



Photos by Lydia Daniller

# Creating a Healthy Food Zone Around Schools

## A Fact Sheet for Advocates

*This fact sheet answers common questions about NPLAN's Model Healthy Food Zone Ordinance, which was developed to help communities limit children's access to the kinds of foods most likely to contribute to childhood obesity.*

Many schools are surrounded by fast food restaurants, which provide students with easy access to unhealthy foods and undermine schools' efforts to offer nutritious meals. Prohibiting fast food restaurants from locating near schools is one strategy to help reduce childhood obesity and support schools striving to improve students' health. NPLAN has developed a model ordinance that creates a "healthy food zone" by restricting fast food restaurants near schools or other areas children are likely to frequent.

### Why would a community enact a "healthy food zone" ordinance?

Childhood obesity is epidemic in the United States. Over the last 25 years obesity rates in children and teens have tripled.<sup>1</sup> Today 16.3 percent of children and adolescents ages 2 to 19 are obese, and 31.9 percent are obese or overweight.<sup>2,3,4</sup> Recent studies show that if this trend continues, today's young people may be the first generation in American history to live sicker and die younger than their parents' generation.<sup>5</sup> At least one study has shown that students with fast food restaurants within a half-mile of their school are more likely to be overweight than students whose schools are not near fast food restaurants.<sup>6</sup>



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### What does this model ordinance accomplish?

NPLAN's Model Healthy Food Zone Ordinance prohibits new fast food restaurants from locating within a certain distance from any school or other designated location children are likely to frequent, such as parks, playgrounds, or youth centers.

### What constitutes “fast food” under the model ordinance?

NPLAN's ordinance defines *fast food* as food that is (1) made in advance, (2) prepared for quick consumption, (3) ordered or served over a counter or at a drive-through window, and (4) paid for before consumption.

### Is it legal to regulate fast food restaurants in this way?

Yes. NPLAN's model ordinance is an example of how zoning regulations can be used to limit children's access to fast food restaurants. State law authorizes local governments to use zoning and other land use measures to regulate a community's growth and development. Local governments have considerable discretion when enacting zoning regulations, and as long as there is a reasonable basis – such as protecting the community's health – a court is likely to uphold the regulation. Courts have long upheld zoning laws that prohibit adult businesses and liquor stores from locating near schools,<sup>7</sup> and NPLAN's Model Healthy Food Zone Ordinance similarly protects the health and welfare of children by prohibiting fast food restaurants from locating near schools. Most communities already zone fast food restaurants by requiring them to locate in commercial (as opposed to residential) districts.

### What about fast food restaurants that already exist?

NPLAN's Model Healthy Food Zone Ordinance is designed for communities that want to prevent new fast food restaurants from moving into areas near schools. It is ideal for communities planning new schools or trying to prohibit new fast food restaurants from setting up near existing schools. The ordinance does not remove fast food restaurants that are already in operation, which is a much more difficult and costly process. Because land use planning and zoning regulations are primarily tools to shape a community over time, they do not result in overnight changes to the landscape.

### Does the ordinance restrict other types of food establishments?

The Model Healthy Food Zone Ordinance focuses on fast food restaurants, but it includes an option to prohibit mobile vendors (who sell food from portable vehicles like carts and trucks) near schools. Communities that choose this option may want to exempt mobile vendors selling healthy foods, such as fresh fruits and vegetables. The ordinance does not include convenience stores within the healthy food zones; in many communities, particularly lower-income neighborhoods, these stores are the only places where groceries are sold. Advocates may want to work with store owners and local residents to get more healthy foods on convenience store shelves.<sup>8</sup>

NPLAN's Model Healthy Food Zone Ordinance supports schools' efforts to make healthy foods available to children before, during, and after the school day. Through zoning, this ordinance allows communities to prevent new fast food restaurants from locating within a certain distance from schools, limiting children's access to the kinds of foods most likely to contribute to childhood obesity.

Visit [www.nplan.org](http://www.nplan.org) to download NPLAN's Model Healthy Food Zone Ordinance and Findings.

<sup>1</sup> National Center for Health Statistics. *Prevalence of Overweight Among Children and Adolescents: United States, 2003–2004* (2006). Available at: [www.cdc.gov/nchs/products/pubs/pubd/hestats/overweight/overweight\\_child\\_03.htm](http://www.cdc.gov/nchs/products/pubs/pubd/hestats/overweight/overweight_child_03.htm).

<sup>2</sup> Government agencies, foundations, and researchers often use different terms to describe obesity in children and adolescents. The Robert Wood Johnson Foundation uses the term *obese* for children and adolescents who have a body mass index (BMI) at or above the 95th percentile for their gender and age, and the term *overweight* for children and adolescents with a BMI at or above the 85th percentile but below the 95th. The Institute of Medicine also uses the term *obese* to describe children and adolescents at or above the 95th percentile but uses the term *at risk for obesity* to describe those with BMI at or above the 85th percentile but below the 95th.

<sup>3</sup> “Statistical Abstract of the United States: 2006.” U.S. Census Bureau, December 2005. Available at: [www.census.gov/prod/2005pubs/06statab/pop.pdf](http://www.census.gov/prod/2005pubs/06statab/pop.pdf).

<sup>4</sup> Ogden CL, Carroll MD, Flegal KM. “High Body Mass Index for Age Among US Children and Adolescents, 2003–2006.” *Journal of the American Medical Association*, 299(20):2401–2405, 2008.

<sup>5</sup> U.S. Department of Health and Human Services, National Institutes of Health. *Obesity Threatens to Cut U.S. Life Expectancy, New Analysis Suggests*, 2005. Available at: [www.nih.gov/news/pr/mar2005/nia-16.htm](http://www.nih.gov/news/pr/mar2005/nia-16.htm).

<sup>6</sup> Davis B, Carpenter C. “Proximity of Fast-Food Restaurants to Schools and Adolescent Obesity.” *American Journal of Public Health*, 99(3):505–510, 2009.

<sup>7</sup> See, e.g., *Function Junction v. Daytona Beach*, 705 F.Supp.544 (M.D. Fla. 1988) (upholding municipal ordinance outlawing adult theaters within 400 feet of schools, churches and parks); *Mom N Pops, Inc. v. Charlotte*, 979 F. Supp 372 (W.D.N.C. 1997) (denying defendants motion for preliminary injunction and finding that City of Charlotte's ordinance prohibiting adult establishments from locating within 1500 feet of any residential district, school, church, child care center, park, or playground was designed to serve a substantial government interest in curbing blight and protecting the integrity of schools, churches, and areas frequented by children.); *Augusta-Richmond County v. Lee*, 277 Ga. 483, 592 S.E.2d 71 (2004) (upholding denial of liquor license, on basis that there were already several stores in the area and that the proposed store was close to several schools and churches); & *Taste Me Concepts v. New York City*, 307 A.S.2d 237, 762 N.Y.S.2d 390 (2003) (holding that denial of liquor license was not arbitrary and capricious when petitioner's establishment was within 200 feet of a church in violation of local law.)

<sup>8</sup> For example, the Healthy Corner Stores Network promotes efforts to bring healthier foods into corner stores located in low-income and underserved communities. See [www.healthycornerstores.org](http://www.healthycornerstores.org) for more information.

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