

Ordinance No. _____

Temporary Ordinance of the Council of the City of Palo Alto Amending Chapters
18.04, 18.16, 18.30(A), and 18.30(C) of the Palo Alto Municipal Code to
Immediately Implement High Priority Retail Revitalization Measures

The Council of the City of Palo Alto ORDAINS as follows:

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

- A. Like many communities, the City of Palo Alto has experienced high vacancy rates in retail districts, which have been compounded by challenges associated with the COVID-19 pandemic as well as ongoing retail trends. Accordingly, the City Council has included retail revitalization as a Council priority for the past several years.
- B. Throughout 2023 and 2024, City staff, the Planning and Transportation Commission (PTC), and the City's consultant Michael Baker International (MBI) worked together to develop a Retail Study Report intended to inform a citywide retail zoning strategy.
- C. On September 18, 2024, the City Council Retail Committee reviewed the Final Draft Retail Study Report and provided direction to staff on several zoning amendments should be implemented immediately to support retail and retail-like uses in the City.
- D. Although the PTC held six hearings on the Retail Study (in addition to four meetings of the PTC retail ad hoc committee), the PTC has not yet considered or recommended specific, proposed amendments to Title 18 (Zoning) of the Palo Alto Municipal Code (PAMC).
- E. The City Council finds that there is insufficient time for the PTC to consider and recommend those amendments identified by the City Council Retail Committee for immediate implementation. The Council therefore finds that an interim ordinance pursuant to PAMC Section 18.80.090 is an appropriate measure, pending consideration of a permanent ordinance by the PTC. Upon recommendation of City Staff and the Planning and Transportation Commission, the Council of the City of Palo Alto desires to adopt regulations responding to and implementing these state laws.

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SECTION 2. Section 18.04.030 (Definitions) of Chapter 18.04 (Definitions) of Title 18 (Zoning) of the Palo Alto Municipal Code is hereby amended as follows (additions underlined; deletions ~~struck through~~; text omitted but unchanged noted by bracketed ellipses):

18.04.030 Definitions

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

[...]

(12.5) "Automobile dealership" means a use primarily engaged in sale, lease, service, or minor repair of new and used automobiles and trucks. Other accessory services incidental and supporting auto sales include service bays for engine, transmission, air conditioning, and minor painting, body and fender repair, car wash, auto rental, and similar services.

(12.6) "Automobile showroom" means a use primarily engaged in the sale of new and used automobiles and trucks, or the display and demonstration of automobiles and trucks for the purpose of facilitating sales, but which does not involve on-site storage of inventory, except as incidental to the showroom use. Automobile showroom serves primarily pedestrian clientele and is distinct from Automobile Dealership.

[...]

(56) "Financial service" means a use providing financial services to individuals, firms, or other entities. The term "financial service" includes banks, savings and loan institutions, loan and lending institutions, credit unions and similar services.

(A) "Retail financial service" means a financial service use operating in a retail-oriented manner, offering face-to-face interactions, and convenient in-person transactions in locations designed for public access. These services includes retail banks, savings and loan institutions, loan and lending offices, credit unions, and similar services that prioritize walk-in customers with access to immediate financial solutions or combined with a publicly accessible retail component.

[...]

(57.6) "Formula retail business" means ~~an retail, personal, or eating and drinking service that is one of ten (10)~~ fifty (50) or more business locations in the State of California ~~United States~~ required by contractual or other arrangement to maintain any of the following standardized characteristics: merchandise, menu, services, decor, uniforms, architecture, facade, color scheme, signs, trademark, or servicemark. For purposes of this definition:

(A) "Standardized merchandise, menu and/or services" means 50% or more of in- stock merchandise from a single distributor bearing the same or similar markings; 50% or

more of menu items identical in name and presentation with other locations; or 50% or more of services offered identical in name or presentation with other locations.

- (B) "Decor" means the style of interior furnishings, which may include but is not limited to, style of furniture, wall coverings or permanent fixtures.
- (C) "Color Scheme" means the selection of colors used throughout, such as on the furnishings, permanent fixtures, and wall coverings, or as used on the facade.
- (D) "Uniforms" means standardized items of clothing including but not limited to standardized aprons, pants, shirts, smocks or dresses, hats, and pins (other than name tags) as well as standardized colors of clothing.
- (E) "Facade" means the face or front of a building, including awnings, looking onto a street or an open space.
- (F) "Trademark" means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of the goods from one party from those of others.
- (G) "Servicemark" means a word, phrase, symbol or design, or a combination of words, phrases, symbols or designs that identifies and distinguishes the source of a service from one party from those of others.

[. . .]

(125.1) "Retail-like use" means a use generally open to the public during typical business hours and predominantly engaged in providing services closely related to retail services, including but not limited to:

- (A) Eating and drinking services, as defined in subsection (47);
- (B) Hotels, as defined in subsection (73);
- (C) Personal services, as defined in subsection (114);
- (D) Theaters;
- (E) Travel agencies;
- (F) Commercial recreation, as defined in subsection (33);
- (G) Commercial nurseries;
- (H) Automobile showrooms dealerships, as defined in subsection (12.5 ~~12.6~~); and
- (I) Day care centers, as defined in subsection (42)-;
- (J) Retail financial services, as defined in subsection (56)(A);
- (K) Other commercial uses, services, or activities determined by the Director of Planning and Development Services to be accessible to the general public, generate walk-in pedestrian clientele, and provide a substantial contribution to pedestrian activity.

[. . .]

SECTION 3. Sections 18.30(A).040 (Permitted Uses) and 18.30(A).050 (Conditional Uses), and 18.30(A).070 (Waivers and Adjustments) of Chapter 18.30(A) (Retail Shopping (R) Combining District Regulations) of Title 18 (Zoning) of the Palo Alto Municipal Code are hereby amended as follows (additions underlined; deletions ~~struck through~~; text omitted but unchanged noted by

bracketed ellipses):

18.30(A).040 Permitted Uses

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; laundry and cleaning services as defined in Section 18.04.030(114)(B);~~ fitness or exercise studios exceeding 1,800 square feet in gross floor area; ~~and learning centers intended for individual or small group settings.~~
- (c) Retail services.
- (d) Retail financial services, except drive-in services.
- (e) Pet grooming services.
- (f) Automobile showroom.
- ~~(d)(f)~~ All other uses permitted in the underlying commercial district, provided they are not located on a ground floor.

18.30(A).050 Conditional Uses

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)~~ (a) All other conditional uses allowed in the underlying commercial district provided they are not located on a ground floor.
- ~~(c)~~ (b) Formula retail businesses on California Avenue.
- ~~(d)~~ (c) Beauty shops, nail salons, barbershops, f Fitness or exercise studios exceeding 1,800 square feet in gross floor area on California Avenue; ~~and learning centers intended for individual or small group settings.~~

[...]

18.30(A).070 Waivers and adjustments.

(a) The following shall be grounds for a request for waiver or adjustment of this ~~Ordinance Chapter:~~

- ~~(a)~~ (1) Economic Hardship. An applicant may request that the requirements of this Ordinance Chapter be adjusted or waived only upon a showing that strict application would result in an unreasonable financial burden on the property. applying the requirements of this Ordinance would effectuate an unconstitutional taking of property or otherwise have an unconstitutional application to the property.

- (2) Alternative Viable Use. An applicant may request that the requirements of this Chapter 18.30(A) be adjusted or waived based on a showing that: the permitted retail or retail-like use is not viable; the proposed alternative use will support the purposes of the combining district and Comprehensive Plan land use designation; and the proposed use will encourage active pedestrian-oriented activity and connections.

(b) Documentation. The applicant shall bear the burden of presenting substantial evidence to support a waiver or modification request under this section and shall set forth in detail the

factual and/or legal basis for the claim, including all supporting technical documentation. Any request under this section shall be submitted to the Planning and Development Services ~~Community Environmental~~ Director together with the fee specified in the municipal fee schedule and an economic analysis or other supporting documentation. A request under this section shall be acted upon by the City Council.

SECTION 4. Sections 18.30(C).020 (Permitted Uses) and 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 hereby amended, and Section 18.30(C).050 (Waivers and adjustments) is hereby added as follows (additions underlined; deletions ~~struck through~~; text omitted but unchanged noted by bracketed ellipses):

18.30(C).020 Permitted Uses

(a) The following uses shall be permitted in the GF combining district, subject to restrictions in Section 18.40.180:

- (1) Eating and drinking;
- (2) Hotels;
- (3) Personal services, except for the following on parcels with frontage on University Avenue: fitness and exercise studios exceeding 3,000 square feet in gross floor area, where uses defined in Section 18.04.030(114)(B), (G), (H), and (I) 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;
- (8) Retail financial services, except drive-in services;
- (9) Pet grooming services;
- (10) Automobile showroom;
- ~~(8)~~ (11) 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 floor use(s), and subject to the approval of the Director.

18.30(C).030 Conditional Uses

(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) 4) General business service;~~
 - ~~(6) Learning centers intended for individual or small group settings;~~
 - (7-5) 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.

[. . .]

18.30(C).050 Waivers and adjustments.

- (a) The following shall be grounds for a request for waiver or adjustment of this Chapter:
- (1) Economic Hardship. An applicant may request that the requirements of this Chapter be adjusted or waived upon a showing that strict application would result in an unreasonable financial burden on the property.
 - (2) Alternative Viable Use. An applicant may request that the requirements of this Chapter 18.30(A) be adjusted or waived based on a showing that: the permitted retail or retail-like use is not viable; the proposed alternative use will support the purposes of the combining district and Comprehensive Plan land use designation; and the proposed use will encourage active pedestrian-oriented activity and connections.
- (b) Documentation. The applicant shall bear the burden of presenting substantial evidence to support a waiver or modification request under this section and shall set forth in detail the factual and/or legal basis for the claim, including all supporting technical documentation. Any request under this section shall be submitted to the Planning and Development Services Director together with the fee specified in the municipal fee schedule and an economic analysis or other supporting documentation. A request under this section shall be acted upon by the City Council.

SECTION 5. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

SECTION 6. The Council finds that the Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the foregoing amendments to reduce retail vacancies will have a significant effect on the environment.

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SECTION 7. This Ordinance shall be effective from the thirty-first day after the date of its adoption until December 31, 2026 or upon adoption of replacement legislation by the City Council, whichever occurs first.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

NOT YET APPROVED

City Clerk

APPROVED AS TO FORM:

Assistant City Attorney

Mayor

APPROVED AS TO CONTENT:

City Manager

Director of Planning and
Development Services