



City of Palo Alto

City Council Staff Report

(ID # 11800)

Report Type: Action Items

Meeting Date: 12/14/2020

Summary Title: Temporary Ordinance - Retail Zoning

Title: Adoption of a Temporary Ordinance Amending Title 18 (Zoning) of the Palo Alto Municipal Code to Broaden Permissible Uses and Raise Thresholds for Conditional Use Permits for Some Land Uses Throughout the City.

Environmental Review: CEQA Exemption 15061(b)(3)

From: City Manager

Lead Department: Planning and Development Services

Recommendation:

Staff recommends that Council:

1. Find the proposed ordinance exempt from the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15061(b)(3)
2. Adopt on first reading the attached ordinance amending various land use definitions to broaden permissible uses and adjust conditional use permit thresholds for some land uses throughout the City.

Executive Summary:

The attached ordinance responds to Council direction from November 9, 2020 for minor amendments to the definitions section of the zoning code and adjustments to the thresholds to determine when a conditional use permit (CUP) is required. The purpose of the amendments is to promote retail activity and decrease commercial vacancies. Amendments are proposed to the eating and drinking establishments, personal service, retail services and take-out service definitions. The threshold for requiring a CUP is proposed to increase for commercial recreation, medical office and some personal services uses in various commercial districts. The changes are relatively minor and reserve more significant policy recommendations to future public hearings and analysis before the Planning and Transportation Commission (PTC), which is scheduled for next year.

Background/Discussion:

On November 9, 2020, the City Council received an update on the City's community and economic recovery strategies¹ that built upon a verbal study session report presented in September and the City's overall and continuing response to the coronavirus pandemic. The City Council directed staff to return on December 14 with an ordinance to implement discrete amendments to the zoning code that would broaden the definition of retail uses and relax the conditional use permit threshold for certain uses.

These changes are being presented as a temporary ordinance in reliance on Palo Alto Municipal Code section 18.80.090, which allows the City Council to temporarily suspend its procedures when doing so is necessary for the public health, safety or welfare. In this case, the procedure being suspended is the ordinance's review by the PTC before being acted upon by the City Council. The public interest being served is providing a more expedient response to address some of the economic challenges associated with the pandemic-influenced recession. Following Council's action, staff will work with the PTC to codify these changes and to respond to the Council's related direction to create opportunities for a strong mix of retail uses citywide and at a zoning district or neighborhood level.

Proposed Ordinance

In 2017, the City Council adopted an ordinance that codified the current retail preservation regulations and modified the "retail services" definition to remove a long list of overly prescriptive land uses that exemplified qualifying retail uses. This amendment was intended to broaden the variety and type of retail uses permitted in commercial districts to reflect the changing retail environment that continues to shift toward online sales and greater use of physical locations for restaurants, services and experiential uses.

Corresponding revisions to other related land use definitions, including "eating and drinking establishments" and "take-out services" were not made, which resulted in a situation where some land uses previously considered retail service were subsequently considered to be a restaurant or take-out use, which have a greater parking requirement in the zoning code and are potentially subject to a conditional use permit process. Applying a strict reading of the zoning regulations combined with clear policy mandates to preserve retail floor area may have constrained the establishment of some uses due to increased parking standards, greater regulatory requirements (CUP), or because the proposed land use reduced floor area previously dedicated for retail sales to support more back of house operations or administrative offices. In some instances, prospective tenants would combine a variety of activities together in one

¹ Staff Report dated 11/9/20:

<https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?t=49936.29&BlobID=78988>

Presentation: <https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?t=45116.46&BlobID=79151>

Minutes: <https://www.cityofpaloalto.org/civicax/filebank/blobdload.aspx?t=59509.74&BlobID=79270>

tenant space that relate to several different land uses triggering the need for a CUP due to the size of the tenant space. Sorting out these hybrid versions of retail services takes time and have frustrated commercial brokers and prospective tenants.

Council's recent direction to engage the PTC and recommend new regulations will help address these issues. The attached ordinance is a first, minor step that restores some land uses that were previously considered retail services and begins to reinforce the Council's previous intent to broaden the retail definition to permit a greater range of retailers in commercial storefronts.

Land Use Definition Changes

The proposed ordinance modifies the eating and drinking establishments definition to remove references to ice cream parlors, coffee shops, sandwich shops or baked goods as a formal restaurant-like establishment and defines these as retail services. The "retail services – intensive retail service" and "take-out services" definitions are similarly updated reflect this change. This amendment recognizes coffee and sandwich shops and some bakeries as retail services whether there is incidental seating and with or without goods pre-packaged or made on premises for its customers. These uses are distinguished from eating and drinking establishments that typically have a full commercial kitchen with a combination of sit down and take out service. Drive through restaurants are unaffected by this change and remain subject to a discretionary CUP process where allowed in the code.

Another modification included in the ordinance expands the floor area threshold to determine whether fitness and exercise studios are defined as a "personal service" or "commercial recreation," the latter requires a CUP and has a greater parking demand. The proposed threshold would increase from the current 1,800 square feet to 5,000 square feet. This change will allow more flexibility in leasing commercial space by reducing the regulatory process to establish these uses. Staff anticipates this adjustment will have a negligible impact to parking resources and not result in any significant commercial intrusion into residential neighborhoods. This conclusion is based on the idea that most exercise and fitness studios of this size tend to cater to a more personalized training experience with a limited amount of people occupying the space at any given time. These land uses can also be neighborhood serving establishments that individuals can access through means other than car trips. A gym established in 2018 at the former Anthropology site on Alma Street is an example of a 5,000 square foot exercise studio (gym) that went through a lengthy CUP process; the City has not received any complaints regarding this facility while it was operating prior to the pandemic.

Notwithstanding staff's perspective, some in the community may be concerned that yoga studios and exercise facilities in larger tenant spaces may generate unwanted increases in vehicle trips in their neighborhood or potentially compete for parking on public streets. Accordingly, the City Council may also consider a more modest increase from 1,800 square feet to 3,000 square feet.

The ordinance includes one other change to the personal services definition adding a subcategory related to learning centers. These uses are distinguished from private educational facilities and would be oriented toward individual or small group settings, including, tutoring, test preparation, language or cooking classes. It also allows for after-school programming. Many of these uses already exist in some form or another in the City, but they are now explicitly associated with the personal services definition in the proposed ordinance to minimize any ambiguity.

The ordinance includes some other, non-substantive clean up changes to the definitions section of the code.

The current definition for each of the land uses referenced above is included in Attachment A and available online.²

Conditional Use Permit Thresholds

Several changes are proposed that relate to conditionally permitted uses. One change raises the threshold to obtain a conditional use permit for commercial recreation uses to 5,000 square feet. This concept is aligned with changes noted above for personal services but extends beyond exercise and fitness studios to include all commercial recreation-related land uses. Commercial recreation uses up to 5,000 square feet would be permitted by right where currently conditionally allowed in the zoning code. This change is intended to streamline the administrative review process for less impactful and less intensive commercial recreation uses.

Property owners and brokers have argued for a larger threshold for when a CUP is required for commercial recreation, upwards of 10,000 square feet in recent conversations. Staff recommends an increase at this scale be subject to more community engagement and should be evaluated by the PTC.

In the CN and CD-N zoning districts the CUP threshold for personal service land uses increases from 2,500 square feet to 3,000 square feet. This adjustment respects the reduced threshold previously imposed on these uses in the neighborhood commercial shopping areas to ensure maximum capability with surrounding residential uses. Through the PTC's review, the City can examine whether further increases combined with objective standards may be appropriate. It is uncertain whether this modest adjustment will yield any practical benefit to property owners or future tenants in these zoning districts; the City Council could determine the change is to minor to advance or increase the threshold at its discretion.

² Zoning Code definitions: https://codelibrary.amlegal.com/codes/paloalto/latest/paloalto_ca/0-0-0-32725.

For California Avenue, staff recommends removing the CUP requirement for barber shops, beauty salons and laundromats, which was imposed when the City Council enacted the formula retail regulations in 2015. Barber shops and beauty salons are not typically regulated by a CUP in most jurisdictions, but its imposition in Palo Alto has limited the establishment of such uses on California Avenue. With the pandemic, some of these existing businesses may not re-establish and removing the CUP requirement could serve to limit storefront vacancies. Modern laundromat facilities sometimes include other uses, such as coffee service and can serve as a place for social connections for many age groups. The City Council may conclude laundromats on California Avenue warrant further analysis by the PTC; if so, this provision could be eliminated to retain the CUP requirement. Nothing included in this ordinance impacts the existing regulations regarding formula retail.

In the CN, CC and CS zoning districts, medical office requires a CUP when over 2,500 square feet. The proposed ordinance increases this threshold to 5,000 square feet. No other changes to medical land uses are proposed and medical office cannot replace protected retail or retail-like land uses as defined in the zoning code. Staff will work with the PTC to examine whether there are opportunities to allow more retail-oriented medical services that complement a retail commercial area or shopping center.

Summary of Key Issues:

The proposed ordinance introduces discrete changes to the zoning code land use definitions related to eating and drinking establishments, personal services, retail services – intensive retail service, and take-out services. The CUP threshold for medical, commercial recreation and some personal service uses in the neighborhood-serving commercial zones are slightly increased. The purpose of these amendments is to respond to the City Council’s direction from November 9 to make minor amendments to promote retail activity and decrease commercial vacancies.

Policy Implications:

The proposed amendments are relatively minor consistent with Council direction. The changes, while inspired by a discussion on the City’s economic and community strategies in response to the coronavirus, are reasonable modifications that would be appropriate post pandemic and when economic conditions have recovered.

It is anticipated the attached ordinance will facilitate the establishment of some retail and retail-like uses and limit the number of commercial vacancies, but the extent of the impact is unknown. Over the next several months, the PTC will continue a discussion and hold public hearings to further explore opportunities to promote a more diverse and strong retail mix citywide and at the commercial district level. Information learned through the implementation of this ordinance can be applied to future policy recommendations.

Resource Impact:

The recommendation in this report does not have any significant fiscal or budgetary impacts.

Timeline:

The subject ordinance requires a second reading, which is expected to occur on January 11, 2021. The ordinance becomes effective on the 31st day following adoption and will remain valid for 18 months unless repealed by ordinance before then.

Stakeholder Engagement:

Staff has engaged property owners, property managers and business owners over the past several months on a variety of topics related to economic recovery. Some of these discussions have helped inform the recommendations in this report. No additional outreach was conducted following the City Council's direction to draft the attached ordinance on November 9, 2020.

Notice of the draft ordinance and public hearing was published in the Daily Post on November 30, 2020.

Environmental Review:

The project is exempt from the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines 15061(b)(3) in that it can be seen with certainty that ordinance will not have a significant impact on the environment. The ordinance makes minor adjustments to land use definitions and modest changes to the thresholds for discretionary review.

Attachments:**Attachment A: Draft Ordinance**

Ordinance No. ____

Ordinance of the Council of the City of Palo Alto Amending Palo Alto Municipal Code (PAMC) Title 18 (Zoning), Chapters 18.04 (Definitions), 18.16 (Neighborhood, Community, and Service Commercial (CN, CC and CS) Districts), 18.18 (Downtown Commercial (CD) Districts) and 18.30 (A) and (C) – the Retail and Ground Floor combining districts

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

- A. On March 4, 2020, California Governor Gavin Newsom declared a State of Emergency due to the threat of Coronavirus Disease 2019 (“COVID-19”).
- B. As a result of the COVID-19 pandemic and the public health response, restaurant, retail, tourism, and hospitality business has significantly declined and the nation is experiencing a recession.
- C. The City Council desires to relax certain zoning regulations in the City’s commercial zoning districts to address some of the economic challenges created by the COVID-19 pandemic and to spur economic activity.
- D. The public health, safety, or welfare require that such changes to the City’s zoning regulations be enacted for a temporary period and as expediently as possible, without review by the Planning and Transportation Commission pursuant to Palo Alto Municipal Code section 18.80.090.

SECTION 2. Section 18.04.030 (Definitions) of Chapter 18.04 (Definitions) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows:

18.04.030 Definitions

(a) Throughout this title the following words and phrases shall have the meanings ascribed in this section.

[. . .]

(45) “Drive-in/drive-through service” means a feature or characteristic of a use involving sales of products or provision of services to occupants in vehicles, including drive-in or drive-up windows and drive-through services such as mechanical automobile washing, pharmacy windows, coffee stands, automatic teller machines, etc.

[. . .]

(47) “Eating and drinking service” means a use providing preparation and retail sale of food and beverages with a full menu and providing indoor seating area. Eating and drinking service include presence of a full commercial kitchen and commercial dishwasher. including restaurants, fountains, cafes, coffee shops, sandwich shops, ice cream parlors, taverns, cocktail lounges and similar uses. For establishments with incidental sale alcoholic beverages, a minimum of 50% of revenues from an ‘eating and drinking service’ must be derived from the sale of food. Related definitions are provided in subsections (45) (Drive-in/drive-through service), (125)(B) (Intensive retail service) and (136) (Take-out service).

[. . .]

(95) “Medical office” means a use providing consultation, diagnosis, therapeutic, preventive, or corrective personal treatment services by doctors, dentists, medical and dental laboratories, and similar practitioners of medical and healing arts for humans, licensed for such practice by the state of California. Incidental medical and/or dental research within the office is considered part of the office use, where it supports the on-site patient services. Medical office use does not include the storage or use of hazardous materials in excess of the permit quantities as defined in Title 15 of the Municipal Code. Medical gas storage or use shall be allowed up to 1,008 cubic feet per gas type and flammable liquids storage and use shall be allowed up to 20 gallons total (including waste).

(95.1) ~~(A)~~—“Medical research” means a use related to medical and/or dental research, testing and analysis, including but not limited to trial and clinical research. Biomedical and pharmaceutical research and development facilities are not included in this definition. Medical Research does not include the storage or use of quantities of hazardous materials above the exempt quantities listed in Title 15 of the Municipal Code nor any toxic gas regulated by Title 15. Additionally, Medical Research may include storage and use of etiological (biological) agents up to and including Risk Group 2 or Bio Safety Level 2 (Center for Disease Control).

(95.2) ~~(B)~~—“Medical support retail” means a retail use providing sales, rental, service, or repair of medical products and services to consumers or businesses, and whose location near hospitals or medical offices facilitates the provision of medical care or medical research. Examples of medical retail uses typically include, but are not limited to, pharmacies, sale of prosthetics, and sale of eyeglasses or other eye care products.

(95.3) ~~(C)~~ “Medical support service” means a use providing administrative support functions for healthcare providers or facilities, intended to support the operations of hospitals or of medical and dental office uses, and whose location near those medical facilities enhances the interaction between medical providers and/or facilitates the provision of medical care or medical research. Examples of medical support service uses typically include, but are not limited to, administration and billing services, public relations, training, and fundraising. Hospitals and ambulance services are not included in this definition.

[. . .]

(114) "Personal service" means a use providing services of a personal convenience nature, and cleaning, repair or sales incidental thereto, including:

(A) Beauty shops, nail salons, day spas, and barbershops;

(B) Self-service laundry and cleaning services; laundry and cleaning pick-up stations where all cleaning or servicing for the particular station is done elsewhere; and laundry and cleaning stations where the cleaning or servicing for the particular station is done on site, utilizing equipment meeting any applicable Bay Area Air Quality Management District requirements, so long as no cleaning for any other station is done on the same site, provided that the amount of hazardous materials stored does not at any time exceed the threshold which would require a permit under Title 17 (Hazardous Materials Storage) of this code;

(C) Repair and fitting of clothes, shoes, and personal accessories;

(D) Quick printing and copying services where printing or copying for the particular service is done on site, so long as no quick printing or copying for any off-site printing or copying service is done on the same site;

(E) Internet and other consumer electronics services;

(F) Film, data and video processing shops, including shops where processing for the particular shop is done on site, so long as no processing for any other shop is done on the same site;

(G) Art, dance or music studios intended for an individual or small group of persons in a class (see "commercial recreation" for other activities); and

(H) Fitness and exercise studios, or similar uses, in a space having of 1,800 5,000 square feet or fewer of gross floor area (see "commercial recreation" for uses exceeding 5,000 square feet other activities).

(I) Learning centers intended for individual or small group settings, including tutoring, standardized test preparation, language classes, after-school programs, cooking classes, and similar uses.

[. . .]

(125) "Retail service" means a use open to the public during typical business hours and predominantly engaged in providing retail sale, rental, service, processing, or repair of items primarily intended for consumer or household use.

(A) "Extensive retail service," as used with respect to parking requirements, means a retail sales use having more than seventy-five percent of the gross floor area used for display, sales, and related storage of bulky commodities, including household furniture and appliances, lumber and building materials, carpeting and floor covering, air conditioning and heating equipment, and similar goods, which uses have demonstrably low parking demand generation per square foot of gross floor area.

(B) “Intensive retail service” as used with respect to parking requirements, means any retail service use not defined as extensive retail service and including limited food service (i.e. ‘ready-to-eat’ food and/or beverage shops without a full commercial kitchen, where food and/or beverages are ready to consume at the time of sale and any seating area is limited; examples include sandwiches, frozen desserts, non-alcoholic beverages, and baked items).

[. . .]

(136) “Take-out service” means a characteristic of an eating or drinking service which encourages, on a regular basis, consumption of food or beverages, such as prepared or prepackaged items, outside of a building, in outdoor seating areas where regular table service is not provided, in vehicles parked on the premises, or off-site. Take-out service does not include intensive retail service uses, as defined in subsection (125)(B).

[. . .]

SECTION 3. Section 18.16.040 (Land Uses) of Chapter 18.16 (Neighborhood, Community, and Service Commercial (CN, CC, CS) Districts) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows:

The uses of land allowed by this chapter in each commercial zoning district are identified in the following tables. Land uses that are not listed on the tables are not allowed, except where otherwise noted. Where the last column on the following tables ("Subject to Regulations in") includes a section number, specific regulations in the referenced section also apply to the use; however, provisions in other sections may apply as well.

(a) Commercial Zones and Land Uses

Permitted and conditionally permitted land uses for each commercial zone are shown in Table 1:

TABLE 1
PERMITTED AND CONDITIONALLY PERMITTED USES
P = Permitted Use CUP = Conditional Use Permit Required

LAND USE	CN(4)	CC, CC(2)	CS (4)	Subject to Regulations In:
ACCESSORY AND SUPPORT USES				
Accessory facilities and activities customarily associated with or essential to permitted uses, and operated incidental to the principal use.	P	P	P	18.42
Drive-in services or take-out services associated with permitted uses ⁽³⁾	CUP	CUP	CUP	18.42

NOT YET APPROVED

Tire, battery, and automotive service facilities, when operated incidental to a permitted retail service or shopping center having a gross floor area of more than 30,000 square feet.		CUP		18.42, 18.40.160
Safe Parking				18.42.160
EDUCATIONAL, RELIGIOUS, AND ASSEMBLY USES				
Business and Trade Schools		P	P	
Churches and Religious Institutions	P	P	P	
Private Educational Facilities	CUP	P	P	
Private Clubs, Lodges, or Fraternal Organizations	CUP	P	P	
MANUFACTURING AND PROCESSING USES				
Recycling Centers	CUP	CUP	CUP	
Warehousing and Distribution			CUP	
OFFICE USES				
Administrative Office Services			P	18.16.050
Medical Offices	CUP (5)	CUP (5)	CUP (5)	18.16.050
Professional and General Business Offices	P	P	P	18.16.050
PUBLIC/QUASI-PUBLIC USES				
Utility Facilities essential to provision of utility services but excluding construction or storage yards, maintenance facilities, or corporation yards.	CUP	CUP	CUP	
RECREATION USES				
Commercial Recreation	CUP (5)	CUP (5)	CUP (5)	18.40.160
Outdoor Recreation Services	CUP	CUP	CUP	

NOT YET APPROVED

RESIDENTIAL USES				
Multiple-Family	P(1)	P(1)	P(1)	18.16.060(b) and (c)
Home Occupations	P	P	P	
Residential Care Homes	P	P	P	
RETAIL USES				
Eating and Drinking Services, excluding drive-in and take-out services	P	P	P	18.40.160
Retail Services, excluding liquor stores	P	P	P	18.40.160
Liquor stores	CUP	P	P	18.40.160
Shopping Centers		P		18.16.060(e), 18.40.160
SERVICE USES				
Ambulance Services	CUP	CUP	CUP	
Animal Care, excluding boarding and kennels	P	P	P	
Boarding and Kennels			CUP	
Automobile Service Stations	CUP	CUP	CUP	18.30(G)
Automotive Services			CUP	
Convalescent Facilities	CUP	P	P	
Day Care Centers	P	P	P	18.40.160
Small Family Day Care Homes	P	P	P	
Large Family Day Care Homes	P	P	P	
Small Adult Day Care Homes	P	P	P	
Large Adult Day Care Homes	CUP	P	P	
Banks and Financial Services V	CUP	P(2)	P(2)	
General Business Services		CUP	P	
Hotels		P	P	18.16.060(d), 18.40.160

NOT YET APPROVED

Mortuaries	CUP	P	P	
Neighborhood Business Services	P			18.16.060(f)
Personal Services	P	P	P	18.16.060(f), 18.40.160
Reverse Vending Machines	P	P	P	
TEMPORARY USES				
Farmer's Markets	CUP	CUP	CUP	
Temporary Parking Facilities, provided that such facilities shall remain no more than five years.	CUP	CUP	CUP	
TRANSPORTATION USES				
Parking as a principal use		CUP	CUP	
Transportation Terminals		CUP	CUP	
P = Permitted Use	CUP = Conditional Use Permit Required			

(1) Residential is only permitted: (i) as part of a mixed use development, pursuant to the provisions of Section [18.16.060\(b\)](#), or (ii) on sites designated as housing inventory sites in the Housing Element of the Comprehensive Plan, (iii) on CN or CS sites on El Camino Real, or (iv) on CC(2) sites, all pursuant to the provisions of Section [18.16.060\(b\)](#) and (c).

(2) Except drive-in services.

(3) So long as drive up facilities, excluding car washes, provide full access to pedestrians and bicyclists. A maximum of two such services shall be permitted within 1,000 feet, and each use shall not be less than 150 feet from one another.

(4) For properties in the CN and CS zone districts, businesses that operate or have associated activities at any time between the hours of 10:00 p.m. and 6:00 a.m. require a conditional use permit.

(5) A conditional use permit is not required for medical office or commercial recreation uses up to 5,000 square feet of gross floor area.

[. . .]

SECTION 4. Section 18.16.060 (Development Standards) of Chapter 18.16 (Neighborhood, Community, and Service Commercial (CN, CC, CS) Districts) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows:

18.16.060 Development Standards

[. . .]

(f) Size of Establishments in the CN District

In the CN district, permitted commercial uses shall not exceed the floor area per individual use or business establishment shown in Table 5. Such uses may be allowed to exceed the maximum establishment size, subject to issuance of a conditional use permit in accord with Section 18.76.010. The maximum establishment size for any conditional use shall be established by the director and specified in the conditional use permit for such use.

TABLE 5
MAXIMUM SIZE OF ESTABLISHMENT

Type of Establishment	Maximum Size (sq ft)
Personal Services	2,500 <u>3,000</u>
Retail services, except grocery stores	15,000
Grocery stores	20,000
Eating and drinking services	5,000
Neighborhood business services	2,500 <u>3,000</u>

[. . .]

(h) Outdoor Sales and Storage

(2) In the CC district and in the CC (2) district, the following regulations shall apply to outdoor sales and storage:

(A) Except in shopping centers, all permitted office and commercial activities shall be conducted within a building, except for:

(i) Incidental sales and display of plant materials and garden supplies occupying no more than 2,000 square feet of exterior sales and display area,

(ii) Outdoor eating areas operated incidental to permitted eating and drinking services or intensive retail uses,

(iii) Farmers’ markets that have obtained a conditional use permit, and

(iv) Recycling centers that have obtained a conditional use permit.

(B) Any permitted outdoor activity in excess of 2,000 square feet shall be subject to a conditional use permit.

SECTION 5. Sections 18.18.050 (Land Uses) of Chapter 18.18 (Commercial Downtown (CD) District) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows:

18.18.050 Land Uses

The uses of land allowed by this chapter in each commercial zoning district are identified in the following table. Land uses that are not listed on the tables are not allowed, except where otherwise noted. Where the last column on the following tables ("Subject to Regulations in") includes a section number, specific regulations in the referenced section also apply to the use; however, provisions in other sections may apply as well.

Permitted and conditionally permitted land uses for the CD district are shown in Table 1:

Table 1				
CD Permitted and Conditionally Permitted Uses				
P Permitted Use • CUP Conditional Use Permit Required				
	CD-C	CD-S	CD-N	Subject to regulations in Chapter:
ACCESSORY USES				
Accessory facilities and activities associated with or essential to permitted uses, and operated incidental to the principal use	P	P	P	
Drive-in or Take-out Services associated with permitted uses ⁽²⁾	CUP	CUP	CUP	
Tire, battery, and automotive service facilities, when operated incidental to a permitted retail service or shopping center having a gross floor area of more than 30,000 square feet	CUP			18.40.160
Safe Parking				18.42.160
EDUCATIONAL, RELIGIOUS, AND ASSEMBLY USES				
Business and Trade Schools	P	P		
Churches and Religious Institutions	P	P	P	
Private Educational Facilities	P	P	CUP	
Private Clubs, Lodges, or Fraternal Organizations	P	P	CUP	
MANUFACTURING AND PROCESSING USES				

NOT YET APPROVED

Recycling Centers	CUP	CUP	CUP	
Warehousing and Distribution		CUP		
OFFICE USES				
Administrative Office Services		P		18.18.060(f)
Medical, Professional, and General Business Offices	P	P	P	18.18.060(f)
PUBLIC/QUASI-PUBLIC FACILITY USES				
Utility Facilities essential to provision of utility services but excluding construction or storage yards, maintenance facilities, or corporation yards	CUP	CUP		
RECREATION USES				
Commercial Recreation	CUP (3)	CUP (3)	CUP (3)	
Outdoor Recreation Services	CUP	CUP	CUP	
RESIDENTIAL USES				
Multiple-Family	P ⁽¹⁾	P ⁽¹⁾	P ⁽¹⁾	18.18.060(b)
Home Occupations	P	P	P	
Residential Care Homes	P	P	P	
RETAIL USES				
Eating and Drinking Services, except drive-in or take-out services	P	P	P	18.18.060(g) , 18.40.160
Retail Services, excluding liquor stores	P	P	P	18.18.060(g) , 18.40.160
Shopping Centers	P			18.18.060(g) , 18.40.160
Liquor Stores	P	P	CUP	18.40.160
SERVICE USES				

NOT YET APPROVED

Animal Care, excluding boarding and kennels	P	P	P	
Ambulance Services	CUP	CUP	CUP	18.30(G)
Automobile Service Stations	CUP	CUP	CUP	
Automobile Services		CUP		
Convalescent Facilities	P	P	CUP	
Day Care Centers	P	P	P	18.40.160
Small Family Day Care Homes	P	P	P	
Large Family Day Care Homes	P	P	P	
Small Adult Day Care Homes	P	P	P	
Large Adult Day Care Homes				
Financial Services, except drive-up services	P	P	CUP	
General Business Services	CUP	P	P	
Hotels	P	P	P	18.18.060(d) , 18.40.160
Mortuaries	P	P	CUP	
Personal Services	P	P	P	18.18.060(g) , 18.40.160
Reverse Vending Machines	P	P	P	
TRANSPORTATION USES				
Parking as a principal use	CUP	CUP		
Passenger Transportation Terminals		CUP		
TEMPORARY USES				
Indoor Farmers' Markets	CUP	CUP	CUP	
Temporary Parking Facilities, provided that such facilities shall remain no more than five years	CUP	CUP	CUP	

P Permitted Use	CUP Conditional Use Permit Required
(1) Residential is only permitted as part of a mixed use development, pursuant to the provisions of Section 18.18.060(b) , or on sites designated as Housing Opportunity Sites in the Housing Element of the Comprehensive Plan, pursuant to the provisions of Section 18.18.060(c) .	
(2) Drive-up facilities, excluding car washes, provide full access to pedestrians and bicyclists. A maximum of two such services shall be permitted within 1,000 feet and each use shall not be less than 150 ft from one another.	
<u>(3) A conditional use permit is not required for commercial recreation uses up to 5,000 square feet of gross floor area.</u>	

SECTION 6. Section 18.18.060 (Development Standards) of Chapter 18.18 (Commercial Downtown (CD) District) of Title 18 (Zoning) of the Palo Alto Municipal Code is amended to read as follows:

[. . .]

(g) Restrictions on Size of Commercial Establishments in CD-N Subdistrict

In the CD-N subdistrict, permitted commercial uses shall not exceed the floor area per individual use or business establishment shown in Table 4. Such uses may be allowed to exceed the maximum establishment size, subject to the issuance of a conditional use permit in accordance with [Chapter 18.76](#). The maximum establishment size for any conditional use shall be established by the director and specified in the conditional use permit for such use.

**TABLE 4
MAXIMUM SIZE OF ESTABLISHMENT**

Type of Establishment	Maximum Size (ft ²)
Personal Services	2,500 <u>3,000</u>
Retail services, except grocery stores	15,000
Grocery stores	20,000
Eating and drinking services	5,000

(h) Outdoor Sales and Storage.

The following regulations shall apply to outdoor sales and storage in the CD district:

(1) CD-C Subdistrict

In the CD-C subdistrict, the following regulations apply:

(A) Except in shopping centers, all permitted office and commercial activities shall be conducted within a building, except for:

(i) Incidental sales and display of plant materials and garden supplies occupying no more than 2,000 square feet of exterior sales and display area,

(ii) Outdoor eating areas operated incidental to permitted eating and drinking services or intensive retail uses,

(iii) Farmers' markets which have obtained a conditional use permit, and

(iv) Recycling centers that have obtained a conditional use permit.

(B) Any permitted outdoor activity in excess of 2,000 square feet shall be subject to a conditional use permit.

(C) Exterior storage shall be prohibited, except recycling centers which have obtained a conditional use permit.

(2) CD-S Subdistrict

In the CD-S subdistrict, outdoor sales and display of merchandise, and outdoor eating areas operated incidental to permitted eating and drinking services and intensive retail uses shall be permitted subject to the following regulations:

(A) Outdoor sales and display shall not occupy a total site area exceeding the gross building floor area on the site, except as authorized by a conditional use permit.

(B) Areas used for outdoor sales and display of motor vehicles, boats, campers, camp trailers, trailers, trailer coaches, house cars, or similar conveyances shall meet the minimum design standards applicable to off-street parking facilities with respect to paving, grading, drainage, access to public streets and alleys, safety and protective features, lighting, landscaping, and screening.

(C) Exterior storage shall be prohibited, unless screened by a solid wall or fence of between 5 and 8 feet in height.

(3) CD-N Subdistrict

In the CD-N subdistrict, all permitted office and commercial activities shall be conducted within a building, except for:

(A) Incidental sales and display of plant materials and garden supplies occupying not more than 500 square feet of exterior sales and display area, and

(B) Farmers' markets that have obtained conditional use permits.

[. . .]

SECTION 7. Section 18.30(A).040 (Permitted Uses) of Chapter 18.30(A) (Retail Shopping (R) Combining District Regulations) of Title 18 (Zoning) of the Palo Alto Municipal Code are amended to read as follows:

Except to the extent a conditional use permit is required pursuant to Section 18.30(A).050, the following uses shall be permitted in an R district:

- (a) Eating and drinking services, except drive-in and take-out services.
- (b) Personal services, ~~except the following on California Avenue: beauty shops; nail salons; barbershops; and laundry and cleaning services as defined in Section 18.04.030(114)(B).~~
- (c) Retail services.
- (d) All other uses permitted in the underlying commercial district, provided they are not located on a ground floor.

SECTION 8. Section 18.30(A).050 (Conditional Uses) of Chapter 18.30(A) (Retail Shopping (R) Combining District Regulations) of Title 18 (Zoning) of the Palo Alto Municipal Code are amended to read as follows:

The following uses may be conditionally permitted in an R district, subject to the issuance of a conditional use permit in accord with Chapter 18.76 (Permits and Approval):

- (a) Financial services, except drive-in services, on a ground floor.
- (b) All other conditional uses allowed in the underlying commercial district provided they are not located on a ground floor.
- (c) Formula retail businesses on California Avenue.
- ~~(d) Beauty shops, nail salons, and barbershops on California Avenue.~~

SECTION 9. Section 18.30(C).020 (Conditional Uses) of Chapter 18.30(C) (Ground Floor (GF) Combining District Regulations) of Title 18 (Zoning) of the Palo Alto Municipal Code are amended to read as follows:

(a) The following uses shall be permitted in the GF combining district, subject to restrictions in Section 18.40.160~~160~~180:

- (1) Eating and drinking;
- (2) Hotels;
- (3) Personal services, except for parcels with frontage on University Avenue, where uses defined in Section 18.04.030(114)(B), (G), and (H) are not permitted;
- (4) Retail services;
- (5) Theaters;
- (6) Travel agencies;
- (7) Commercial Recreation up to 5,000 square feet in gross floor area, except for parcels with frontage on University Avenue;
- ~~(7)~~ All other uses permitted in the underlying district, provided such uses are not on the ground floor.

(b) Elimination or conversion of basement space currently in retail or retail-like use or related support purposes is prohibited.

(c) Entrance, lobby, or reception areas serving non-ground floor uses may be located on the ground floor to the extent reasonably necessary, provided they do not interfere with the ~~ground~~ ground floor use(s), and subject to the approval of the Director.

SECTION 10. Section 18.30(C).030 (Conditional Uses) of Chapter 18.30(C) (Ground Floor (GF) Combining District Regulations) of Title 18 (Zoning) of the Palo Alto Municipal Code are amended to read as follows:

(a) The following uses may be conditionally allowed on the ground floor in the GF ground floor combining district, subject to issuance of a conditional use permit in accord with Chapter 18.76 (Permits and Approvals) and with the additional finding required by subsection (b), subject to restrictions in Section 18.40.160:

- (1) Business or trade school;
- (2) Commercial recreation over 5,000 square feet in gross floor area or with frontage on University Avenue;
- (3) Day care;
- (4) Financial services, except drive in services;
- (5) General business service;
- (6) All other uses conditionally permitted in the applicable underlying district, provided such uses are not on the ground floor.

(b) The director may grant a conditional use permit under this section only if he or she makes the following findings in addition to the findings required by Chapter 18.76 (Permits and Approvals):

- (1) The location, access or design of the ground floor space of the existing building housing the proposed use, creates exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to property in the same district.
- (2) The proposed use will not be determined to the retail environment or the pedestrian-oriented design objectives of the GF combining district.

(c) Any use conditionally permitted pursuant to this section shall be effective only during the existence of the building that created the exceptional circumstance upon which the finding set forth in subsection (b) was made.

SECTION 11. Any provision of the Palo Alto Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 12. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this

Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 13. The Council finds that the adoption of this ordinance is exempt from the provisions of the California Environmental Quality Act pursuant to CEQA Guideline sections 15061(b)(3) because it can be seen.

SECTION 14. This ordinance shall be effective on the thirty-first date after the date of its adoption and shall expire upon the earlier of June 30, 2022 or adoption of replacement legislation by the City Council. Upon expiration of this ordinance, the City Clerk shall direct the City’s codifier to update the Palo Alto Municipal Code as appropriate.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

NOT PARTICIPATING:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

Assistant City Attorney

City Manager

Director of Planning & Development
Services