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LCP-3-CML-17-0041-1 (COMMERCIAL USES)

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EXHIBITS

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Attachment 2 (Exhibit "A") – Draft Code Amendments

Exhibit "A"

17.14.040 Additional Use Regulations.

I. Eating and Drinking Establishments.

1. All Eating and Drinking Establishments.

a. The sale of nonfood merchandise that is directly related to the use may be allowed when determined to be incidental to the primary use. The display of nonfood merchandise **shall be ancillary to the primary use** ~~is prohibited~~.

b. Adequate facilities shall be provided on the site for the closed storage of trash and garbage generated by the use. The on-site storage shall be designed so that the area can be cleaned and the refuse removed without creating a public nuisance and without being placed on the sidewalks or other public ways. If the method of cooking used will generate hot ashes, a storage facility and disposal method shall first be approved by the Fire Department.

c. At least one restroom shall be available for use by both sexes within, or conveniently adjacent to, the specific business premises and on the same property on which the use is located. This restroom shall comply with all provisions of the State Uniform Building and Plumbing Codes as to the required size, location and accessibility standards, and shall be available for use by both the employees and patrons of the business.

2. Drinking Places.

a. Minimum distance from another use selling distilled spirits intended for either on-site or off-site consumption: 200 feet.

b. Allowable locations: blocks numbered 70 through 77 inclusive, as shown on the map of Carmel-by-the-Sea.

c. Maximum number: three. See also Chapter 17.56 CMC, Restricted Commercial Uses.

d. See also subsection (I)(1) of this section, All Eating and Drinking Establishments.

3. Restaurant, Full Line.

a. Any sale of alcoholic beverages shall be subordinate to this primary use.

- b. Drive-in, formula and fast food establishments are prohibited.
- c. Substantially all foods from the standard menu shall be available for purchase during the hours that alcoholic beverages are being served ~~except for the first hour and the last hour of each business day.~~
- d. The applications, menus and plans indicate that the business will primarily be a restaurant – full line, and that no more than 20 percent of the total number of seats are at a bar or in a separate bar room. If the use does not meet this standard, the standards in subsection (l)(2) of this section, Drinking Places, shall also apply to the use.
- e. Customers shall be provided with individual menus while seated at a table or counter.
- f. The maximum seating capacity shall not exceed the standards in the State Uniform Building and Fire Codes, the number of seats approved by the Planning Commission through public review, or the number of seats in the previous business, whichever is less. The seating capacity shall be posted on the premises.
- g. Outside seating may be allowed subject to Chapter 17.58 CMC, Design Review.
- h. Food sold for consumption off the premises shall be incidental to the primary use. Such food shall be placed in covered containers or wrappings, and all house-brand labeled food store goods such as vinegars, oils and salad dressings shall be prepackaged and sealed.
- i. Maximum number of food stores and/or restaurants located within structures fronting on Ocean Avenue: 15. See also Chapter 17.56 CMC, Restricted Commercial Uses.
- j. See also subsection (l)(1) of this section, All Eating and Drinking Establishments.

k. Outdoor cooking devices are permitted on private property if designed and located to mitigate impacts to adjacent properties.

4. Restaurant, Specialty **(Coffee Shops, Ice Cream Parlor, etc.)**

- a. Minimum size: ~~600~~ **400** square feet.

b. Minimum number of customer seats on-site: ~~20~~ **14** seats. The customer seating area must be open to patron use during all hours of operation and the use must be managed to encourage on-premises consumption of food products.

c. Sales of soup, salads and sandwiches may be allowed in an amount up to 10 percent of sales.

d. The sale of alcohol is prohibited.

e. Drive-in, fast food, take-out or formula establishments are prohibited.

f. The service counter must be located within the interior of the business premises and arranged so that customers must first pass by or through the seating area to reach the counter and patron queues will be contained within the building.

g. Outside seating may be allowed, subject to Chapter 17.58 CMC, Design Review.

h. All products sold for consumption off the premises, other than frozen desserts, must be placed in covered containers or wrappings.

i. Cooking equipment is limited to indoor stoves and ovens.

j. Maximum number of food stores and/or restaurants located within structures fronting on Ocean Avenue allowed: 15. See also Chapter 17.56 CMC, Restricted Commercial Uses.

k. The operator of the use shall be responsible for the clean-up of all on-site and off-site litter generated by the use including twice-daily clean-up of all sidewalks and gutters within 50 feet of the storefront and twice-yearly steam cleaning of this area. A practical plan for monitoring and implementing this standard shall be submitted for review with the application for use permit, and will be adopted as a condition of approval of the use.

l. See also subsection (l)(1) of this section, All Eating and Drinking Establishments.

J. Food and Beverage Sales.

1. All Food and Beverage Sales.

a. Adequate facilities shall be provided on the site for the closed storage of trash and garbage generated by the use. The on-site storage shall be designed so that the area can be cleaned and

the refuse removed without creating a public nuisance and without being placed on the sidewalks or other public ways.

~~b. Cooking equipment shall be limited to indoor stoves and ovens.~~

2. Food Store, Full Line.

a. The use may be combined with liquor stores in the CC and SC districts upon meeting the requirements in subsection (J)(4) of this section, Liquor.

b. A delicatessen providing a broad range of bulk specialty items primarily for home or workplace consumption such as breads, cheeses, meats, prepared salads, dried goods, and limited take-out food such as sandwiches and salads may be allowed as an incidental use. Cooking equipment shall be limited to indoor stores, ~~and ovens~~ **and outdoor grills.**

c. ~~No seating shall be provided indoors or outdoors on the site.~~ **A maximum of 12 seats may be provided indoors or outdoors on the site.**

d. Maximum number of food stores and/or restaurants located within structures fronting on Ocean Avenue: 15. See also Chapter 17.56 CMC, Restricted Commercial Uses.

e. See also subsection (J)(1) of this section, All Food and Beverage Sales.

3. Food Store, Specialty.

a. No specialty food store shall be permitted that is classified as a drive-in, fast food or formula food establishment as defined in this code.

b. All food sold for consumption off the premises shall be placed in covered containers or wrappings.

c. The use may be combined with liquor stores and beer in the CC and SC districts upon meeting the requirements of subsection (J)(4) of this section, Liquor.

d. Maximum number of food stores and/or restaurants within structures fronting on Ocean Avenue: 15. See also Chapter 17.56 CMC, Restricted Commercial Uses.

e. See also subsection (J)(1) of this section, All Food and Beverage Sales.

f. A maximum of 12 seats may be provided indoors or outdoors on the site.

g. Cooking equipment shall be limited to indoor stoves and ovens.

17.68.050 Commercial Use Classifications.

Restaurants, Full Line. Restaurants providing a full line of prepared food and drinks using nondisposable plates, glasses and utensils for immediate consumption on the site. These restaurants provide table service to patrons of all ages who pay after eating. Takeout service may be provided.

Restaurants, Specialty. Restaurants providing a limited range of food products for immediate consumption on the site. These restaurants provide seating but are not required to provide table service or menus. Specialty restaurants provide, as a primary use, two or fewer of the following lines of foods: pastries and doughnuts, frozen desserts, candy and nuts, juices, and coffee and tea.

Food Store-Full Line. Retail food markets, ~~with no seating on site,~~ providing a full range of food and grocery items including meats, poultry, produce, dairy products, and canned and dried goods for home preparation. These markets may have specialty food sales as an incidental use, such as bakeries and delicatessens.

Food Store-Specialty. Retail food markets, ~~with no seating on the site,~~ that provide a specialized and limited range of food items sold primarily for home preparation and consumption. Examples include such uses as:

Exhibit A

17.14.030 Land Use Regulations.

Schedule II-B: Commercial Districts – Use Regulations				
P = Permitted Use L = Limitations Apply C = Conditional Use Permit Required	Commercial Districts			Additional Regulations
	CC	SC	RC	
Retail				
Animal Sales and Services				
Animal Grooming	P	P	P	See CMC 17.14.040(C)
Animal Hospitals	–	C	–	See CMC 17.14.040(C)
Kennels	–	C	C	See CMC 17.14.040(C)
Automobile Sales and Services				See CMC 17.14.040(D)
Motorcycles, Mopeds and Parts	P	P	–	
Vehicle Repair	–	C	C	
Vehicle Service and Gasoline	–	C	C	See CMC 17.14.040(D)
Building Materials, Hardware and Garden Supplies	P	P	C	See CMC 17.14.040(G)
Eating and Drinking Establishments				See Chapter <u>17.56</u> CMC
Drinking Places	C	C	–	See CMC 17.14.040(I)
Restaurant, Full Line	C	C	–	See CMC 17.14.040(I)
Restaurant, Specialty	C	–	–	See CMC 17.14.040(I)
Food and Beverage Sales				See Chapter <u>17.56</u> CMC
Convenience Market	–	L-2	L-2	See CMC <u>17.14.040</u> (D)(2) and (J)(2)
Food Store – Full Line	C	C	C	See CMC 17.14.040(J)
Food Store – Specialty	C	C	–	See CMC 17.14.040(J)
Liquor	<u>P C</u>	<u>P C</u>	C	See CMC 17.14.040(J)
<u>Wine Tasting Shop</u>	<u>C</u>	<u>C</u>	=	

Retail Sales	P	P	–	See Chapter <u>17.16</u> CMC; See CMC 17.14.040(T)
Antique Shops	P	–	–	See CMC 17.14.040(T)
Art Galleries	P	–	–	See CMC 17.14.040(T)
Arts and Crafts	P	–	–	See CMC 17.14.040(T)
Jewelry Shops	P	–	–	See CMC 17.14.040(T)
<u>Cosmetic Stores</u>	<u>C</u>	<u>C</u>	<u>=</u>	
Sales by Public Outcry (Auction)	–	C	C	See CMC 17.14.040(U)
Specialty, Theme	P	P	–	See CMC 17.14.040(T)
Stationery	P	P	P	See CMC 17.14.040(T)
Thrift Shops	P	P	–	See CMC 17.14.040(T)
Vending Machines	C	C	C	See CMC 17.14.040(T)
Service/Office				
Banks and Other Financial Institutions	P	P	P	See CMC 17.14.040(F)
Automatic Teller Machines (ATM)	C	C	C	See CMC 17.14.040(E)
Business Services	P	P	L-1	
Commercial Recreation	P	–	–	See CMC 17.14.040(H)
Community Care Facility	P	P	P	
Computer Services	P	P	P	
Day Care Centers	–	C	C	
Emergency Medical Care	P	P	P	
Government Offices	P	P	P	
Hotels and Motels	C	C	C	See Chapter <u>17.56</u> CMC, Restricted Commercial Uses, and CMC 17.14.040(M)
Hospitals and Clinics				

Hospitals		C	–	See CMC 17.14.040(L)
Clinics	P	P	P	See CMC 17.14.040(L)
Hospice Care, Limited	P	P	P	
Maintenance and Repair Services	L-3	L-3	L-3	
Office				
Business and Professional	P	P	P	
Medical and Dental	P	P	P	
Other	P	P	L-4	See CMC 17.14.040(O)
Parking Facilities, Commercial	–	C	C	See CMC <u>17.14.040(P)</u> and Chapter <u>17.64</u> CMC, Findings Required for Permits and Approvals
Personal Improvement Services	C	C	–	See CMC 17.14.040(Q)
Personal Services	P	P	P	
Laundry and Dry Cleaning	C	C	C	See CMC 17.14.040(R)
Video Tape Rental	P	P	–	See CMC 17.14.040(R)
Research and Development Testing Services	P	P	P	See CMC 17.14.040(S)
Residential Care Facilities				
General	–	C	C	
Limited	–	P	P	
Senior	–	C	C	
Travel Services	P	P	P	See CMC 17.14.040(V)
Residential/Public and Semipublic				
Colleges and Trade Schools	P	P	P	
Community Centers	<u>P C</u>	<u>P C</u>	<u>P C</u>	
Conference Facilities, Small	<u>P C</u>	<u>P C</u>	<u>P C</u>	

Community Social Service Facility	P	P	P	
Family Day Care				See CMC 17.08.050(B)
Small Family	–	–	P	
Large Family	–	C	C	
Libraries, Public	P	P	P	
Multifamily Dwellings				See CMC 17.14.040(N)

Specific Limitations and Conditions:

L-1: Limited to advertising, consumer credit reporting, secretarial court reporting, equipment maintenance and repair, personnel supply services, and nonretail computer services and repair.

L-2: Allowed only as accessory use to gasoline stations and limited to a maximum of 300 square feet. No sales of alcohol are permitted. See CMC 17.14.040(D)(2) and (J)(2).

L-3: Any establishments with activities generating noise, odors, deliveries by large vehicles, high traffic by customers, or requiring large storage needs are not permitted.

L-4: Limited to offices for the following categories: operators of nonresidential buildings, apartment buildings, dwellings, real estate agents and managers, and title companies.

L-5: Limited to sites that are already developed with a single-family dwelling, or that were originally developed as, or used as, a single-family dwelling but have since been converted to another use. Existing single-family dwellings can be maintained, altered, repaired and/or redeveloped. R-1 district floor area ratio standards shall apply to these sites.

17.14.040 Additional Use Regulations.

J. Food and Beverage Sales.

1. All Food and Beverage Sales.

- a. Adequate facilities shall be provided on the site for the closed storage of trash and garbage generated by the use. The on-site storage shall be designed so that the area can be cleaned and the refuse removed without creating a public nuisance and without being placed on the sidewalks or other public ways.

b. Cooking equipment shall be limited to indoor stoves and ovens.

2. Food Store, Full Line.

a. The use may be combined with liquor stores in the CC and SC districts upon meeting the requirements in subsection (J)(4) of this section, Liquor.

b. A delicatessen providing a broad range of bulk specialty items primarily for home or workplace consumption such as breads, cheeses, meats, prepared salads, dried goods, and limited take-out food such as sandwiches and salads may be allowed as an incidental use. Cooking equipment shall be limited to indoor stores and ovens.

c. No seating shall be provided indoors or outdoors on the site.

d. Maximum number of food stores and/or restaurants located within structures fronting on Ocean Avenue: 15. See also Chapter 17.56 CMC, Restricted Commercial Uses.

e. See also subsection (J)(1) of this section, All Food and Beverage Sales.

3. Food Store, Specialty.

a. No specialty food store shall be permitted that is classified as a drive-in, fast food or formula food establishment as defined in this code.

b. All food sold for consumption off the premises shall be placed in covered containers or wrappings.

c. The use may be combined with liquor stores and beer in the CC and SC districts upon meeting the requirements of subsection (J)(4) of this section, Liquor.

d. Maximum number of food stores and/or restaurants within structures fronting on Ocean Avenue: 15. See also Chapter 17.56 CMC, Restricted Commercial Uses.

e. See also subsection (J)(1) of this section, All Food and Beverage Sales.

4. Liquor.

- a. All food merchandise sold must be pre-packaged items only and not occupy more than 10 percent of the retail or window display area.
- b. Minimum distance from another use selling distilled spirits intended for either on-site or off-site consumption: 200 feet.
- c. Minimum distance from an R-1 district: 100 feet.
- d. In the RC district, liquor sales are limited to off sale beer and wine and only as an accessory use in a full-line food store.
- e. See also subsection (J)(1) of this section, All Food and Beverage Sales.

5. Wine Tasting Shop

a. Shall meet the standards of the City's adopted Wine Tasting Room Policy (Resolution 2015-020).

b. Minimum distance from another use selling distilled spirits intended for either on-site or off-site consumption: 200 feet.

c. Minimum distance from an R-1 district: 100 feet.

d. Permitted in the CC and SC districts with the issuance of a conditional use permit.

T. Retail Sales. No discount stores, manufacturers' outlet stores, catalog stores, or stores devoting more than 15 percent to the sale of second-quality, irregular or discontinued merchandise or to the liquidation of merchants' or manufacturers' stock shall be established. All retail sales shall be conducted from within a fixed place of business.

14. Sporting Goods, Bicycles, Hobbies, Toys and Games.

- a. All merchandise must be contained within an enclosed building.

b. These uses may be combined with each other, apparel stores and with sales of motorcycles, mopeds.

c. Uses that include motorized bicycles, mopeds or motorcycles are not allowed in buildings fronting on Ocean Avenue or within 300 feet of an R-1 district.

d. Uses that include bicycle rentals require the issuance of a conditional use permit.

15. Stationery Stores. In the RC district, stationery stores are limited to uses providing a full range of paper products, office forms, office supplies, stationery, pens, pencils and writing supplies.

16. Used Merchandise.

a. The used merchandise must be sold for nonprofit purposes or as used books in a bookstore.

b. Used merchandise cannot include automotive supplies and equipment, and building materials.

c. Antiques, jewelry or art cannot occupy more than 10 percent of the total display area for used merchandise, including window displays.

17. Vending Machines.

a. Only machines not visible from any public right-of-way and fully contained within an enclosed structure are allowed.

b. Maximum number of machines within a place of business: two.

18. Cosmetic Stores.

a. **All merchandise and activity shall be contained within an enclosed shop or business space.**

b. **Permitted in the CC and SC districts with the issuance of a conditional use permit.**

17.14.050 Regulations Applied in All Commercial Districts.

A. No existing residential dwelling unit shall be converted or demolished unless replacement housing is provided in accordance with findings established in CMC 17.64.070, Demolition and Conversion of Residential Structures.

B. Any change in use that modifies the findings and conditions upon which a use permit was granted shall be a basis for revocation of, or amendment to, the use permit.

C. The decision to grant a use permit shall require three (3) affirmative votes of the City Council or Planning Commission.

CD. Conditionally permitted uses operating without a use permit that existed prior to the adoption of this code, and conditionally permitted uses operating with a use permit approved under standards or findings that have been amended since the permit was granted, shall be reviewed at the time the use changes ownership. The form and purpose of this review shall be limited to:

1. Granting a new use permit at a public hearing when the use is determined to meet all current standards for approval; or
2. When the Director determines that a conforming use permit cannot be approved, this process shall be limited to an administrative review and documentation to establish the characteristics of the use, including those listed below, as a matter of public record, to ensure that the use is not altered through the passage of time and successive ownerships. The following shall be documented:
 - a. Define the use by its NAICS including any subclassifications or special characteristics;
 - b. Define the size, capacity, hours of operation, and floor area of the use;
 - c. Identify all nonconformities associated with the use and the structure within which it is located;
 - d. Identify the characteristics of the use including but not limited to its compliance with general development regulations in CMC 17.14.040(A) and (B);
 - e. Identify any standards, required findings and/or standard or special conditions of approval, applicable to the use, to which the use conforms.

DE. Any construction resulting in a net increase in the amount of commercial floor area shall require a conditional use permit and coastal development permit authorizing such increase. Prior to authorizing such increase, the Planning Commission shall make all findings listed in CMC 17.64.100, Increase in Commercial Floor Area, Commercial Spaces or Business. The decision-making body may approve plans submitted or may approve such plans subject to specified changes or conditions.

EE. Except as provided for legally established motel units in CMC 17.14.040(M), Hotels and Motels, all newly constructed second story floor area, including area in new buildings, remodeled buildings and replacement, rebuilt or reconstructed buildings, shall be occupied by residential dwellings only and shall not be used for any commercial land use, except as follows:

1. Existing floor area established at any level above the first story at or near street grade may continue to be used for occupancy by commercial land uses except for those limited to the first story by CMC 17.12.030, Demolition and Rebuilding of Structures.
2. When such existing commercial space is currently occupied by a retail use, the use may be replaced by another retail use, service use or residential use allowed within the underlying land use district.
3. When such existing space is occupied by a service use, only service or residential uses shall be allowed as a replacement use.

FG. No existing residential dwelling unit occupying floor space at any level above the first story in any structure shall be converted to any commercial use.

GH. For uses in the RC land use district or located on any property within 300 feet of an R-1 land use district the following standards shall apply:

1. No activity shall be permitted that generates noise in excess of 55 dB at the exterior of the building or yard in which the use is conducted. No activity shall be permitted that causes in excess of 50 dB measured at the property line of any site in the vicinity of the use. Proposed activities that would generate or cause noise in excess of these levels shall require mitigation to achieve these standards or shall be prohibited. Sound measurements shall be made using a sound level meter calibrated for the A-weighted scale and shall be averaged over a 15-minute period. If the use generates or causes noise

which includes a steady whine, screech or hum, or is repetitive or percussive or contains music or speech the respective noise standards shall be reduced by five decibels.

2. Any activity requiring deliveries by vehicles wider than eight feet or vehicles of three axles or more shall provide off-street loading facilities adequate to avoid double parking on street. Such facilities shall be used to the extent feasible.

3. Proposed commercial uses that are estimated to generate more than 40 vehicle trips per day per 1,000 square feet of floor space, including but not limited to all retail uses, shall be prohibited from operating before 8:00 a.m. or after 8:00 p.m. All other commercial uses shall be prohibited from operating before 6:00 a.m. or after 9:00 p.m. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

I. The Director of Community Planning and Building may authorize temporary uses to occur on private property not exceeding five (5) consecutive days. Temporary uses exceeding five (5) consecutive days shall be referred to the Planning Commission for a decision. Decisions on temporary use permits may be referred to the Planning Commission when, in the opinion of the Director, the use may be objectionable to persons residing or working in the vicinity. The Director shall authorize no more than four temporary uses per calendar year, per property. A temporary use is defined as an activity or event on private property that is limited in duration and is not expressly permitted by the underlying business license or conditional use permit.

17.68.050 Commercial Use Classifications.

Food and Beverage Sales. Retail sales of food and beverages primarily for off-site consumption. Typical uses include markets, groceries, liquor stores, and retail bakeries.

Convenience Market. Retail establishments that sell a limited line of groceries, prepackaged food items, tobacco, periodicals, and other household goods. This classification does not include delicatessens or specialty food shops.

Food Store-Full Line. Retail food markets, with no seating on-site, providing a full range of food and grocery items including meats, poultry, produce, dairy products, and canned and dried goods for home preparation. These markets may have specialty food sales as an incidental use, such as bakeries and delicatessens.

Food Store-Specialty. Retail food markets, with no seating on the site, that provide a specialized and limited range of food items sold primarily for home preparation and consumption. Examples include such uses as:

- Bakeries;
- Candy, nuts and confectionery stores;
- Meat or produce markets;
- Vitamins and health food stores;
- Cheese stores and delicatessens.

Liquor. Establishments primarily engaged in selling packaged alcoholic beverages such as ale, beer, wine and liquor.

Wine Tasting Shop. Establishments primarily engaged in the retail sale of wine for off-site consumption and as an ancillary use includes the service of wine for on-site consumption.

Retail Sales. The retail sale of merchandise not specifically listed under another use classification. This classification includes bookstores, camera shops, clock shops, clothing stores, drugstores, florist shops, hobby, toys and game shops, furniture stores, luggage stores, musical instrument stores, newsstands, optical goods stores, shoe stores, souvenir stores, sporting goods stores, stationary stores, and tobacco, pipes, cigarettes, and smokers' supplies.

Antique Shops. Establishments selling collectible merchandise that is old or rare.

Art Galleries. Establishments primarily engaged in selling and displaying original and limited edition art works including paintings, graphic arts, photography, and sculpture.

Arts and Crafts. Establishments selling handcrafted merchandise for home decoration or furnishings within one or more of the following categories: pottery, glass, fabric, paper, wood, fiber or ceramics. Goods sold at these stores are unique, artisan-produced items rather than machine or mass-produced goods.

Jewelry Shops. Retail stores selling a combination of jewelry items, predominantly handcrafted, including diamonds and other precious stones mounted in precious metals, such as rings, bracelets, brooches, sterling and plated silverware, and watches.

Specialty or Theme. A retail store selling a specialized line of merchandise not otherwise defined including art and architecture supplies, candles, coins and stamps, gems, rocks and stones, telescopes, and binoculars. A theme store may combine merchandise lines from several classifications with all merchandise organized around a central concept or idea.

Thrift Shops. Nonprofit organizations selling used goods normally consisting of household discards. This classification does not include such specialty stores as used bookstores, antique stores, jewelry stores, or stamp and coin collection shops.

Vending Machines. Coin, token, currency, or magnetic card-operated machines selling a variety of goods including candy, snacks, sodas, toys, and trinkets.

Cosmetic Shops. A retail store as a primary use selling cosmetics, perfumes, skin-care products, toiletries, and personal grooming products.