

**TOWN OF FAIRFAX  
STAFF REPORT**

**To:** Planning Commission

**From:** Jim Moore, Director of Planning & Building Services

**Date:** January 21, 2016

**SUBJECT:** CONSIDERATION OF FURTHER POLICY ISSUES WITH REGARDS TO REZONING ALL 'CH HIGHWAY COMMERCIAL ZONE' (CHAPTER 17.096) PROPERTIES TO THE 'CC CENTRAL COMMERCIAL ZONE' (CHAPTER 17.100) AND ADDING SECTION 17.008.030 ('USE CLASSIFICATIONS') TO TITLE 17 ('ZONING') OF THE FAIRFAX TOWN CODE

**BACKGROUND**

On **May 27, 2015**, the Town Council adopted the 2015 update of the 2010 Housing Element as well as an Addendum to the Mitigated Negative Declaration with required findings pursuant to the California Environmental Quality Act (CEQA), for the Fairfax 2010-2030 General Plan.

The 2015 Housing Element update (as did the prior 2010 Housing Element) contains **Program H-3.1.1.1** which stipulates: "Amend CH Zone. Rezone all CH zones to CC zones, which will allow housing on second floors without a conditional use permit instead of requiring conditional use permits."

On **October 29, 2015**, the Town Council held a special (third) General Plan Forum on the policy considerations and process for rezoning Highway Commercial (CH) to Central Commercial (CC). This event was well attended and public comments and concerns were received and considered by the Council and recorded.

On **November 18, 2015**, the Planning Commission, at their regularly scheduled meeting, had a follow-up discussion of the CH to CC "Forum" reviewing the list of comments, and discussed preferred residential unit sizes, and parking requirements.

Please Note: all of the above meetings and a copy of the 2015 Housing Element update can be found on the Town's website at: [www.townoffairfax.org](http://www.townoffairfax.org)

**DISCUSSION**

Tonight, staff is seeking verbal direction from the Planning Commission of its three key topics of concern as discussed at the November 18, 2015, Planning Commission meeting. After which, staff will prepare a draft Ordinance for formal consideration by the Planning Commission, presumably for the next Planning Commission meeting scheduled for February 18, 2016.

Specifically, staff would like the Planning Commission (PC) to confirm and/or clarify the following:

1. **Parking:** Please confirm that the PC would like language to be added to the draft Ordinance that states that the current parking requirements (Section 17.100.110 and Chapter 17.052, collectively attached as Attachment A) for residential units in the CC zone are maintained unless one (or more) of the following occurs:
  - a. An in-lieu parking fee (amount yet to be determined) is paid to the Town; or
  - b. A 'Parking Assessment District' is created, alleviating all or a portion of on-site parking required for upstairs residential units in the CC zone. FYI: 'Managed' parking strategies will be discussed as part of the public participatory process workshops that will be held sometime during the 2016 calendar year to develop a 'Town Center Plan', as called for in the Town Center Element of the 2010-2030 General Plan. Please Note: A Parking Assessment District requires a public vote to be established; and
  - c. A reduced parking requirement is adopted for this use. If the Commission prefers this approach, direction as to the appropriate ratio would be helpful.
2. **Unit Sizes:** Please confirm that the range of upstairs residential unit sizes shall be from 150 square feet (*pursuant to Health and Safety Code Section 17958.1*) to 700 square feet, with the average unit size per building not to exceed 500 square feet.
3. **Affordability:** No restrictions (e.g., no 'inclusionary' requirements or rent control), but affordability by design (i.e., small efficiency units).
4. **Uses:** The Table provided (Attachment B) lists all principally permitted uses and conditionally permitted uses in the existing CH and CC zones. It also lists which uses will be "permitted uses" in the new language of the CC zone and provides classifications for the "permitted uses". Please confirm which "uses" should be allowed, conditionally allowed, or not allowed. In addition, please confirm the new use classification by 'category' rather than by detailed use "types". Attachment C lists the definitions of the proposed new use classifications. Please provide any recommendations regarding particular uses to add or remove from these classifications. For example, should 'food and beverage sales' include supermarkets, or should that particular use be included within a different use classification.

Please note: We have included 'veterinary offices and small animal hospitals' as permitted uses in the new CC zone to avoid the existing veterinary business becoming a "legal non-conforming use".

## CEQA REVIEW

Once the PC has addressed "Item 4-Uses" above, staff will assess the potential environmental impacts to determine the appropriate review document.

## **RECOMMENDATION**

Consider and advise staff so that a draft ordinance can be prepared and brought back for PC review.

## **ATTACHMENTS**

Attachment A. Parking Requirements (Section 17.100.110 and Chapter 17.052)

Attachment B. CH vs. CC Table

Attachment C. Use Classification Definitions

CHAPTER 17.100: CC CENTRAL COMMERCIAL ZONE

Section

*Article I: Generally*

- 17.100.010 Purpose
- 17.100.020 Generally
- 17.100.030 Design review
- 17.100.040 Principal permitted uses and structures
- 17.100.050 Conditional uses and structures
- 17.100.055 Procedure for Planning Director use determination
- 17.100.060 Accessory uses and structures
- 17.100.070 Building site requirements
- 17.100.080 Height
- 17.100.090 Yards
- 17.100.100 Signs
- 17.100.110 Off-street parking and loading
- 17.100.120 Traffic impact permit
- 17.100.130 Formula businesses and restaurants

zone caters to and invites pedestrian traffic. Consequently, store frontages tend to be continuous and driveways, blank walls and other conflicts with or deterrents to foot traffic tend to be minimized. Second-story residential uses provide both a nighttime population which is commercially desirable and living facilities for owners, workers and those without automobiles.

(Prior Code, § 17.52.010) (Ord. 352, passed --1973)

**§ 17.100.020 GENERALLY.**

No premises in the Central Commercial CC zone may be used for any purpose or in any manner, except as set forth in this chapter. Formula businesses and formula restaurants, as defined herein, that were not in business as of April 1, 2000, are not permitted in the CC zone.

(Prior Code, § 17.52.020) (Ord. 352, passed --1973; Am. Ord. 695, passed 8-20-2002)

**ARTICLE I: GENERALLY**

**§ 17.100.010 PURPOSE.**

The CC central commercial zone is the central business district and the retail commercial heart of the town. It should contain the most valuable land and structures, on a square-foot basis, of any zone in the town. The development of the CC central commercial

**§ 17.100.030 DESIGN REVIEW.**

All structures, physical improvements and exterior physical modifications of buildings in the CC zone are subject to design review unless specifically exempted in each instance by the Planning Commission.

(Prior Code, § 17.52.030) (Ord. 352, passed --1973; Am. Ord. 764, passed 2-1-2012)

**§ 17.100.040 PRINCIPAL PERMITTED USES AND STRUCTURES.**

(A) Principal permitted uses in the CC zone shall be conducted entirely within a building and are restricted to the following:

- (1) Alternative birthing centers licensed by the state's Department of Health Services unless the requirement is waived by the state;
- (2) Antique stores;
- (3) Artist's studios and galleries;
- (4) Art supply;
- (5) Audio/visual sales and service;
- (6) Bakeries, including for sale on premises;
- (7) Banks;
- (8) Bars;
- (9) Barbershops;
- (10) Beauty shops;
- (11) Bicycle sales and repair;
- (12) Butcher shops;
- (13) Blueprint and photocopy services;
- (14) Bookstores;
- (15) Cafes;
- (16) Camera and photography shops;
- (17) Camera and photography sales, service, developing and printing;
- (18) Candy stores and confectioneries;
- (19) Christmas tree sale lots;
- (20) Clothing stores;
- (21) Computer sales and service;
- (22) Craft shops (including custom wood, paper, glass and metal work and sales);
- (23) Curtain and drapery shops;
- (24) Delicatessens;
- (25) Drugstores and pharmacies;
- (26) Electrical appliance sales, repair;
- (27) Finance companies;
- (28) Floors, floor coverings (retail);
- (29) Florists;
- (30) Food stores, excluding, supermarkets;
- (31) Furniture stores;
- (32) Gift shops and greeting card shops;
- (33) Graphic artists, architects, draftsmen and painters (when not located on the ground floor);
- (34) Hardware stores;
- (35) Hobby stores;
- (36) Ice cream stores;
- (37) Interior decorating shops (with incidental retail sales);
- (38) Jewelry sales and service;
- (39) Laundries;
- (40) Leather goods and luggage stores;

## CHAPTER 17.052: OFF-STREET PARKING AND LOADING REQUIREMENTS

### Section

17.052.010	General requirements
17.052.020	Exceptions
17.052.030	Required parking spaces
17.052.040	Standards for parking spaces
17.052.050	Required loading spaces
17.052.060	Standards for loading spaces
17.052.070	Delineation
Appendix A:	Width of Aisles
Appendix B:	Gross Floor Area; Spaces

### § 17.052.010 GENERAL REQUIREMENTS.

(A) Except as otherwise required by variance, every building or use hereafter created or established shall be provided with minimum off-street parking and loading spaces.

(B) No off-street parking spaces or garage, carport or other accessory structure for parking use, required or additional thereto, shall be located in a required side yard setback.

(C) (1) No garage, carport or other accessory structure for parking use shall be located in the front yard setback except as set forth in § 17.052.020.

(2) Uncovered parking spaces may be created in the portion of the required front yard setback not included in the side yard.

(D) At least one of the off-street parking spaces for a residential unit must be covered, except as set forth in § 17.052.020.

(Prior Code, § 17.28.010) (Ord. 352, passed - -1973; Am. Ord. 486, passed - -1981; Am. Ord. 490, passed - -1982)

### § 17.052.020 EXCEPTIONS.

(A) If particular circumstances justify an exception, the amount, dimensions and location of required parking and loading facilities may be altered by variance or design review requirements.

(B) In RM, SF-RMP and PDD zones, one guest parking space shall be provided for each five dwelling units. Available curb parking along the property's street frontage may be credited toward the required guest parking where found appropriate and as part of the design review or variance procedure.

(C) On lots which have a slope greater than 15 percent on the general plan slope map or on a topographic map prepared by a licensed land surveyor and which are downslope lots, uncovered parking decks which have a finished elevation equal to or less than the elevation of the town right-of-way may be constructed in the front yard setback. Decks of this type may exceed the height requirement for accessory buildings.

(D) Lots which have a slope greater than 15 percent on the general plan slope map or on a topographic map prepared by a licensed land surveyor, and which are downslope lots, are exempted from the covered parking requirement set forth in § 17.052.010(D).

(Prior Code, § 17.28.020) (Ord. 352, passed - -1973; Am. Ord. 486, passed - -1981; Am. Ord. 490, passed - -1982)

**§ 17.052.030 REQUIRED PARKING SPACES.**

Off-street parking spaces shall be provided according to the following schedule, and where a parcel includes two or more uses, the parking requirements shall be the aggregate of the requirement for the various uses:

(A) (1) Dwellings, including one-family and two-family dwellings, apartments and mobile homes:

(a) Studio units without separate bedrooms: one space.

(b) One-bedroom units: two spaces.

(c) Two-bedroom units: two spaces.

(d) Units with three or more bedrooms: two spaces.

(2) In addition to the required parking spaces set forth in divisions (A)(1)(a) through (d) above, one guest parking space is required when a legal on-street parking space is not available along the immediate frontage of the property. Availability is determined by whether a space of standard dimensions exists off the traveled portion of the roadway.

(B) Hotels and motels: one space per guest room and one for each employee and manager.

(C) Theaters and other places of assembly which are used daily or nearly daily: one space for every six seats.

(D) Churches, auditoriums in high schools, colleges or universities, and other places of assembly which are not used daily or nearly daily: one space for every six seats.

(E) Dance halls, commercial places of amusement, assembly halls without fixed seats and exhibition halls: one space per 300 square feet of gross floor area.

(F) Retail and personal service stores: three spaces for the first 500 square feet of gross floor area and one space for each additional 500 square feet thereafter.

(G) Offices and banks: three spaces for the first 500 square feet of gross floor area and one space for each additional 500 square feet thereafter.

(H) Restaurants and bars: one space per each 200 square feet of gross floor space.

(I) Hospitals: one space per each three beds.

(J) Convalescent homes and convalescent hospitals: one space per each six beds.

(K) Industrial uses, including wholesale and storage: one space per two employees of the maximum shift.

(L) Mechanical amusement device arcades and accessory uses: one vehicular parking space for each five amusement devices; two on-site bicycle spaces for each amusement device up to ten devices; and one on-site bicycle space per each amusement device in excess of ten devices. Bicycle parking shall be in bicycle racks or stands and shall not obstruct required exits. Bicycle parking may be required inside buildings if no acceptable outside area exists on site. Bicycle parking may be waived for adults-only establishments.

(M) Uses not listed: required parking spaces shall be as provided by the applicable individual zone regulations.

(N) Commercial parcels which are located in parking districts: shall meet only parking requirements of that district.  
(Prior Code, § 17.28.030) (Ord. 352, passed --1973; Am. Ord. 486, passed --1981; Am. Ord. 490, passed --1982; Am. Ord. 491, passed --1982)

**§ 17.052.040 STANDARDS FOR PARKING SPACES.**

(A) Parking facilities shall be designed to provide for safe circulation of vehicular and pedestrian traffic within the parking area and in relation to adjacent streets. Direct backing into or out of parking from a public street shall not be permitted, except for one-family and two-family dwellings.

(B) Minimum dimensions of parking spaces shall be as follows:

(1) Width: nine feet, excluding any interfering structure.

(2) Length: 19 feet, or 22 feet if abutting and parallel to a curb, wall or other obstruction.

(C) In all zones except RS-7.5, RS-6 and RD 5.5-7, 25 percent of the assigned spaces may have a minimum size of 8 feet by 16 feet.

(D) Width of parking aisles shall be according to the schedule in Appendix A to this chapter.

(E) No tandem parking stall shall be allowed, except for a guest space in tandem with required parking for the principal residence. Tandem parking shall not be used in conjunction with a parking space required for a residential second unit.

(Prior Code, § 17.28.040) (Ord. 352, passed --1973; Am. Ord. 490, passed --1982; Am. Ord. 605, passed --1991)

**§ 17.052.050 REQUIRED LOADING SPACES.**

Width of parking aisles shall be according to Appendix B to this chapter.

(Prior Code, § 17.28.050) (Ord. 352, passed --1973)

**§ 17.052.060 STANDARDS FOR LOADING SPACES.**

(A) Loading facilities shall be designed to provide for safe circulation of vehicular and pedestrian traffic within the parking area and in relation to adjacent streets.

(B) Dimensions of loading spaces shall be as follows:

	<i>Large Space</i>	<i>Small Space</i>
Width	12 feet	10 feet
Length	45 feet	20 feet

(Prior Code, § 17.28.060) (Ord. 352, passed --1973)

**§ 17.052.070 DELINEATION.**

All parking and loading spaces shall be marked or otherwise physically delineated, except those for single-family and two-family dwellings.

(Prior Code, § 17.28.070) (Ord. 352, passed --1973)



Existing		Principal Permitted Uses	Included in new CC permitted uses?	New use classification	Notes
CC	CH				
		In both CC and CH, principal permitted uses are required to be conducted entirely within a building (unless an exception applies)			
X		Alternative birthing centers licensed by the state's Department of Health Services unless the requirement is waived by the state	Yes		
	X	Animal grooming and supplies	Yes	Animal retail sales and grooming	
X		Antique stores	Yes	Retail uses	
		Appliances repair, domestic			
	X	Appliances sales, domestic		Retail uses	
X	X	Artist's studios and galleries	Yes		'Galleries' not listed in CC permitted uses
X		Art supply	Yes	Retail uses	
X	X	Audio/visual sales and service	Yes	Retail uses	
	X	Automobile supply stores	Yes	Retail uses	
X	X	Bakeries, including for sale on premises	Yes	Eating and/or drinking establishments	CH does not allow on-site baking
X	X	Banks	Yes	Financial institutions	CH also includes 'savings and loans' in this category
X		Bars	Yes	Eating and/or drinking establishments	
X	X	Barbershops	Yes	Personal services	
X	X	Beauty shops	Yes	Personal services	
X	X	Bicycle sales and repair	Yes	Retail uses	
X	X	Butcher shops	Yes	Food and beverage sales	

Existing		Principal Permitted Uses	Included in new CC permitted uses?	New use classification	Notes
CC	CH				
X	X	Blueprint and photocopy services	Yes	Personal services	
X	X	Bookstores	Yes	Retail uses	
	X	Building contractor's facilities (provided there is no storage, servicing and repair of heavy equipment on the premises)			
	X	Building supplies and lumber when within a building	Yes	Retail uses	
	X	Business machine sales and repair	Yes	Retail uses	
X		Cafes	Yes	Eating and/or drinking establishments	
X		Camera and photography shops	Yes	Retail uses	
X	X	Camera and photography sales, service, developing and printing	Yes	Retail uses	
X	X	Candy stores and confectioneries	Yes	Retail uses	CH does not mention confectioneries
	X	Carpenters' shops, cabinet making			
	X	Catering	Yes	Food and beverage sales	
X	X	Christmas tree sale lots	Yes	Retail uses	
X	X	Clothing stores	Yes	Retail uses	
X	X	Computer sales and service	Yes	Retail uses	
X	X	Craft shops (including custom wood, paper, glass and metal work and sales)	Yes	Retail uses	
	X	Dairy product stores	Yes	Food and beverage sales	
X		Curtain and drapery shops	Yes	Retail uses	
X	X	Delicatessens	Yes	Food and beverage sales	
	X	Department stores			
	X	Diaper service		Retail uses	

Existing		Principal Permitted Uses	Included in new CC permitted uses?	New use classification	Notes
CC	CH				
X	X	Drugstores and pharmacies	Yes	Retail uses	CH also allows 'prescription pharmacies' (not clear how they differ from pharmacies)
X	X	Electrical appliance sales, repair	Yes	Retail uses	
	X	Electronic products, sales, and repairs	Yes	Retail uses	
X		Emergency shelters, subject to compliance with Chapter 17.138 of this title	Yes		
X		Finance companies			
X	X	Floors, floor coverings (retail)	Yes	Retail uses	
X	X	Florists	Yes	Retail uses	
X		Food stores, excluding, supermarkets	Yes	Food and beverage sales	As written, the definition of 'food and beverage sales' currently includes supermarkets
	X	Furniture repair, upholstery	Yes	Personal services	
X		Furniture stores	Yes	Retail uses	
X	X	Gift shops and greeting card shops	Yes	Retail uses	CH does not mention greeting card shops
X		Graphic artists, architects, draftsmen and painters (when not located on the ground floor)			
	X	Gymnasiums and athletic clubs			
X	X	Hardware stores	Yes	Retail uses	
X		Hobby stores	Yes	Retail uses	
X		Ice cream stores	Yes	Eating and/or drinking establishments	

Existing		Principal Permitted Uses	Included in new CC permitted uses?	New use classification	Notes
CC	CH				
X		Interior decorating shops (with incidental retail sales)	Yes	Personal services	
	X	Janitorial service and supplies			
X	X	Jewelry sales and service	Yes	Retail uses	CH uses term 'jewelry stores'
	X	Laboratories			
X	X	Laundries	Yes	Personal services	CH includes 'dry cleaning' in this use
X	X	Leather goods and luggage stores	Yes	Retail uses	CH does not include 'luggage stores' in this use
	X	Linen supply	Yes	Retail uses	
	X	Lumberyards	Yes	Retail uses	
	X	Mail order and catalog sales			
	X	Mail services			
	X	Nurseries and garden supply stores			
X	X	Offices, when not located on the first floor, including medical/dental offices, real estate, insurance, stockbrokers, financial advisory services, tax services, programming, employment agencies and personnel offices	Yes	Office, business and professional Office, medical	CH allows 'offices and office buildings' on the first floor, as well
X	X	Office machines and supplies	Yes	Retail uses	CH includes 'business machine stores, repair' in this use
	X	Office supplies	Yes	Retail uses	
X		Music stores	Yes	Retail uses	
X		Newsstands	Yes	Retail uses	
X		Optician and optometrical shops	Yes	Retail uses and/or office, medical	
	X	Packing and crating			
X	X	Paint, glass and wallpaper stores	Yes	Retail uses	

Existing		Principal Permitted Uses	Included in new CC permitted uses?	New use classification	Notes
CC	CH				
	X	Parks, public			
X	X	Pet and bird stores	Yes	Animal retail sales and grooming	CH restricts this to 'pet stores'
X	X	Photocopying	Yes	Personal services	
	X	Photographic equipment sales and service	Yes	Retail uses	
X	X	Picture framing shops	Yes	Personal services	CH adds 'galleries' to this
	X	Post offices	Yes	None – same designation	
X	X	Printing, publishing, lithography and engraving	Yes	Personal services	
X	X	Radio, television, stereo sales, repair	Yes	Retail uses	CH does not include 'stereo sales'
X		Record, tape and compact disc stores	Yes	Retail uses	
X		Residential uses on the second floor	Yes		
X	X	Restaurants not providing live entertainment or fast food service for carry off trade	Yes	Eating and/or drinking establishments	
	X	Rug, carpet cleaning services	Yes	Personal services	
X		Savings and loan offices	Yes	Financial institutions	
	X	Secretarial services			
	X	Scientific instrument shops and service	Yes	Retail uses	
X	X	Shoe stores and repair	Yes	Retail uses	CH only permitted 'shoe repair'
X		Service uses allowed in the CS zone when not located on the first floor and not displacing a residential use			
X	X	Sporting goods stores	Yes	Retail uses	
X		Stamp and coin stores	Yes	Retail uses	
X	X	Stationery stores	Yes	Retail uses	
	X	Storage buildings, garages			

Existing		Principal Permitted Uses	Included in new CC permitted uses?	New use classification	Notes
CC	CH				
	X	Supermarkets and neighborhood grocery stores	Yes	Food and beverage sales	
	X	Swimming pool sales, services	Yes		
X	X	Tailor and dressmaking	Yes	Personal services	
	X	Tool and cutlery sharpening	Yes	Personal services	
X	X	Ticket agencies	Yes	Personal services	CH actually allows 'travel bureaus,' which I assume are the same as 'ticket agencies'
X	X	Toy stores	Yes	Retail uses	
	X	Upholstery shops			
X	X	Variety stores	Yes	Retail uses	
	X	Veterinarian's offices and small animal hospitals, including short-term boarding of animals and incidental care provided all operations are enclosed in a building with soundproof construction	Yes	Animal hospitals/ veterinary services	
	X	Warehouses, except for storage of fuel or flammable liquids			
X		Watch and clock sales and repair	Yes	Retail uses	
	X	Wholesale establishments	No		
	X	Windows, window coverings	Yes		
X		Yard goods stores.	Yes	Retail uses	
X		No principal permitted use provided for in division (A) above shall include entertainment of customers or clientele by music, actors or singing, nor permit any establishment or business to charge admission or entrance fees.			



Existing		Conditionally Permitted Uses	Included in new CC conditional uses?	New use classification	Notes
CC	CH				
X		Any of the principal permitted uses not conducted entirely within a building			
X		Drive-up windows or patron service areas and spaces exterior to a building, for any use			
X		Theaters, nightclubs and entertainment establishments			
X		Offices and service establishments allowed in § 17.100.040 when on the ground floor			
X		Wholesale activities which are accessory to a main use on the same premises			
X		Uses which combine wholesale and retail sales and/or retail and service activities when neither aspect of the business is an accessory or principal use but both are an integral part of the business			
X		Residential uses on the ground floor of a building or as accessory uses or in accessory structures			
X		Other uses determined by the Planning Commission as equivalent to those listed in divisions (A) through (G) of this section or which are determined to be equivalent to those listed in § 17.100.040, but requiring regulation of location, extent or operation because of some unique characteristic			
X		Establishments or businesses which entertain customers or clientele by musicians, actors or singers or establishments which charge admission or entrance fees			
X	X	Cigar shops, smoke shops			
X		Liquor stores			

Existing		Conditionally Permitted Uses	Included in new CC conditional uses?	New use classification	Notes
CC	CH				
X		Permitted principal uses with minor and/or accessory fabrication or assembly activities limited to light manufacturing or processing activities, when the entirety of the use, both principal and accessory, is contained entirely within a building;			
X		Permitted principal uses not conducted entirely within a building;			
X		Small animal boarding outdoors, provided there is a 500-foot separation from any residential zone;			
X		Car washes, both automatic and self-service;			
X		Service stations;			
X		Private and public garages and parking lots improved in conformity with the provisions in Chapter 17.052;			
X		Automobile repair, parts and service establishments;			
X		Used car sales;			
X		Motels, hotels and residential uses on the second floor, at a density to be determined by the Planning Commission;			
X		Other uses determined by the Planning Commission as equivalent to those listed in divisions (B)(1) through (9), or which are determined to be equivalent to those listed in § 17.104.030 of this title but requiring regulation of location, extent or operation because of some unique characteristic;			
X		Establishments or businesses which entertain customers or clientele by musicians, actors			

Existing CC	CH	Conditionally Permitted Uses	Included in new CC conditional uses?	New use classification	Notes
X		<p>Mechanical amusement device arcades and computers for rent, subject to the following standards:</p> <p>(a) Use permits shall be granted for periods of no more than six months initially. The Planning Commission may approve extensions. In approving use permits and extensions, findings must be made that the use will not or has not created or increased the incidence of excessive loitering, vandalism, pedestrian obstruction, noise or any other activity that may have an adverse effect on adjacent or vicinity properties, residences or businesses.</p> <p>(b) Hours of operation shall be no later than 10:00 p.m. The Planning Commission may grant exceptions to this limitation for adults-only establishments or when it is clearly demonstrated that the use is clearly ancillary to another use.</p>			
X		Bed and breakfasts;			
X		Churches;			
X		Convalescent homes,			
X		Day care centers;			
X		Drug and alcohol treatment facilities;			
X		Furniture stores;	No – included as principal permitted use (retail use)		

Existing CC	CH	Conditionally Permitted Uses	Included in new CC conditional uses?	New use classification	Notes
X		Hospitals;			
X		Hotels;			
X		Institutional, non-profit;			
X		Institutional, public;			
X		Maintenance and repair services;			
X		Motorcycle, sales, service and repair;			
X		Musical instrument sales and service;			
X		Schools;			
X		Tool repair;			
X		Transportation services, bus depots;			
X		Utility substations and structures;			
X		Water tanks			

NOW THEREFORE, the Town Council of the Town of Fairfax does ordain as follows:

**SECTION 1.** Fairfax Town Code Title 5 ('Business Taxes, Licenses, and Regulations'), Division II ('Specific Business Regulations'), Chapter 5.52 ('Medical Marijuana Dispensaries'), Section 5.52.080 ('Limitation on Location of Dispensary'), Subsection A is hereby amended to read as follows:

"(A) A dispensary shall be located only within a Central Commercial CC, ~~Highway Commercial CH,~~ or Light Commercial CL area, as designated in the General Plan and zoning map."

**SECTION 2.** Fairfax Town Code Title 17 ('Zoning'), Chapter 17.008 ('Definitions'), is hereby amended by adding the following new Section 17.008.030 ('Use Classifications'<sup>[11]</sup>), which reads as follows:

**"§ 17.008.030 USE CLASSIFICATIONS.**

Use classifications describe one (1) or more uses having similar characteristics, but do not list every use or activity that may appropriately be within the classification. The Director of Planning and Building Services shall determine whether a specific use shall be deemed to be of the same general nature as one (1) of the use classifications or within one (1) or more use classifications or not within any classifications within this title. The Director of Planning and Building Services may determine that a specific use shall not be deemed to be within a use classification, whether or not named within the classification, if its characteristics are substantially <sup>[ML2]</sup>incompatible with those typical of uses named within the classification.

***ANIMAL SALES AND SERVICES.***

***ANIMAL HOSPITALS/VETERINARY SERVICES.*** Establishments where small animals receive medical and/or surgical treatment, shelter, and care on a commercial basis. This classification includes only facilities that are entirely enclosed and soundproofed. Grooming and boarding of animals is included only if accessory to the hospital use.

***ANIMAL RETAIL SALES AND GROOMING.*** Retail sales of domestic and exotic animals within an entirely enclosed building. This classification includes bathing and trimming services and boarding of domestic and exotic animals (for no more than forty-eight (48) consecutive hours).

***HORSE STABLES.*** Establishments offering horse boarding and which may include instruction in horseback riding. This classification includes rings and exercise areas.

***KENNELS.*** Buildings or other enclosures used to confine, feed, exercise, show or provide shelter, for four (4) or more cats or dogs, ten (10) weeks of age or older, on

a commercial basis. Animal hospitals are specifically excluded from this classification.

**EATING AND/OR DRINKING ESTABLISHMENTS.** Businesses that primarily serve prepared food or beverages for consumption on or off the premises.

**WITH TAKE-OUT SERVICES.** [3]Eating and drinking establishments that provide prepared food and/or drinks from disposable containers and either: (a) have floor area devoted to takeout and pick-up space; or (b) at which twenty-percent (20%) or more of the sales are for off-site consumption.

**WITH PERMANENT OUTDOOR SEATING.** Permanent seating in an open or covered area on the site of a legally established eating and drinking establishment.

**FINANCIAL INSTITUTIONS.** A financial institution that provides retail banking services to individuals and businesses. This classification includes only those institutions engaged in the on-site circulation of money. This use does not include check-cashing facilities.

**FOOD AND BEVERAGE SALES.** Retail sales of food and beverages for off-site preparation and consumption. Typical uses include groceries[4], liquor stores, convenience markets, delicatessens, bakeries, produce stores, butcher shops, and health food stores[5]. This use does not include the sale of foods or beverages containing marijuana.[6]

#### **OFFICES.**

**OFFICES, BUSINESS AND PROFESSIONAL.** Offices of firms or organizations providing professional, executive, management, or administrative services, such as architectural, computer software consulting, data management, engineering, interior design, graphic design, real estate, title companies, stockbrokers, insurance and legal services. This classification includes laboratories accessory to an office use, but excludes banks and savings and loan associations.

**OFFICES, MEDICAL.** Offices for a physician, dentist, chiropractor, physical therapist, psychiatrist, psychologist, counseling service, audiologist, optometrist, and acupuncturist. This classification includes medical laboratories accessory to a medical office use.

**PERSONAL SERVICES.** Provision of recurrently needed services of a personal nature. This classification includes barber and beauty shops, massage[7], tanning, seamstresses, tailors, shoe repair shops, dry cleaning agencies services (excluding plants), interior decorating, photocopying, photo processing, picture framing, printing, publishing, tailoring, travel agencies, and self-service laundries.

**RETAIL USES**<sup>[8]</sup>. Stores and shops selling many lines of merchandise. Examples of these stores and lines of merchandise include: bicycle sales, service, and rental; bookstores, except adult bookstores; apparel and accessories; furniture, home furnishings and appliance sales, service, and rental; miscellaneous retail (including candy or ice cream stores, drug stores, hobby or craft shops, liquor stores, jewelry stores, newsstands, specialty shops, variety stores, pet stores, or computer stores), and includes repair and service ancillary to the primary retail sales use. This use does not include food and beverage sales, or the sales of goods containing marijuana<sup>[9]</sup>.

**SECTION 3.** Fairfax Town Code Title 17 (Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.010 ('Established') is hereby amended to read as follows:

"In order to classify, regulate, restrict and segregate the uses of land and building; to regulate and restrict the height and bulk of buildings; to regulate the area of yards and other open spaces about buildings; to regulate the percentage of a lot which may be occupied by a building or structure, and to otherwise regulate the use or development of land and premises, the following land use zones are established to be known and designated as follows:

- (A) RS-7.5 single-family residential zone;
- (B) RS-6 single-family residential zone;
- (C) RD 5.5-7 residential zone;
- (D) RM multiple-family residential zone;
- (E) CL limited commercial zone;
- ~~(F) CH highway commercial zone;~~
- (~~E~~) CC central commercial district zone;
- (~~G~~) CS commercial service zone;
- (~~H~~) CR commercial recreation zone;
- (~~J~~) PDD planned development district;
- (~~K~~) SF-RMP single-family residential master plan zone;
- (~~L~~) O-A open area zone;
- (~~M~~) UR upland residential zone; and
- (N) PD public domain."

**SECTION 4.** Fairfax Town Code Title 17 ('Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.030 ('Discrepancies') is hereby amended to read as follows:

(A) In case of any discrepancy between the designation of land on the "zoning map" as lying within a particular zone and the designation of land in §§ 17.012.040 through 17.012.1670 as being within the same zone, §§ 17.012.040 through 17.012.1670 shall control.

(B) In case an Assessor's parcel is listed in §§ 17.012.040 through 17.012.1670 as lying within the boundaries of two or more zones, the Planning Commission