
ARTICLE 2.000 DEFINITIONS (excerpt)

Food Stand or Kiosk. A type of Retail or Consumer Service Establishment located within a Food Hall or another indoor or outdoor gathering space open to the public serving prepared foods and/or beverages to be consumed immediately on or off the premises, for which the area devoted to food preparation and service is no greater than 1,250 square feet and for which any seating (if provided) is open to the general public or shared among multiple establishments.

Formula Business. An individual Retail or Consumer Service establishment that is required by virtue of a contract, franchise agreement, ownership or other similar legal obligation to conform or substantially conform to a set of common design and operating features that serve to identify the establishment as one of a group of establishments for business, marketing and public relations purposes. Specifically, an establishment shall be considered a Formula Business if it shares at least two (2) of the following three (3) characteristics with ten (10) or more other establishments in Massachusetts or within twenty (20) or more other establishments.

1. Trademark, service mark or logo, defined as a word, phrase, symbol, or design or combination thereof that identifies and distinguishes the source of the goods or services from others;
2. Standardized building architecture including but not limited to façade design and signage;
3. Standardized color scheme used throughout the exterior of the establishment, including color associated with signs and logos.

Quick-Service Food Establishment. A type of Retail or Consumer Service Establishment whose principal use is the service of food or beverages available upon a short waiting time and packaged and presented in such a manner that it can be readily eaten on or off the premises, but does not meet the definition of a Food Stand or Kiosk.

Restaurant. A type of Retail or Consumer Service Establishment whose principal use is to serve prepared food and beverages (including alcoholic beverages served with meals, if properly licensed) to be consumed on the premises using non-disposable dishware, glassware, and utensils, and providing table seating for patrons.

Retail or Consumer Service Establishment. An establishment whose principal use is the commercial provision of goods, personal services, prepared food and beverage, entertainment, recreational activities, or similar services (but excluding professional or financial services) directly to consumers. Such provision of goods and consumer services shall be conducted on-site, but may be supplemented by telephone and online transactions and delivery services.

SECTION 11.30 FAST ORDER OR QUICK-SERVICE FOOD ESTABLISHMENTS

11.31 In considering applications for Special Permits for Fast Order or Quick-Service Food Establishments and Drive-In Food Service Establishments, the Board of Zoning Appeal shall find, in addition to the other criteria specified in Section 10.40, that the following requirements are met:

- (a) The operation of the establishment shall not:
 - (1) Create traffic problems,
 - (2) Reduce available parking,
 - (3) Threaten the public safety in the streets and sidewalks, or
 - (4) Encourage or produce double parking on the adjacent public street(s),
- (b) The physical design, including color and use of materials, of the establishment shall be compatible with and sensitive to the visual and physical characteristics of other buildings, public spaces and uses in the particular location;
- (c) The establishment fulfills a need for such a service in the neighborhood or in the city;
- (d) The establishment will attract patrons primarily from walk in trade as opposed to drive in or automobile related trade; however, should the Board specifically find that the district or area within which the establishment is proposed to be located does not have significant pedestrian traffic, this requirement need not be met.
- (e) The establishment shall, to the greatest extent feasible, utilize biodegradable materials in packaging the food and in the utensils and other items provided for consumption thereof;
- (f) The establishment shall provide convenient, suitable and well marked waste receptacles to encourage patrons properly to dispose of all packaging materials, utensils and other items provided with the sale of food; and
- (g) The establishment complies with all state and local requirements applicable to ingress, egress, and use of all facilities on the premises for handicapped and disabled persons.

11.32 Establishments seeking to relocate their operations inside the boundary line of the zoning district in which the establishment is located shall not be required to obtain a special permit if both of the following conditions will be met.

11.32.1 The new site shall be within five hundred (500) feet of the original site of the establishment.

11.32.2 There will be no increase in the gross floor area of the establishment at the new site.

11.33 A Special Permit issued for a Fast Order or Quick-Service Food Establishment hereunder may be utilized only by the owner or operator of such establishment as described in the application documents or as those documents may be modified by the conditions of the Special Permit as granted.

In granting a Special Permit under this Section 11.30 the Board shall specifically detail in its decision the types of foods for which the Permit is granted and shall also identify those other aspects of the establishment as outlined in the application documents for which alterations will require the issuance of a new Special Permit.

Editor's note(s)—Ord. No. 2021-3, § vii, adopted June 7, 2021, changed the title of § 11.30 from "fast order food establishments" to read as herein set out.

20.50 HARVARD SQUARE (excerpt)

20.54.3 Retail, Business, and Consumer Service Establishments (Section 4.35) in Office and Residential Districts.

1. Any retail use (4.35) allowed in the Business B zoning districts, as of right, within the Overlay may also be allowed as of right in any office or residential zone within the Overlay provided the structure that contains the use has a main entrance on Massachusetts Avenue, Mt. Auburn Street, Arrow Street or Bow Street. For all other lots, the Planning Board may allow by special permit the retail use of a lot or structure all or partially within the Harvard Square Overlay District and in a base residential or office district where retail uses are not permitted under the provisions of Section 4.30 - Table of Use Regulations; provided, however, that the following conditions are met:
 - a. The general purposes of this Section 20.50 are met.
 - b. The use will be located in a structure in existence as of June 1, 1985.
 - c. The addition of such use(s) will assist in the preservation, rehabilitation and/or restoration of a National Register or contributing building or important open space by increasing the economic feasibility of maintaining such features.
 - d. The preservation of the buildings and open space identified in (c) above is assured through an approved mechanism for the full period that the special permit is in force and effect.
 - e. The proposed use will preserve, rehabilitate or restore the outward appearance of the structure or open space.
 - f. In its operation the use will not, in impact, be significantly different from the uses permitted in the base district.
 - g. The use is completely contained within the structure.
 - h. The use will be patronized substantially by pedestrians and will, if required by the Planning Board, function adequately without additional off street parking or loading facilities and will in any case not generate vehicular traffic in quantity and type substantially different from that generated by permitted uses.
 - i. The retail use does not take the place of a residential or dormitory use.
 - j. The use is not a formula business.
 - k. The following uses listed in Section 4.35 are however specifically prohibited:
 - 4.35j (Mortuary, undertaking or funeral establishment);
 - 4.35l (Veterinary establishment, kennel, pet shop);
 - 4.35m (Sales place for new and used cars);
 - 4.35p (Massage establishment);
 - 4.35s (Cannabis Retail Store).
2. In the Office 2 base district the provisions of Section 4.40 - Footnotes to the Table of Use Regulations, footnote 12, shall not apply in the Harvard Square Overlay District.

20.54.10 Fast Order Food Establishments (as identified in Section 4.35o) are allowed by right within the Harvard Square Overlay District and are further not subject to the provisions of Article 11.30 of this Ordinance provided the Fast Order Food Establishment is not a Formula Business.

Base Zoning for Fast Order or Quick-Service Food Establishments in the Harvard Square Overlay District

If a Fast Order or Quick-Service Food Establishment located in the Harvard Square Overlay District qualifies as a Formula Business, then it must follow the use regulations in Section 4.35o for each base zoning district.

Base Zoning District	BB	BA	O-3	O-2	C-3	C-2	C-2B	C-1
4.35-o. Fast Order or Quick-Service Food Establishment	Yes	SP	Yes ¹²	Yes ¹²	SP ⁵⁹	SP ⁵⁹	SP ⁵⁹	SP ⁵⁹

Key to Use Table:

“Yes” = allowed as-of-right

“SP” = requires special permit from BZA

Footnote 12: In all Office Districts, permitted Retail or Consumer Service Establishments shall meet the following standards, which may be modified by special permit from the Board of Zoning Appeal; however, such limitations shall not apply to a cafeteria or other eating/drinking facility which is accessory to permitted uses in a building or associated group of buildings in the same ownership and which is intended primarily for employees of those uses and their guests:

- (a) Retail or Consumer Service Establishments shall be located within buildings or on lots or Development Parcels containing other permitted office and/or residential uses;
- (b) Retail or Consumer Service Establishments shall occupy no more than 25% of the total Floor Area Ratio or Gross Floor Area permitted on the lot or Development Parcel;
- (c) Retail or Consumer Service Establishments shall be located at and/or below the Ground Story with entrances accessible to pedestrians directly from public sidewalks; and
- (d) all permitted Retail or Consumer Service Establishments in Office 1 Districts shall require a special permit.

Footnote 59: In Residence B, C, C-1, C-1A, 2, 2A, 2B, 3, 3A, and 3B Districts, certain Retail and Consumer Service Establishments identified in the Table of Use Regulations may be allowed by special permit from the Board of Zoning Appeal, subject to the criteria set forth in Sections 10.43 and 10.43.1 of this Zoning Ordinance, if all of the following conditions are met:

- (a) The proposed use is located within the Ground Story of a building;
- (b) the use is proposed to occupy a space that was originally built for non-residential use and has been previously occupied by one or more non-residential uses in the past;
- (c) the use is proposed to occupy a space that has not contained a residential use at any point within the two (2) years prior to application for a special permit;
- (d) the special permit shall be valid only for the entity to which the special permit was issued, and shall not be transferrable to a new entity unless a new special permit is granted; and
- (e) the special permit shall be valid for a time period of ten (10) years after its date of issuance, subject to reissuance upon application to the Board of Zoning Appeal at the end of that period, or the Board of Zoning Appeal in its discretion may set forth a longer or shorter time period in the conditions of the special permit decision based on the lease duration or other considerations.