, standards or conditions, in addition to Section 140-116, for a special exception application for a Fast-Food Restaurant, Fast-Food Restaurant Drive-Through, or Fast-Food Restaurant Drive-In.

B. Fast-Food Restaurant.

(1) The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads and intersections, or its location in relation to other buildings or proposed buildings on or near the site and the traffic patterns from such buildings or cause frequent turning movements across sidewalks and pedestrian ways, thereby disrupting pedestrian circulation within a concentration of retail activity.

(2) When such uses abut a lot in a residential district, any lot upon which there is a dwelling as a permitted use under this chapter, or a right-of-way that serves a residential district, the use shall be screened, along the entire length of the property boundary abutting the residential district, dwelling, or right-of-way by a solid wall or a substantial, sightly, solid fence, not less than six (6) feet in height, together with a ~~20~~ twenty (20) ft. feet wide planting strip on the outside of such wall or fence, which shall be maintained in good condition. Screening requirements within this planting strip shall be as provided for in other sections of these regulations. For such uses proposed within existing developments that do not provide the width required above, alternate screening requirements may be approved by the Board of Adjustment, provided that ~~they meet the intent and purposes for screening~~ planting strip meets the minimum screening requirements of the Code.

(3) Applications for such uses shall require a traffic operational analysis or a traffic impact study report prepared by a Delaware registered engineer with experience and qualifications in the preparation of operational analysis and traffic impact studies. The administrative official shall determine what level of analysis is required and shall set the scoping limits for the analysis.

(4) Hours of operation for such uses shall be limited to 5:00 am to 11:00 pm.

(5) Such uses shall not share dumpster facilities within developments with multiple uses. Separate dumpster facilities shall be provided for such uses. Screening for these facilities shall be as provided for in other sections of these regulations.

(6) Outdoor above ground grease traps are prohibited.

(7) Any revisions, modifications, changes, or additions to an approved application shall be approved by the Board of Adjustment and shall be subject to all applicable sections of this Land Use and Development code.

### **C. Fast - Food Restaurant with Drive-through**

(1) The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads and intersections, or its location in relation to other buildings or proposed buildings on or near the site and the traffic patterns from such buildings or cause frequent turning movements across sidewalks and pedestrian ways, thereby disrupting pedestrian circulation within a concentration of retail activity.

(2) When such uses abut a lot in a residential district, any lot upon which there is a dwelling as a permitted use under this chapter, or a right-of-way that serves a residential district, the use shall be screened, along the entire length of the property boundary abutting the residential district, dwelling, or right-of-way by a solid wall or a substantial, sightly, solid fence, not less than six (6) feet in height, together with a ~~30~~thirty (30) ft. feet wide planting strip on the outside of such wall or fence, which shall be maintained in good condition. Screening requirements within this planting strip shall be as provided for in other sections of these regulations. For such uses proposed within existing developments that do not provide the width required above, alternate screening requirements may be approved by the Board of Adjustment, provided that ~~they meet the intent and purposes for screening the~~ planting strip is no less than twenty (20) feet in width.

(3) Applications for such uses shall require a traffic operational analysis or a traffic impact study report prepared by a Delaware registered engineer with experience and qualifications in the preparation of operational analysis and traffic impact studies. The administrative official shall determine what level of analysis is required and shall set the scoping limits for the analysis.

(4) Hours of operation for such uses shall be limited to 5:00 am to 11:00 pm for the indoor portion of the restaurant and 5:00 am to 9:00 pm for the drive-through.

(5) Such uses shall not share dumpster facilities within developments with multiple uses. Separate dumpster facilities shall be provided for such uses. Screening for these facilities shall be as provided for in other sections of these regulations.

(6) Outdoor above ground grease traps are prohibited.

(7) Such uses shall be limited to one drive-through menu board and associated stacking lane.

(8) Stacking lanes for such uses shall be at least ~~180~~one-hundred and eighty (180) ft. feet in length measured from the point of ordering and shall not block any parking spaces or drive aisles.

(9) There shall be a bypass lane of at least ~~10~~ten (10) ft. feet in width along the entire length of the drive-through lane.

(10) Drive-through lanes shall be separated from other aisles by a mountable curbed island.

(11) When a drive-through facility is placed adjacent to the public right-of-way or other public access thoroughfare, the drive-through cartway shall be screened from view with a combination of structures and landscaping as determined by the Board of Adjustment.

(12) The allowable dimensions of the menu board and any associated canopy shall be determined by the Board of Adjustment.

(13) Such uses shall be located on, and take access from an arterial street, as depicted on the DelDOT Functional Classification Map.

(14) Any revisions, modifications, changes, or additions to an approved application shall be approved by the Board of Adjustment and shall be subject to all applicable sections of this Land Use and Development code.

#### **D. Fast – Food Restaurant with Drive-In**

(1) The use at the proposed location will not create a traffic hazard or traffic nuisance because of its location in relation to similar uses, necessity of turning movements in relation to its access to public roads and intersections, or its location in relation to other buildings or proposed buildings on or near the site and the traffic patterns from such buildings or cause frequent turning movements across sidewalks and pedestrian ways, thereby disrupting pedestrian circulation within a concentration of retail activity.

(2) When such uses abut a lot in a residential district, any lot upon which there is a dwelling as a permitted use under this chapter, or a right-of-way that serves a residential district, the use shall be screened, along the entire length of the property boundary abutting the residential district, dwelling, or right-of-way by a solid wall or a substantial, sightly, solid fence, not less than six (6) feet in height, together with a ~~30-thirty (30) ft.~~feet wide planting strip on the outside of such wall or fence, which shall be maintained in good condition. Screening requirements within this planting strip shall be as provided for in other sections of these regulations. For such uses proposed within existing developments that do not provide the width required above, alternate screening requirements may be approved by the Board of Adjustment, provided that ~~they meet the intent and purposes for screening the~~ planting strip is no less than twenty (20) feet in width.

(3) Applications for such uses shall require a traffic operational analysis or a traffic impact study report prepared by a Delaware registered engineer with experience and qualifications in the preparation of operational analysis and traffic impact studies. The administrative official shall determine what level of analysis is required and shall set the scoping limits for the analysis.

(4) Hours of operation for such uses shall be limited to 5:00 am to 11:00 pm for the indoor portion of the restaurant and 5:00 am to 9:00 pm for the drive-in.

(5) Such uses shall not share dumpster facilities within developments with multiple uses. Separate dumpster facilities shall be provided for such uses. Screening for these facilities shall be as provided for in other sections of these regulations.

(6) Outdoor above ground grease traps are prohibited.

(7) Such uses shall be limited to three drive-in spaces. Each drive-in space may have an individual menu board. The drive-in spaces shall not count toward the required number of parking spaces.

(8) The allowable dimensions of the menu boards and any associated canopies shall be determined by the Board of Adjustment.

(9) Such uses proposing drive-through facilities in conjunction with a proposed drive-in shall meet the requirements for fast-food restaurants with drive-through in addition to these requirements.

(10) Such uses shall be located on, and take access from an arterial street, as depicted on the DelDOT Functional Classification Map.

(11) Any revisions, modifications, changes, or additions to an approved application shall be approved by the Board of Adjustment and shall be subject to all applicable sections of this Land Use and Development code.

Section 4. Amend Ocean View Code Chapter 140, Article XXI, Section 152, , by adding to Terms Defined, in the appropriate alphabetical order of the existing terms, the following:

**Restaurant, Fast – Food**

An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer over the counter in a ready-to-consume state for consumption either within the restaurant building or off the premises. These types of establishments do not offer table service.

**Restaurant, Fast – Food with Drive-Through**

An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer over the counter in a ready-to-consume state for consumption either within the restaurant building or off the premises. These types of establishments do not offer table service. Food may be ordered by the customer and/or served to the customer while remaining in their vehicle at a menu board or building opening, such as a door or window.

**Restaurant, Fast – Food with Drive-In**

An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer over the counter in a ready-to-consume state for consumption either within the restaurant building, off the premises or in vehicles parked on the premises. These types of establishments do not offer table service. Food may be ordered by the customer and/or served to the customer while remaining in their vehicle at a menu board or building opening, such as a door or window or served to the customer in their vehicle in a designated area intended for consuming the food while parked on the premises.

Section 5. This ordinance shall become effective upon its adoption by a majority of the members of the Town Council present and voting.

230  
231  
232

**TOWN COUNCIL OF OCEAN VIEW**

233  
234  
235  
236  
237

By: \_\_\_\_\_  
Mayor

{Seal}

238  
239  
240  
241

Attest: \_\_\_\_\_  
Town Clerk

242  
243  
244

Introduction:

Planning & Zoning Commission Review:

245  
246  
247

First Reading:

Second Reading:

248

Adopted:

249  
250  
251  
252  
253  
254  
255

**Synopsis:** This ordinance amends the definition of a fast-food restaurant and sets forth standards for the use as a special exception in General Business Districts and in the MXPC zone. It also adds and defines fast-food restaurant with drive-through as well as fast-food restaurant with drive-in to the Table of Permitted Uses as uses requiring special exceptions in the General Business Districts and sets forth standards for each. It moves surgical centers to Section 140-121 to the extent the Town should ever adopt standards therefore in order to utilize Section 140-128 for fast-food restaurant standards.