



TOWN OF FAIRFAX

STAFF REPORT

March 4, 2015

TO: Mayor and Town Council

FROM: Garrett Toy, Town Manager *GT*
Jim Moore, Director of Planning and Building Services

SUBJECT: Second reading by title only and adoption of Ordinance No. 787, An Ordinance of the Town Council of the Town of Fairfax Amending Chapter 17.040 ("General Zone Regulations"), Adding Sections 17.092.130, 17.096.140, 17.100.130, 17.104.120, 17.108.080, and 17.112.030, and Deleting Article II of Chapter 17.100 ("CC Central Commercial Zone") of the Fairfax Town Code Relating to Formula Businesses and Restaurants

RECOMMENDATION

Waive second reading and read by title only Ordinance No. 787, An Ordinance of the Town Council of the Town of Fairfax Amending Chapter 17.040 ("General Zone Regulations"), Adding Sections 17.092.130, 17.096.140, 17.100.130, 17.104.120, 17.108.080, and 17.112.030, and Deleting Article II of Chapter 17.100 ("CC Central Commercial Zone") of the Fairfax Town Code Relating to Formula Businesses and Restaurants.

DISCUSSION

Ordinance No. 787 was first reviewed by the Planning Commission, who passed a resolution recommending the Town Council adopt the ordinance.

At its February 4th meeting, the Town Council held the introduction and first reading of Ordinance No. 787, with minor language amendments. Attached is a redline of the two amended pages of the ordinance, and a clean copy of the ordinance.

ATTACHMENTS

Redline of Ordinance No. 787 (pages 1 and 3 only)
Ordinance No. 787

AGENDA ITEM # 14

ORDINANCE NO. 787

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX AMENDING CHAPTER 17.040 (“GENERAL ZONE REGULATIONS”), ADDING SECTIONS 17.092.130, 17.096.140, 17.100.130, 17.104.120, 17.108.080, AND 17.112.030, AND DELETING ARTICLE II OF CHAPTER 17.100 (“CC CENTRAL COMMERCIAL ZONE”) OF THE FAIRFAX TOWN CODE RELATING TO FORMULA BUSINESSES AND RESTAURANTS

WHEREAS, the Town’s foremost written expression of its sense of self and vision for its future is its General Plan, which celebrates “the uniqueness of Fairfax: the Town’s robust, village-like character, as seen in the small businesses, quaint neighborhoods and busy streets where many residents bicycle and walk” (General Plan, pp. LU-2); and

WHEREAS, the General Plan seeks to preserve and enhance the community’s small-town and historic character (Land Use Element Goal LU-7; Town Center Element Goal TC-2); and

WHEREAS, the General Plan includes a Town Center Element to document “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, pp.TC-1); and

WHEREAS, many, but not all, of the zones permitting commercial uses are located within the borders of the Town Center Planning Area; and

WHEREAS, the General Plan expresses the policy that new and/or renewed development in the Town Center Planning Area shall preserve and enhance the village 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-1.1.1); and

WHEREAS, because biking and walking are an integral part of a complete circulation network that provides affordable, healthful and ecological means of transportation, bicycle and pedestrian oriented development should be encouraged in the Town Center Planning Area (Circulation Goals C-5 and C-6, Circulation Element Policy C-5.8, and Town Center Element Policy TC-3.2.1); and

WHEREAS, the vitality and diversity of the Town’s economy is based in part on the owner-operator character of the town’s businesses, and the Town Center Element of the General Plan sets the policy of promoting locally-owned business (Town Center Policy TC-3.2.8); and

WHEREAS, the Council believes that the historic and village character of Fairfax is made manifest by, among other things, its merchants’ offerings of goods, services, and dining opportunities that are tailored to the distinctive character and local interests of Fairfax residents and visitors and are not necessarily reproducible or found in the context of formula businesses and/or restaurants; and

WHEREAS, a well-balanced mix of commercial and retail offerings in Town contributes to a diverse and healthy local economy and business environment for the benefit of the Town as a whole and protects against blight; and

36 **WHEREAS**, the Council further believes that Fairfax enjoys as many visitors as it does in large
37 part due to the unique nature of its retail and restaurant offerings, many of which are owner-
38 operated; and

39 **WHEREAS**, if not monitored and regulated, the increase of formula retail businesses and
40 restaurants in the Town could hamper the Town’s goal of a diverse local economy, as well as the
41 retention of its unique village identity; and

42 **WHEREAS**, Article II of Chapter 17.100 of the Town Code currently regulates the approval of
43 formula businesses and formula restaurant uses in the CC zoning district (the “Formula Business
44 Ordinance”); and

45 **WHEREAS**, none of the other zoning districts in Town in which commercial uses are permitted
46 currently have any similar such regulations; and

47 **WHEREAS**, the Formula Business Ordinance as set forth in the CC zoning regulations has not
48 been updated since 2002, some ten years prior to the 2012 update of the General Plan.

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

50 **SECTION 1:** The following title shall be inserted into Chapter 17.040 of the Town Code of the
51 Town of Fairfax, so that it precedes Section 17.040.010:

52 “ARTICLE I: GENERALLY”

53 **SECTION 2:** The following shall be inserted after the end of Section 17.040.090 (“Condominium
54 conversion prohibited):

55 “ARTICLE II: FORMULA BUSINESSES AND RESTAURANTS IN ZONES
56 ALLOWING COMMERCIAL USES

57 § 17.040.200 PURPOSE.

58 The vitality and character of the Town’s economy is dependent upon its small-town, village
59 character and pedestrian scale. It is the purpose of this article to regulate formula businesses
60 and formula restaurants in the zones permitting commercial uses in Town to ensure the
61 service of local demand for goods and services, provide a diverse mix of businesses that are
62 compatible with the needs of area residents, preserve opportunities for owner-operator
63 businesses, maintain the Town’s unique village character, and promote the pedestrian-
64 orientation of the Town Center Planning Area and pedestrian usage of the Town’s
65 commercial zones.

66 § 17.040.210 DEFINITIONS.

67 For the purpose of this article, the following definitions shall apply unless the context
68 clearly indicates or requires a different meaning.

69 FORMULA BUSINESS. Any business that is required by a corporate headquarters or
70 franchise or other arrangement to maintain any of the following: standardized services,
71 decor, uniforms, architecture, signs or other similar features. This shall include but not be
72 limited to any retail sales, service, visitor accommodation, wholesale or industrial operations
73 that was not in business within the Town of Fairfax prior to April 1, 2000.

74 FORMULA RESTAURANT. Any restaurant that is required by a corporate headquarters or
75 franchise or other arrangement devoted to the preparation and offering of food and beverage
76 for sale to the public for consumption either on or off premises and which is required by
77 contractual or other arrangement to offer any of the following: standardized menus,
78 ingredients, food preparation, decor, uniforms, architecture or similar standardized features
79 that was not in business within the Town of Fairfax prior to April 1, 2000.

80 § 17.040.220 CONDITIONAL USE OF FORMULA BUSINESSES AND
81 RESTAURANTS IN ZONES ALLOWING COMMERCIAL USES.

82 A formula business or formula restaurant may only be established on a site in a zone
83 allowing commercial uses after obtaining a conditional use permit for the operation of that
84 use on such site, subject to the limitations of this Article. In addition to the findings required
85 by Chapter 17.032 as prerequisite to the issuance of a conditional use permit, no conditional
86 use permit shall be issued for a proposed formula business or restaurant unless the Planning
87 Commission can make all of the following findings:

88 (A) The proposed formula business or restaurant will promote diversity and variety to assure
89 a balanced mix of commercial uses available to serve both resident and visitor
90 populations.

91 (B) The proposed formula business or restaurant, together with its design and improvements,
92 will be consistent with the unique and historic village-like character of Fairfax, and
93 preserve the unique visual appearance and shopping and dining experience of Fairfax for
94 its residents and visitors.

95 (C) The proposed formula business or restaurant will provide services or products which
96 complement existing businesses in the zoning district in which it is proposed to operate,
97 considering the existence of and proximity to the same or similar businesses within that
98 zone, and will not have significant adverse financial impacts to same or similar
99 businesses within that zone..

100 (D) If located within the Town Center Planning Area, the proposed formula business or
101 restaurant will be consistent with the pedestrian orientation of the Town Center Planning
102 Area.

103 (E) The proposed formula business or restaurant will help residents avoid the need to drive
104 out of town for their shopping needs.

105 (F) The proposed formula business or restaurant will be consistent with all applicable
106 General Plan goals, objectives, policies, and programs.”

107 **SECTION 3:** A new Section 17.092.130 (‘Formula Businesses and Restaurants’) is hereby added
108 to Chapter 17.092 (‘CL Limited Commercial Zone’) to read as follows:

109 **“§ 17.092.130. FORMULA BUSINESSES AND RESTAURANTS.**

110 Notwithstanding any other provision of this Chapter, any proposed use or structure within
111 the CL zone which constitutes a formula business or formula restaurant, as those terms are
112 defined in Section 17.040.210, shall comply with Article II of Chapter 17.040.”

113 **SECTION 4:** A new Section 17.096.140 (‘Formula Businesses and Restaurants’) is hereby added
114 to Chapter 17.096 (‘CH Highway Commercial Zone’) to read as follows:

115 **“§ 17.096.140. FORMULA BUSINESSES AND RESTAURANTS.**

116 Notwithstanding any other provision of this Chapter, any proposed use or structure within
117 the CH zone which constitutes a formula business or formula restaurant, as those terms are
118 defined in Section 17.040.210, shall comply with Article II of Chapter 17.040.”

119 **SECTION 5:** A new Section 17.100.130 (‘Formula Businesses and Restaurants’) is hereby added
120 to Chapter 17.100 (‘CC Central Commercial Zone’) to read as follows:

121 **“§ 17.100.130. FORMULA BUSINESSES AND RESTAURANTS.**

122 Notwithstanding any other provision of this Chapter, any proposed use or structure within
123 the CC zone which constitutes a formula business or formula restaurant, as those terms are
124 defined in Section 17.040.210, shall comply with Article II of Chapter 17.040.”

125 **SECTION 6:** Article II of Chapter 17.100 of the Town Code of the Town of Fairfax is hereby
126 deleted in its entirety.

127 **SECTION 7:** A new Section 17.104.120 (‘Formula Businesses and Restaurants’) is hereby added
128 to Chapter 17.104 (‘CS Service Commercial Zone’) to read as follows:

129 **“§ 17.104.120. FORMULA BUSINESSES AND RESTAURANTS.**

130 Notwithstanding any other provision of this Chapter, any proposed use or structure within
131 the CS zone which constitutes a formula business or formula restaurant, as those terms are
132 defined in Section 17.040.210, shall comply with Article II of Chapter 17.040.”

133 **SECTION 8:** A new subsection (6) is added to subsection (A) of Section 17.112.030 (‘General
134 standards and requirements’) to read as follows:

135 “(6) Within any planned development district, no proposed use or structure that constitutes a
136 formula business or formula restaurant, as those terms are defined in Section 17.040.210,
137 shall be approved or allowed to operate without first obtaining a use permit in compliance
138 with Article II of Chapter 17.040.”

139 **SECTION 9: CEQA.** The Town of Fairfax finds that there is no possibility that the adoption and
140 implementation of this Ordinance will have significant effects on the environment, and therefore,
141 this Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to 14
142 California Code of Regulations, Section 15061(b)(3).

143 **SECTION 10: Severability.** If any section, subsection, sentence, clause, or phrase of this Ordinance
144 is for any reason held to be invalid or unconstitutional by the decision of any court of competent
145 jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance.
146 The Town Council hereby declares that it would have passed this Ordinance and each section,
147 subsection, sentence, clause, and phrase thereof, irrespective of the fact that anyone or more sections,
148 subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

149 **SECTION 11:** This Ordinance shall be effective 30 days following its adoption by the Town
150 Council. Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted
151 in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; 2.
152 Bulletin Board, Fairfax Post Office; 3. Bulletin Board, Fairfax Women's Club building.

153 The foregoing Ordinance was introduced at a regular meeting of the Town Council on the 4th day
154 of February 2015, and duly adopted at the next regular meeting of the Town Council on the ___ day
155 of _____ 2015 by the following vote, to wit:

156 AYES:
157 NOES:
158 ABSENT:

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166 _____
Michele Gardner, Town Clerk

Date

Barbara Coler, Mayor

1 Redline of ORDINANCE NO. 787

2 **AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX AMENDING**
3 **CHAPTER 17.040 (“GENERAL ZONE REGULATIONS”), ADDING SECTIONS**
4 **17.092.130, 17.096.140, 17.100.130, 17.104.120, 17.108.080, AND 17.112.030, AND DELETING**
5 **ARTICLE II OF CHAPTER 17.100 (“CC CENTRAL COMMERCIAL ZONE”) OF THE**
6 **FAIRFAX TOWN CODE RELATING TO FORMULA BUSINESSES AND RESTAURANTS**

7 **WHEREAS**, the Town’s foremost written expression of its sense of self and vision for its future is
8 its General Plan, which celebrates “the uniqueness of Fairfax: the Town’s robust, village-like
9 character, as seen in the small businesses, quaint neighborhoods and busy streets where many
10 residents bicycle and walk” (General Plan, pp. LU-2); and

11 **WHEREAS**, the General Plan seeks to preserve and enhance the community’s small-town and
12 historic character (Land Use Element Goal LU-7; Town Center Element Goal TC-2); and

13 **WHEREAS**, the General Plan includes a Town Center Element to document “strategies and
14 policies that provide specific guidance to enhance the sense of place and the quality of life in the
15 downtown area while promoting the economic base of the Town” (General Plan, pp.TC-1); and

16 **WHEREAS**, many, but not all, of the zones permitting commercial uses are located within the
17 borders of the Town Center Planning Area; and

18 **WHEREAS**, the General Plan expresses the policy that new and/or renewed development in the
19 Town Center Planning Area shall preserve and enhance the village character and pedestrian scale of
20 the downtown area. Large, highly visible parking lots characteristic of strip shopping centers are
21 inconsistent with village character (Town Center Policy TC-1.1.1); and

22 **WHEREAS**, because biking and walking are an integral part of a complete circulation network that
23 provides affordable, healthful and ecological means of transportation, bicycle and pedestrian
24 oriented development should be encouraged in the Town Center Planning Area (Circulation Goals
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26 **WHEREAS**, the vitality and diversity of the Town’s economy is based in part on the owner-
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28 the policy of promoting locally-owned business (Town Center Policy TC-3.2.8); and

29 **WHEREAS**, the Council believes that the historic and village character of Fairfax is made manifest
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32 necessarily reproducible or found in the context of formula businesses and/or restaurants; and

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