

**TOWN OF FAIRFAX  
STAFF REPORT**

**To:** Planning Commission

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

**Date:** May 26, 2016

**Subject:** CONSIDERATION OF AN ORDINANCE TO AMEND THE TOWN OF FAIRFAX TOWN CODE CHAPTER 5.052 ('BUSINESS TAXES, LICENSES, AND REGULATIONS'), CHAPTER 7.008 ('DEFINITIONS'), CHAPTER 17.012 ('ZONE DISTRICTS ESTABLISHED'), CHAPTER 17.020 ('DESIGN REVIEW REGULATIONS'), CHAPTER 17.092 ('CL LIMITED COMMERCIAL ZONE'), CHAPTER 17.096 ('CH HIGHWAY COMMERCIAL ZONE'), AND 17.100 ('CC CENTRAL COMMERCIAL ZONE')

**BACKGROUND**

In April 2012, the Town Council adopted the 2010-2030 General Plan, a document that sets out the framework under which the Town will be developed and operated. The 2012 General Plan, as well as the 2015 update to the Housing Element, dictate that certain zoning amendments be made in order to realize the policies and objectives of the Town with respect to the further development of the Town's retail heart and the provision of housing. Included amongst these directives is direction to rezone all properties currently zoned Highway Commercial to Central Commercial, and make certain modifications to the uses permitted in the Central Commercial zone. The draft zoning ordinance before the Planning Commission tonight is an implementation of some of these policies and objectives within the Central Commercial zoning district.

**DISCUSSION**

**General Plan implementation.** Comprised of some eight elements or chapters, the Town's General Plan is a legally required document that sets out a "comprehensive, long-term general plan for the physical development" of the town. (Government Code Section 65300) As relevant for tonight's purposes, the General Plan includes the following:

- **Land Use Element.** This element identifies the proposed distribution of various uses throughout the Town and lists the Town's overarching land use policies. Among other things, it directs that the Town's existing Highway Commercial (CH) zoning district be merged into the Central Commercial (CC) district, and that the CC district's uses and development standards be modified as needed.
  
- **Housing Element.** This element addresses housing needs within the Town and the Town's plan for meeting its Regional Housing Need Allocation set by ABAG. It also requires the merger of the CH zone into the CC, and further dictates the treatment of specific housing uses, including second story residential in the CC district, the allowance of single room occupancy uses in that district, and the amendment of the

zoning ordinance to allow supportive and transitional housing as required by state law.

- **Town Center Element.** Unique to Fairfax, the General Plan also includes a Town Center Element. This optional chapter “contains strategies and policies that provide specific guidance to enhance the sense of place and the quality of life in the downtown area while promoting the economic base of the Town.” (General Plan, TC-1.) For purposes of the document, the “downtown area” is established by use of a map (Figure TC-1, showing the Town Center study area), the contours of which almost wholly correspond with the combined CH and CC zoning districts.

In order to realize certain goals, objectives, policies, and programs of the General Plan, amendments to the Town’s Zoning Ordinance are necessary. (See Government Code Section 65860(c), which requires that “[i]n the event that a zoning ordinance becomes inconsistent with a general plan by reason of amendment to the plan, or to any element of the plan, the zoning ordinance shall be amended within a reasonable time so that it is consistent with the general plan as amended.”)

The zoning ordinance amendment before the Planning Commission tonight implements numerous measures from the Land Use, Housing, and Town Center Elements, as listed in Attachment A to this staff report.

**Ordinance revisions.** The Planning Commission has previously considered an earlier draft of this ordinance at its April 28, 2016, special meeting. At that meeting, further direction was provided to staff on a number of issues. The draft ordinance before the Planning Commission tonight addresses that direction – and makes additional clean up modifications - as follows:

**Delete old use definitions (Section 2).** The ordinance will introduce new ‘use classifications’ to the Fairfax Town Code. Section 2 of the ordinance deletes existing definitions that will be either replaced by new definitions, are duplicative of existing definitions (e.g., ‘kennel’ is found twice), or are never actually used in the Town Code (e.g., ‘filling station’).

**Amend new use classification language (Section 3).** A number of changes have been made to this section:

- The Planning and Building Services Director is empowered to determine whether a given use is consistent with the use classifications allowed in each zone. Staff has added a provision whereby an individual aggrieved by a decision of the Director in this regard may appeal that decision to the Planning Commission – not directly to the Town Council (as would otherwise happen).
- The ‘light industrial’ definition has been deleted and replaced by two new definitions: ‘cleaning services’ and ‘maintenance and repair services (small equipment)’ to address the Commission’s concerns.
- Use classifications that previously lacked definitions were defined (e.g. ‘Park Facilities’) and/or were re-named to be more inclusive (e.g., ‘Post Office’ changed to ‘Government Offices’)

**Map/APN listing discrepancies (Section 5).** No changes have been made to the

language dictating how discrepancies between the zoning map and list of APN tables will be resolved. This is because there will be no APN table included in the Town Code for the CC zoning district, and thus no chance of a discrepancy between such a table and the zoning map. To the extent that language changing this rule would have affected conflicts between the zoning map and the APN table (if any) in other zoning districts, that is beyond the scope of this ordinance change.

That being said, we have removed Section 17.012.030(B), which empowered the Planning Commission to determine the 'correct' zoning district for any parcel whose zoning was split between two districts. This could have affected a CC-zoned parcel, and was removed.

**Purpose of the Central Commercial zone (Section 12).** The 'purpose' language was revised to capture the direction of the PC at its April meeting.

**Use table for CC district (Section 13).** There were a number of changes to this section, including:

- The introductory language was missing a statement that "The Director of Planning and Building Services shall determine whether a proposed use shall be deemed to be of the same general nature as one of the use classifications or within one or more use classifications or not within any classifications within this title," which has now been added.
- In addition, staff deleted the provision that would have vested the Director of Planning and Building Services with the power to authorize a use not otherwise permitted in the zone.
- The use classification table was updated to reflect the changes made above (e.g., adding 'cleaning services' and 'maintenance and repair services (small equipment)')
- A few uses have yet to be assigned a permitted or conditionally permitted status and will be completed shortly.

**CEQA (Section 17).** The CEQA provisions will be completed once the ordinance is in its final form, so as to allow staff to fully analyze any potential environmental impacts.

## **RECOMMENDATION**

Conduct a workshop to consider this version of the draft ordinance and provide further direction to staff.

## **ATTACHMENTS**

Attachment A – General plan implementation

Attachment B - Draft Ordinance No. 16-XX

## ATTACHMENT A

As discussed in the May 26, 2016, Planning Commission special meeting staff report, Ordinance No. 16-XX is intended to implement a variety of policies, programs, and other directives found in the Town of Fairfax General Plan 2010-2030, including the following:

<b>General Plan Source</b>	<b>Directive</b>
Figure LU-1 ('Fairfax General Plan Map')	<i>No express directive. Rather, the map depicts land use designations throughout Town, which do not include a Highway Commercial designation.</i>
Figure LU-2 ('Fairfax Zoning')	<i>No express directive. Rather, the map depicts zoning districts throughout Town, which do not include a Highway Commercial district.</i>
Land Use Program LU-7.1.1.2	Rezone All Commercial Highway (CH) Zone to Central Commercial (CC) Zone and revise the CC Zone as appropriate.
Land Use Policy LU-7.1.2	New and/or renewed development in the Town Center Area should preserve and enhance the village character of the Town Center Area in the mix of land uses, architectural styles and ornamentation, materials, colors and textures.
Land Use Policy LU-7.2.1	New and renewed development shall be compatible with the general character and scale of structures in the vicinity.
Housing Element Program H-3.1.1.1	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.
Housing Element Program H-4.1.1.4	Review and Update Parking Standards. Town staff will review and consider updating parking standards, for review and possible approval by the Planning Commission, to allow for more flexible parking requirements to help facilitate infill, transit-oriented, and mixed-use development. The Town will review and consider reducing the parking space requirements for one-bedroom units. Recommendations will be made based on the review and action taken on the recommendations.
Town Center Policy TC-1.1.1	New and/or renewed development in the Town Center Planning Area shall preserve and enhance the village

**General Plan Source****Directive**

character and pedestrian scale of the downtown area. Large, highly visible parking lots characteristic of strip shopping centers are inconsistent with village character.

Town Center Policy TC-2.1.3:

New and/or renewed development shall be compatible with the existing scale and character of the Town Center Planning Area. A Significant Buildings and Structures Plan should be created by staff. This plan should inventory and establish policies for preservation of significant structures in the Town Center (see Conservation Element Policy CON-8.1.2 and Policy CON-8.1.4).

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX AMENDING FAIRFAX TOWN CODE CHAPTER 5.052 ('BUSINESS TAXES, LICENSES, AND REGULATIONS'), ~~CHAPTER 7.008 ('DEFINITIONS'), CHAPTER 17.012 ('ZONE DISTRICTS ESTABLISHED'), CHAPTER 17.020 ('DESIGN REVIEW REGULATIONS'), CHAPTER 17.092 ('CL LIMITED COMMERCIAL ZONE'), CHAPTER 17.096 ('CH HIGHWAY COMMERCIAL ZONE'), AND 17.100 ('CC CENTRAL COMMERCIAL ZONE')~~, AND ADDING SECTION 17.008.030 ('USE CLASSIFICATIONS') TO TITLE 17 ('ZONING') OF THE FAIRFAX TOWN CODE

**WHEREAS**, all towns and cities within the State of California are required by law to adopt a general plan; and

**WHEREAS**, in 2012, the Town of Fairfax completed the 2010-2030 Fairfax General Plan, the first revision of its general plan in over 35 years; and

**WHEREAS**, the potential impacts to the environment associated with the proposed update to the general plan were studied in accordance with the California Environmental Quality Act ('CEQA,' as codified in Public Resources Code 20000, et seq., and as further governed by the CEQA Guidelines, 14 California Code of Regulations 15000, et seq.), and a Mitigated Negative Declaration and Mitigation and Monitoring Plan were prepared for the proposed Fairfax 2010-2030 General Plan (the 'General Plan'); and

**WHEREAS**, on April 4, 2012, the Town Council of the Town of Fairfax adopted the Mitigated Negative Declaration and Mitigation and Monitoring Plan prepared for the General Plan, and subsequently adopted the General Plan; and

**WHEREAS**, the General Plan includes Figure LU-1 ('Fairfax General Plan Map') and Figure LU-2 ('Fairfax Zoning'), both of which include a Central Commercial ('CC') zone, and neither of which include the Highway Commercial ('CH') zone; and

**WHEREAS**, General Plan Land Use Program LU-7.1.1.2 and Housing Element Program H-3.1.1.1 both direct that all properties within the Town zoned as CH will be rezoned to CC; and

**WHEREAS**, California Government Code Section 65860(c) requires towns and cities to amend their zoning ordinances to conform to their respective general plans; and

**WHEREAS**, the Planning Department has prepared this amendment to the Town's zoning ordinance, found at Title 17 of the Fairfax Town Code, in order to implement the General Plan dictates set forth above.

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 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'), Section 17.008.020 ('Definitions'), is hereby amended to delete only the following definitions:

**DAY NURSERY.** [1] An agency, organization, or individual providing daytime care of five or more children not related by blood or marriage to, or not the legal wards or foster children of, the attendant adult.

**DOG KENNEL or KENNEL**[2]. Any premises, except where accessory to a permitted agricultural use, where three or more dogs, ten weeks in age or older, are kept.

**FILLING (SERVICE) STATION**[3]. Any building or plot of land used or designed to be used for the storage and retail sale of automobile fuels and lubricants and which may include facilities for washing, polishing, greasing, waxing or tire repairing. No vulcanizing or tire recapping or major mechanical repairs shall, however, be included in the operation of a filling station.

**GAS FILLING STATION**[4]

(1) Not only the house or building provided for the storage of supplies and the use and shelter of the operatives, but also tanks, pumps, structures and filling stations for business purposes and the supplying of gas and oil for automobiles of the general public.

(2) It also includes, of necessity, suitable exterior stairways and secondary stairways.

**GASOLINE STATION.** [5] Any building, place or location designed to supply motor vehicles with gasoline, oils, greases, automobile sundries or for the inspection, testing and examination of the motor vehicles, or for the repair or replacement of parts thereof; and shall include gasoline pumps and oil pumps.

KENNEL.<sup>[6]</sup> Any premises, except where accessory to an agricultural use, where three or more dogs, ten weeks in age or older, are kept.

NURSERY.<sup>[7]</sup> Any land used to raise trees, shrubs, flowers and other plants for sale or for transplanting.

PROFESSIONAL OFFICE.<sup>[8]</sup> The office of a person engaged in any occupation, vocation or calling, not purely commercial, mechanical or agricultural, in which a professed knowledge or skill in some department of science or learning is used by its practical application to the affairs of others, either advising or guiding them in serving their interest or welfare through the practice of an act founded thereon.

RESTAURANT WITH DRIVE-IN SERVICE.<sup>[9]</sup> An establishment designed, in whole or part, to cater to or accommodate the consumption of food and/or beverage in automobiles on the premises of such establishment.

**SECTION 23.** Fairfax Town Code Title 17 ('Zoning'), Chapter 17.008 ('Definitions'), is hereby amended by adding the following new Section 17.008.030 ('Use Classifications'), which reads as follows:

**"§ 17.008.030 USE CLASSIFICATIONS.**

(A) 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.

(B) 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 incompatible with those typical of uses named within the classification.~~ Notwithstanding any other provision of the Town Code, any person aggrieved by a decision of the Director of Planning and Building Services with respect to a use determination may appeal such decision to the Planning Commission.<sup>[10]</sup>

(C) For the purpose of this title, the following use classification definitions shall apply, unless the context clearly indicates or requires a different meaning.

COMMERCIAL USES

**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.

**CATERING SERVICES.** Preparation and delivery of food and beverages for off-site consumption without provision for on-site pick-up or consumption, unless permitted by the subject zoning district.

CLEANING SERVICES. Janitorial, diaper cleaning, dry cleaning, and other similar cleaning services that include the use or on-site storage of chemicals, cleaners, or other processes that may pose a health hazard.

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

GENERALLY. Eating and drinking establishments with no take-out services, permanent outdoor seating, alcoholic beverage service, or live entertainment or dancing.

**WITH TAKE-OUT SERVICES.** Eating and drinking establishments that provide prepared food and/or drinks ~~from disposable containers~~ for off-site consumption 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.

**WITH FULL ALCOHOLIC BEVERAGE SERVICE.** Eating and drinking establishments that are licensed to sell and serve wine, beer, and distilled spirits.

**WITH WINE AND BEER SERVICE.** Eating and drinking establishments that are licensed to sell and serve wine and beer.

***WITH LIVE ENTERTAINMENT OR DANCING***<sup>[ML12]</sup>.

**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.

*GENERALLY.* A financial institution without an automated teller machine or drive-up services.

**WITH AUTOMATED TELLER MACHINES.** Institutions providing automated teller services through a machine.

**WITH DRIVE-UP SERVICES.** Institutions providing services accessible to persons who remain in their automobiles.

**FOOD AND BEVERAGE SALES.** Retail sales of food and beverages for off-site preparation and consumption. Typical uses include groceries<sup>[13]</sup>, liquor stores, convenience markets, delicatessens, bakeries, produce stores, butcher shops, and health food stores.

~~*HEALTH AND WELLNESS CENTERS. XXX*~~

**HEALTH CLUBS.** Establishments that may include indoor tennis courts, racquetball courts, gyms, aerobic studios, yoga, dance, weight rooms, fitness machines, indoor swimming pools and accessory uses such as food service and child care.

**HOME IMPROVEMENT SALES AND SERVICES.** Retail establishments that carry a full line of building materials, appurtenances and decorator items (including hardware, plumbing, electrical, heating, air-conditioning, or building supplies, tools and equipment, plants and garden products, patio furniture, swimming pools, spas, and hot tubs, lighting fixtures and cabinets, paint, carpeting, floor coverings, etc.) to facilitate the improvement, rehabilitation and maintenance of individual dwellings. All merchandise other than plants is kept within an enclosed building or fully screened enclosure and fertilizer, soil, soil amendments are stored and sold in package form only. (See also Lumber and Building Material Yards.)

~~*LIGHT INDUSTRIAL.* Appliances repair, diaper service, furniture repair and upholstery services, janitorial service and supplies.~~

**LUMBER AND BUILDING MATERIAL YARDS.** Establishments engaging in the retail or wholesale sales of lumber, finished wood products, or building and landscape material supplies either inside or outside of a structure. This classification includes incidental sales and rental of hardware, plumbing, electrical, garden or painting supplies and equipment.

**MAINTENANCE AND REPAIR SERVICES (SMALL EQUIPMENT).** Establishments providing on-site repair and accessory sales of supplies for appliances, office machines, home electronic equipment, bicycles, furniture/upholstering, tools, or garden equipment, but not vehicles. [114]

**NURSERIES.** Establishments providing for the cultivation and sale of ornamental trees, shrubs, and plants, including the sale of garden and landscape materials and equipment. All merchandise, other than plants, is kept within an enclosed building or a fully screened enclosure, and fertilizer, soil, soil amendments and groundcover (other than live plants) of any type is stored and sold in package form only.

**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, acupuncturist, and alternative treatment providers. 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 such services as barber and beauty shops, massage, tanning, seamstresses, tailors, shoe repair shops, dry-cleaning agencies (excluding plants), interior decorating, photocopying, photo processing, picture framing, printing, publishing, tailoring, travel agencies, self-service laundries, and shipping and mailing services.

**RECREATION AND ENTERTAINMENT.** Businesses providing participant or spectator recreation, entertainment, or sports activities.

**INDOORS.** This classification includes movie or live performing arts theaters, bowling alley, billiard parlor, dance hall, ice/roller skating rinks, game center including pinball arcade, coin-operated electronics or mechanical game machines.

**OUTDOORS.** This classification includes movie or live performing arts theater, sports stadium and arena, commercial golf courses (including private courses where the general public can play for a fee), driving ranges and miniature golf courses.

**RETAIL USES.** 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 appliances 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.

### **VEHICLE/EQUIPMENT SALES AND SERVICES.**

**AUTOMOBILE RENTAL AND LEASING.** Rental or leasing of automobiles including storage and incidental maintenance. This classification shall include taxi or limousine service.

**AUTOMOBILE SALES/NEW AND USED.** Sale of new and used automobiles including storage and incidental maintenance.

**AUTOMOBILE WASHING.** Washing, waxing, or cleaning of automobiles or similar light vehicles. (For automobile washing on the same site as a service station see Vehicle/Equipment Sales and Services, Service Stations.)

**AUTOMOBILE WRECKING.** The dismantling or wrecking of used motor vehicles or trailers or the storage of, sale or dumping of, dismantled, partly dismantled, obsolete or wrecked vehicles or their parts.

**SERVICE STATIONS.** Businesses engaged in the retail sale of motor fuels, lubricants, parts and accessories. This classification, which may also be referred to as a 'gasoline station' within this Code<sup>(15)</sup>, includes incidental maintenance and repair of automobiles and light trucks, but excludes body and fender work or repair of heavy trucks or vehicles. This classification also includes food and beverage sales as an accessory use. ~~Establishments at which the area devoted to food and beverage sales exceeds one thousand (1,000) square feet shall be classified as a convenience market with gasoline sales. (See Food and Beverage Sales, Convenience Market with Gasoline Sales.)~~

**WITH AUTOMOBILE WASHING.** A service station in conjunction with automobile washing.

**VEHICLE/EQUIPMENT REPAIR.** Retail repair of automobiles, trucks, motorcycles, mobile homes, recreational vehicles, or boats, including the sale, installation, and servicing of related equipment and parts. This classification includes tire sales and installation of mufflers, exhaust and suspension systems, auto radio/electronics installation, auto air conditioning/heater service, engine overhauls involving the removal of engine blocks, body and fender work, painting and undercoating, glass

replacement, upholstery and convertible top service, vehicle towing, radiator, transmission, wheel and axle repair, but excludes the sale of gasoline and motor fuels, vehicle dismantling or salvage and tire retreading or recapping.

**LIMITED VEHICLE SERVICE.** Limited retail maintenance and service of automobiles and trucks. This classification includes quick lube and oil changing facilities and smog checking facilities with no on-site repair.

**VEHICLE/EQUIPMENT SALES AND RENTALS.** Sale or rental of motorcycles, moving vans, trucks, tractors, construction or agricultural equipment, mobile homes, recreational vehicles, and similar equipment, including storage and incidental maintenance.

**VEHICLE STORAGE.** Storage of operative or inoperative vehicles. This classification includes storage of parking towed vehicles, impound yards, and storage lots for automobiles, trucks, buses and recreation vehicles, but does not include vehicle dismantling.

#### PUBLIC AND QUASI-PUBLIC USES

GOVERNMENT OFFICES. Administrative, clerical, or public contact offices of a government agency, including postal facilities, together with incidental storage and maintenance of vehicles.

PARK FACILITIES. Noncommercial parks, playgrounds, and recreation facilities.

#### RESIDENTIAL USES

**ADULT DAY CARE HOME.** A home which provides supervision and nonmedical care to six (6) or fewer adults, including elderly persons, in the provider's own home, on a less than twenty-four (24) hour basis.

**CONGREGATE LIVING FACILITY.** Individual apartments with cooking facilities, central dining and social activity areas. At least one (1) meal a day is provided as well as planned recreational and social activities, transportation services and linen-maid services. This classification does not include services and facilities licensed by the State of California.

**FAMILY DAY CARE HOME.** A home which regularly provides care, protection, and supervision of twelve (12) or fewer children, under the age of eighteen (18), in the provider's own home, for periods of less than twenty-four (24) hours per day, while the parents or guardians are away.

**LARGE FAMILY DAY CARE HOME.** A home which provides family day care to seven (7) to twelve (12) children, inclusive, including children under the age of ten (10) years who reside at the home.

**SMALL FAMILY DAY CARE HOME.** A home which provides family day care to six (6) or fewer children, including children under the age of ten (10) years who reside at the home.

**GROUP RESIDENTIAL.** Shared living quarters without separate kitchen or bathroom facilities for each room or unit. This classification includes boardinghouses, dormitories, fraternities, sororities, convents, rectories, and private residential clubs but does not include living quarters shared exclusively by a family, as defined in Section 17.008.020.

**JUNIOR SECOND UNIT.** As defined in Section § 17.048.230.

**MULTI-FAMILY RESIDENTIAL.** A structure containing more than one (1) dwelling unit sharing common walls or being otherwise attached, including duplexes, triplexes, fourplexes, apartments and single room occupancy facilities.

**RESIDENTIAL CARE HOME.** A residential home or facility with a capacity of no more than six (6) persons which provides twenty-four (24) hour non-medical care to persons in need of personal services, protection, supervision, assistance, guidance, or training essential for sustaining the activities of daily living, or for the protection of the individual. This classification includes group homes, residential care facilities for the elderly, adult residential facilities, and other residential facilities licensed, certified or authorized by the State Department of Social Services.

This classification also includes facilities with a capacity of no more than six (6) persons which are licensed, certified or authorized by the State Department of Health such as drug and alcohol treatment facilities, intermediate care facilities for the developmentally disabled, congregate living health facilities, family care homes, foster homes and group homes for mentally disordered or handicapped persons.

**SECOND UNIT.** A separate complete housekeeping unit with kitchen, sleeping and full bathroom facilities which is a part of, an extension to, or on the same lot as a detached single family unit, consistent with the provisions of Section Chapter 17.048.

**SINGLE-FAMILY RESIDENTIAL.** A structure containing one (1) detached dwelling unit located on a single lot. This classification includes mobile homes and manufactured housing.

**SINGLE ROOM OCCUPANCY.**

**SUPPORTIVE HOUSING.** Housing with no limit on length of stay, that is occupied by the target population, and that is linked to onsite or offsite services that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community, per California Health & Safety Code Section 50675.14. (Per California Health & Safety Code Section 50675.14, 'target population' means persons, including persons with disabilities, and families who are "homeless," as that term is defined by 42 U.S.C. Section 11302, or who are "homeless youth," as that term is defined by California Government Code Section 11139.3(e)(2).)

**TRANSITIONAL HOUSING.** Buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculation of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months, per California Health & Safety Code Section 50675.2.

**SECTION 34.** 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:

- (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) CC central commercial district zone;
- (G) CS commercial service zone;
- (H) CR commercial recreation zone;
- (I) PDD planned development district;
- (J) SF-RMP single-family residential master plan zone;
- (K) O-A open area zone;
- (L) UR upland residential zone; and
- (M) PD public domain."

**SECTION 45.** 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 17.012.170 as being within the same zone, §§ 17.012.040 through 17.012.170 shall control.”[17]~~

~~“(B) In case an Assessor’s parcel is listed in §§ 17.012.040 through 17.012.170 as lying within the boundaries of two or more zones, the Planning Commission shall determine which zone will in fact include the Assessor’s parcel within its boundaries, and the regulations of the zone so designated shall apply to the assessor’s parcel.”[18]~~

**SECTION 56.** Fairfax Town Code Title 17 (Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.100 ('Boundaries, CH Zone') is hereby amended to read as follows:

“§ 17.012.100 RESERVED.”

**SECTION 67.** Fairfax Town Code Title 17 (Zoning'), Chapter 17.012 ('Zone Districts Established'), Section 17.012.110 ('Boundaries; CC Zone') is hereby amended to read as follows:

“The boundaries of the CC Zone are shown upon that map designated as the "Zoning Map of the Town of Fairfax," which map is made a part hereof by reference and is contained in ~~Table Appendix~~<sup>Table Appendix</sup>~~[19]~~ X of the Fairfax Town Code.”

**SECTION 78.** Fairfax Town Code Title 17 (Zoning'), Chapter 17.020 ('Design Review Regulations'), Section 17.020.030 ('Applicability'), Subsection (B) is hereby amended to read as follows:

“(B) New construction in Central Commercial (CC), Limited Commercial (CL), Service Commercial (CS), Multiple-Family Residential (RM), Planned Development District (PDD), Single Family-Residential Master Plan (SF-RMP) zones, duplexes in RD 5.5-7 zones and structures in the Ridgeline Scenic Corridor, as required in Chapter 17.060, and residences which have a distance of more than ten feet from the ground to the lowest point of complete enclosure.”

**SECTION 89.** Fairfax Town Code Title 17 ('Zoning'), Chapter 17.092 ('CL Limited Commercial Zone'), Section 17.092.010 ('Purpose'), Subsection (A) is hereby amended to read as follows:

“(A) The CL limited commercial zone provides a location for uses which may be incompatible with the high density characteristics of the ~~central-Central~~<sup>central-Central</sup>~~commercial-Commercial~~ zone.”

**SECTION 910.** Fairfax Town Code Title 17 (Zoning), Chapter 17.096 ('CH Highway Commercial Zone') is hereby amended to read as follows:

"§ 17.096 RESERVED."

**SECTION 1011.** Fairfax Town Code Title 17 ('Zoning'), Chapter 17.100 ('CC Central Commercial Zone'), is hereby amended to delete the words 'Article I: Generally' from the chapter.

**SECTION 1112.** Fairfax Town Code Title 17 ('Zoning'), Chapter 17.100 ('CC Central Commercial Zone'), Section 17.100.010 ('Purpose') is hereby amended to read as follows:

"The CC ~~central~~Central commercial~~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 zone caters to and invites pedestrian traffic. Consequently, store frontages are intended to be continuous and to enhance the village character of the Town. Uses should be and scaled such that an automobile is not needed to travel between them. In order to develop and maintain a zone of concentrated and varied retail and commercial activity, driveways, large parking lots, blank walls, and other conflicts with or deterrents to pedestrian traffic are to be minimized. Second-story residential uses provide both a nighttime population that is commercially desirable and living facilities for owners, workers and those without automobiles."

**SECTION 1213.** Fairfax Town Code Title 17 ('Zoning'), Chapter 17.100 ('CC Central Commercial Zone'), Section 17.100.040 ('Principal Permitted Uses and Structures') is hereby amended to read as follows:

"Table 17.100.040-1 establishes the land uses allowed within the Central Commercial zoning district as indicated by the letter designations as follows:

'P' designates permitted use classifications. Unless followed by an applicable Limitation or Additional Regulation that dictates otherwise, any permitted use classification is allowed to operate along the street frontage.

'U' designates use classifications permitted on~~requiring~~ approval of a conditional use permit.

'-' designates a use classification not permitted within this zoning district.

'L' followed by a number designates use classifications subject to certain limitations listed by number following the table.

The uses listed are based on the use classifications set forth in Town Code Section 17.008.030XX. Use classifications not listed are prohibited ~~unless authorized by the~~

Director of Planning and Building Services in accordance with Section XX. The Director of Planning and Building Services shall determine whether a proposed use shall be deemed to be of the same general nature as one of the use classifications or within one or more use classifications or not within any classifications within this title.

Notwithstanding any other provision of the Town Code, any person aggrieved by a decision of the Director of Planning and Building Services with respect to a use determination may appeal such decision to the Planning Commission.[20]

The “Additional Use Regulations” column includes specific limitations applicable to the use classification or refers to regulations located elsewhere in the Fairfax Town Code.

Table	<b>P</b> Permitted <b>U</b> Use Permit Required <b>-</b> Not Permitted		
<b>Use</b>	<b>Status</b>	<b>Limitation</b>	<b>Additional Use Regulations</b>
<b>Commercial Uses</b>		L-1	A, B
<b>Animal sales and services</b>			
Animal hospitals / veterinary services	P	L-1	A, B
Animal retail sales and grooming	P	L-1	A, B
Catering services	P	L-1, L-2	A, B
Cleaning services	U	L-1, L-2, L-3	B
<b>Eating and drinking establishments</b>			
Generally	P	L-1	A, B
With take-out services	U	L-1	A, B
With permanent outdoor seating	U	L-1	A, B
With full alcoholic beverage service	U	L-1	A, B
With wine and beer service	P	L-1	A, B
With live entertainment or dancing	U	L-1	A, B
<b>Financial institutions</b>			
Generally	P	L-1	A, B
With automated teller machines	P	L-1	A, B
With drive-up services	U	L-1	B
Food and beverage	P	L-1	A, B

Table	<b>P</b> Permitted <b>U</b> Use Permit Required <b>-</b> Not Permitted		
sales			
Health and wellness centers	U	<u>L-1</u>	<u>A, B</u>
Health clubs	U	<u>L-1</u>	<u>A, B</u>
Home improvement sales and services	U	<u>L-1</u>	<u>A, B</u>
Lumber and building material yards	-	<u>L-1</u>	<u>B</u>
Maintenance and repair services (small equipment)	<u>U</u>	<u>L-1, L-2, L-3</u>	<u>B</u>
<b>Offices</b>			
Offices, business and professional	P	<u>L-1, L-2, L-5</u>	<u>B</u>
Offices, medical	P	<u>L-1, L-2, L-5</u>	<u>B</u>
Nurseries	U	<u>L-1, L-2, L-3, L-4</u>	<u>B</u>
Personal services	P	<u>L-1</u>	<u>A, B</u>
<b>Recreation and Entertainment</b>			
Indoors	U	<u>L-1</u>	<u>A, B</u>
Retail uses	P	<u>L-1</u>	<u>A, B</u>
<b>Vehicle/equipment sales and service</b>			
Services station	-		
<b>Industrial Uses</b>		L-1, L-2, L-3	B
Light industrial	P		
<b>Public and Quasi-Public Uses</b>			
Government offices	<u>P</u>		<u>A</u>
Park facilities	P		<u>A, B</u>
Post-office	<u>P</u>		<u>B</u>
<b>Residential Uses</b>			B, C, D
Adult Day Care Home		L-6	
Congregate Living Facility		L-6	
Emergency homeless shelter	P		See Section 17.138.010
Family Day Care Home			

Table	<b>P</b> Permitted <b>U</b> Use Permit Required <b>-</b> Not Permitted		
Small Family Day Care Home		L-6	
Large Family Day Care Home	-		
Group Residential	U	L-6	
Junior Second Unit	-		
Multi-family residential	P	L-6	See Section XX
Residential Care Home		L-6	
Second Unit	-		
Single Family Residential	-		
Single room occupancy	P <sup>[21]</sup>	L-6	See Section XX
Supportive housing <sup>[22]</sup>	P	L-6	
Transitional housing <sup>[23]</sup>	P	L-6	

**Table 17.100.040-1 Limitations**

L-1	<p>Commercial uses with a gross floor area of <del>10,000</del> <u>5,000</u> square feet or less are permitted. Commercial uses that exceed <del>10,000</del> <u>5,000</u> square feet in gross floor area are permitted on approval of a Conditional Use Permit. In approving the use permit, the following conditions of approval shall be imposed:</p> <p>Prior to use permit approval, the Planning Commission shall review all proposed exterior changes, including signage, and determine whether the design complies with the goals and policies contained within Town Center Element of the General Plan, and is keeping with the architectural nature of the CC District.</p>
L-2	<p>Permitted in the rear, or conditionally permitted in store frontage with issuance of conditional use permit. In order to grant a conditional use permit for operation along the street frontage, the Planning Commission must make all findings required by Section 17.032.060, as well as additional findings that the proposed use (1) is compatible with the existing character and uses in the area, and (2) will not deter pedestrian traffic in the vicinity.</p>
L-3	<p>In addition to the findings required by L-2, in order to grant a conditional use permit authorizing operation along the street frontage, the Planning</p>

	Commission must also find that the proposed use will not employ materials or practices that endanger other users or individuals in the area.
L-4	Outdoor storage of materials may be allowed in conjunction with a conditional use permit. In order to grant a conditional use permit for outdoor storage of materials, the Planning Commission must make all findings required by Section 17.032.060, and an additional finding that outdoor storage of materials (1) is compatible with the existing character and uses in the area, and (2) will not deter pedestrian traffic in the vicinity.
L-5	Permitted on the second floor also.
L-6	Permitted on the second floor only.

**Table 17.100.040-1 Additional Use Regulations**

A	Any use permitted by right on the first floor along the street frontage is also permitted on the second floor.
B	Permitted uses must be conducted wholly indoors, unless otherwise indicated.
C	Residential units shall be a minimum of 150 square feet and a maximum of 700 square feet, with the average unit size per building not to exceed 500 square feet.
D	Notwithstanding any other provision of the Town Code, the parking requirements for residential uses within the CC district shall be one parking space for each residential unit that is 500 square feet or less. Residential units of greater size shall comply with the parking requirements of Section 17.052.030.

**SECTION 4214.** Fairfax Town Code Title 17 ('Zoning'), Chapter 17.100 ('CC Central Commercial Zone'), Section 17.100.050 ('Conditionally Permitted Uses and Structures') is hereby deleted in its entirety, and the following sections within Chapter 17.100 shall be renumbered accordingly.

**SECTION 4315.** Fairfax Town Code Title 17 ('Zoning'), Chapter 17.100 ('CC Central Commercial Zone'), Section 17.100.050 ('Accessory Uses and Structures'), Subsections (5) and (6) are hereby deleted.

**SECTION 4416.** The Director of Planning and Building Services is hereby directed to make changes to the Zoning Map of the Town of Fairfax as amended by this ordinance.

**SECTION 4517.** CEQA.<sup>[24]</sup>

**SECTION 4618.** Severability. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance. The Town Council hereby declares that it would have adopted this Ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional, provided, however, that if any decision of a court of competent jurisdiction invalidates the increase of the water service charges set forth in this Ordinance, then the water service charges in effect on the date of adoption shall continue in existence.

**SECTION 4719.** This Ordinance shall be effective 30 days following its adoption by the Town Council. Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; 2. Bulletin Board, Fairfax Post Office; and 3. Bulletin Board, Fairfax Women's Club Building, located at 46 Park.

The foregoing Ordinance was introduced at a regular meeting of the Town Council on the \_\_\_ day of \_\_\_\_\_, 2016, and duly adopted at the next regular meeting of the Town Council on the \_\_\_ day of \_\_\_\_\_, 2016, by the following vote, to wit:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Renee Goddard, Mayor

Attest:

\_\_\_\_\_  
Michele Gardner, Town Clerk

\_\_\_\_\_  
Date