

**RESOLUTION OF THE CITY OF PETALUMA PLANNING COMMISSION
RECOMMENDING THE CITY COUNCIL AMEND THE TEXT OF THE
SMARTCODE TO MODIFY SECTION 3 BUILDING FUNCTION STANDARDS)
AND SECTION 9 (GLOSSARY)**

WHEREAS, the City of Petaluma has initiated a Zoning Text Amendment in response to the Moratorium on Approval of Applications for New Gas Station Uses enacted under Ordinance Nos. 2681, 2688 and 2724; and

WHEREAS, with regard to Government Code Section 65858(d), this resolution describes a measure to alleviate the condition which led to the adoption of the moratorium.

WHEREAS, Section 25.010 of the City of Petaluma Implementing Zoning Ordinance provides in pertinent part that no amendment that regulates matters listed in Government Section 65850, which matters include the use and construction of buildings and structures, shall be made to the Implementing Zoning Ordinance and SmartCode unless the Planning Commission and City Council find the amendments to be in conformity with the General Plan and consistent with the public necessity, convenience, and general welfare in accordance with Section 25.050(B) of the IZO; and

WHEREAS, the Zoning Text Amendments described in this resolution modify the City's SmartCode; and

WHEREAS, the Zoning Text Amendments would codify a prohibition on new Gas Station, include new uses of Zero Emission Vehicles (Battery Charging Station and Zero Emission Vehicles (Hydrogen Fuel Cell Station), and modify definitions; and

WHEREAS, on January 14, 2021, public notice of the January 26, 2021 Planning Commission meeting to consider the Zoning Text Amendments was published in the Argus Courier and mailed to all property owners of existing and approved gas stations in compliance with state and local law, and routed to appropriate agencies listed under Government Code Section 65352; and

WHEREAS, on January 26, 2021 the Planning Commission held a duly noticed public hearing to consider the Zoning Text Amendments and reviewed the environmental analysis prepared for the project in accordance with the California Environmental Quality Act (CEQA).

NOW THEREFORE BE IT RESOLVED by the Planning Commission of the City of Petaluma as follows:

1. The above recitals are hereby declared to be true and correct and are incorporated into the resolution as findings of the Petaluma Planning Commission.
2. Compliance with the California Environmental Quality Act (CEQA) is demonstrated as follows:

Actions Relating to Gas Station Prohibition

The Zoning Text Amendments resulting in the prohibition of new Gas Stations is not a project within the meaning of CEQA Guidelines Section 15378, because it has no potential for resulting in physical change in the environment, directly or ultimately; it prevents changes in the environment related to new gas station use applications. Moreover, such amendments are, pursuant to CEQA Guidelines 15061(b)(3), not subject to CEQA under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. As the amendments will prohibit new Gas Stations and, in turn, prevent physical changes to the environment, it can be seen with certainty that there is no possibility that the amendments on this topic will have a significant effect on the environment.

Actions Relating to New Non-Conformity Regulations for Gas Stations

These amendments would apply to sixteen already-developed properties and one new Gas Station to be developed and which has already demonstrated, separately compliance with CEQA. These amendments prohibit the enlargement, extension, reconstruction or moving of Gas Station uses and define four specific categories of permitted modifications, as follows: (1) those to improve soil, groundwater and stormwater quality; (2) those necessary to improve traffic safety; (3) those to enable battery charging stations for Zero Emission Vehicles; and (4) those to install facilities for the storage, conveyance and dispensing of hydrogen to zero emission vehicles. The latter two categories of modifications (i.e., battery charging stations, hydrogen) are addressed separately below.

The Zoning Text Amendments resulting in new non-conformity regulations for Gas Stations and which prohibit their enlargement, extension, reconstruction or relocation are categorically exempt from CEQA under CEQA Guidelines Section 15301 (Existing Facilities). Section 15301 applies to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.

The Zoning Text Amendments resulting in new non-conformity regulations for Gas Stations and allowing modifications to improve soil, groundwater and stormwater quality and traffic safety, are categorically exempt from CEQA under the following categories:

- CEQA Guidelines Section 15301 (Existing Facilities) applies to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.
- CEQA Guidelines Section 15303 (Small Structures) applies to the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

- CEQA Guidelines Section 15304 (Minor Alterations to Land) applies to minor public or private alterations in the condition of land, water, and/or vegetation (e.g., new gardening or landscaping, including the replacement of existing conventional landscaping with water efficient or fire resistant landscaping, minor trenching and backfilling where the surface is restored).
- CEQA Guidelines Section 15308 (Actions by Regulatory Agencies for Protection of the Environment) applies to actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment.

Actions Relating to Land Use - Zero Emission Vehicles (Battery Charging Station)

The Zoning Text Amendments pertaining to battery charging standards for Zero Emission Vehicles is not a project within the meaning of CEQA Guidelines Section 15378, because, pursuant to Government Code Section 65850.7 (i.e., AB 1236), all permit requests for such charging stations shall be administratively reviewed through a building permit or similar nondiscretionary permit. Therefore, because ZEV charging station projects are not subject to discretionary review, these amendments are not a “project” within the meaning of CEQA.

Actions Relating to Land Use - Zero Emission Vehicles (Hydrogen Fuel Cell Station)

The Zoning Text Amendments would allow for hydrogen fuel stations at existing Gas Stations. As described, there are sixteen already-developed Gas Stations and one new Gas Station to be developed and which has already demonstrated, separately compliance with CEQA. Presently, there are no retail hydrogen stations in the City of Petaluma.

This analysis uses the “Hydrogen Station Permitting Guidebook, California Governor’s Office of Business and Economic Development (GO-Biz), September 2020” as a basis to determine reasonably foreseeable changes to the environment that may result from the installation of retail hydrogen stations at existing Gas Stations. Based on that Guidebook (namely Pages 13 to 18, and Pages 49 to 53), it is anticipated that hydrogen will be integrated into an existing Gas Stations with minor physical changes to sites that are already substantially disturbed, paved and/or with existing structures.

Pumps are anticipated to be integrated alongside existing ones used for gasoline dispensing or along an existing vehicular path of travel. Minor trenching is anticipated to install pipes that convey hydrogen to each pump. Lastly, hydrogen fuel would be stored aboveground within a concrete masonry enclosure similar those commonly used to enclose trash and recycling receptacles. Once installed, the retail operation of hydrogen pumps provides drivers with a similar experience to gasoline or diesel with respect to fueling, dispenser operation, fill time, and payments.

Based on the above, proposed Zoning Text Amendments pertaining to hydrogen fuel cell station standards for Zero Emission Vehicles are categorically exempt from CEQA under the following categories:

- CEQA Guidelines Section 15301 (Existing Facilities) applies to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.
 - CEQA Guidelines Section 15303 (Small Structures) applies to the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.
 - CEQA Guidelines Section 15304 (Minor Alterations to Land) applies to minor public or private alterations in the condition of land, water, and/or vegetation (e.g., new gardening or landscaping, including the replacement of existing conventional landscaping with water efficient or fire resistant landscaping, minor trenching and backfilling where the surface is restored).
3. In accordance with Sections 25.010 and 25.050(B) of the City's Implementing Zoning Ordinance, Ordinance No. 2300 N.C.S., ("IZO"), the proposed amendments to the IZO as contained in Exhibit 1 are in general conformity with the Petaluma.

As amended, Policy 4-P-10 states, "Prohibit new fossil fuel gas stations and transition existing stations to serve Zero Emission Vehicles." The amendments effect related to the prohibition of fossil fuel Gas Stations directly implements this policy and proposed non-conformity regulations reinforce the policy's prohibition.

General Plan Policy 4-P-8 states, "Support, where feasible, the development of alternative fuel stations." The amendment components facilitating the use of Zero Emission Vehicles support this policy by providing clear regulations for the rapid deployment of transportation technologies without adverse environmental and human health effects endemic to fossil fuels and internal combustion engines.

4. In accordance with Section 25.050(B) of the IZO, the proposed amendments are consistent with the public necessity, convenience, and welfare.

Pursuant to Resolution No. 2019-055 (Resolution Declaring a Climate Emergency) the City Council has, among other things, directed the giving of "precedence to climate mitigation and adaptation when evaluating policies" and sets a commitment reduce citywide greenhouse gas emission, "to carbon neutrality as quickly as possible and no later than 2045 - the goal set by Governor Brown's Executive Order B-55-188," and to accelerate climate adaptation and resilience strategies. More recently, on January 11, 2021, the City Council underscored the need for urgent action and accelerated the timeline by moving up the carbon neutrality goal to 2030.

The amendments effect related to the prohibition of fossil fuel Gas Stations and regulations on potential future changes to such uses constitute a public necessity and promotes the general welfare by preventing the future expansion of a fuel type resulting in the primary form of greenhouse emissions (i.e., transportation sector) and, in doing so,

put in place regulations that support the goal of carbon neutrality. Moreover, the prohibition serves to prevent future sources of environmental pollution through, for example, the transmission of fossil fuels into the soil, groundwater and surface waters, and serves to prevent future sources of air pollution harmful to public health. At the same time, the amendment components facilitating the use of Zero Emission Vehicles support the use of transportation technologies without the aforementioned adverse effects.

5. The following Zoning Text Amendments are hereby recommended to the Petaluma City Council for consideration and findings in accordance with Sections 25.010 and 25.050 of the City's Implementing Zoning Ordinance:
 - a) Section 3 (Building Function Standards), Section 3.10.030 (Permit Requirements for Allowable Uses) shall be revised as follows:
 - i. For the Gas Station land use, the table shall indicate "--"; meaning the use is not allowed in any zoning district.
 - ii. For every zoning district, a new land use of Zero Emission Vehicles (Battery Charging Station) shall be identified as "P," meaning the use is permitted in every zoning district, and with a new footnote of "5" stating, "Pursuant to Government Code Section 65850.7, this Smart Code requires no permit for stations."
 - iii. For the T5 and D4 zoning districts, a new land use of Zero Emission Vehicles (Hydrogen Fuel Cell Station) shall be identified as "," meaning the use is permitted in those zones, and with a new footnote of "6" stating, "Allowed as primary or accessory use when located on site of an existing Gas Station land use."
 - b) Section 9 (Glossary), Section 9.10.020 (Definitions of Specialized Terms and Phrases) shall be revised as follows (~~strikethrough~~ = deletion; underline = addition):
 - i. "Electric Vehicle Supply Equipment. The hardware, including connectors, fixtures, devices, and other components required to charge an electric vehicle."
 - ii. "Gas Station. A retail business selling gasoline or other motor vehicle fuels, and related products, derived from fossil fuels (e.g., petroleum, coal, natural gas). ~~A gas station may also include a convenience store, vehicle services, restaurant facilities, and /or trailer rental where authorized by the Conditional Use Permit for the gas station."~~
 - iii. "Zero Emission Vehicle. A zero emission vehicle is any type of vehicle that has no tailpipe emissions. Vehicles run on electric motors and are powered by electricity delivered from batteries or hydrogen and fuel cells. In contrast to conventional internal combustion vehicles, zero emission vehicles prevent air pollution, lower greenhouse gas emissions, and help integrate renewable energy into the transportation sector. There are two kinds of zero emission vehicles: plug-in electric vehicles and hydrogen fuel cell electric vehicles."

- iv. “Zero Emission Vehicles (Battery Charging Station). An accessory use consisting of one or more electric vehicle charging spaces served by an electric vehicle charger or other charging equipment. This includes any level of electric vehicle supply equipment station that is designed and built in compliance with Article 625 of the California Electrical Code and delivers electricity from a source outside an electric vehicle into a plug-in electric vehicle.”
- v. “Zero Emission Vehicles (Hydrogen Fuel Cell Station). One or more hydrogen fuel cell filling spaces served by equipment that stores, conveys, and dispenses hydrogen to zero emission vehicles.”