

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR ROGERS AND MEMBERS OF THE COUNCIL
FROM: SHARI MEADS, SENIOR PLANNER
PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
SUBJECT: ZONING CODE TEXT AMENDMENTS TO PROHIBIT NEW GAS
STATION LAND USES AND TO PROHIBIT EXPANSION OF
FOSSIL FUEL INFRASTRUCTURE FOR EXISTING GAS
STATION LAND USES

AGENDA ACTION: ORDINANCE INTRODUCTION

RECOMMENDATION

It is recommended by the Planning Commission and the Planning and Economic Development Department that the Council introduce an ordinance approving text amendments to Title 20 of the City Code to prohibit new gas station land uses and to prohibit expansion of fossil fuel infrastructure for existing gas station land uses.

EXECUTIVE SUMMARY

At their July 14, 2022 meeting, the Planning Commission voted unanimously (with one member absent) in favor of adopting a resolution to recommend the City Council approve Zoning Code amendments to prohibit new gas station land uses and to prohibit expansion of fossil fuel infrastructure for existing land uses in the City.

The Climate Action Subcommittee (CAS) provided the initial direction to staff to draft an Ordinance to prohibit new gas station land uses (gas stations). This direction was based on the City's stated goal of reaching carbon neutrality by 2030 and public input received at CAS meetings. Furthermore, the proposed Ordinance reflects the City's support for the Sonoma County Regional Protection Agency (RCPA) resolution recommending that all local jurisdictions stop accepting applications for new gas stations and for expansion of existing gas stations. The proposed Ordinance will:

- prohibit new gas stations in all zoning districts; and
- establish regulations for existing and currently proposed gas stations as 'nonconforming uses;' and
- rename 'service station' uses as 'vehicle services' and remove the 500-foot separation requirement to separate language that merged gas stations with other uses; and

- update the Zoning Code definition of ‘gas station’ to refine that they involve fossil fuels and add a definition for ‘zero-emission vehicle.’

BACKGROUND

The City of Santa Rosa is a member of RCPA which was formed in 2009 to coordinate countywide climate protection efforts among Sonoma County’s nine incorporated cities and the County. RCPA is a special district governed by a twelve-member Board of Directors comprised of representatives from the Sonoma County Board of Supervisors and Council Members from each of the nine cities.

RCPA adopted a Climate Mobilization Strategy (Strategy) in March 2021 to solidify Sonoma County’s commitment to mobilizing an emergency response commensurate with the scale of the climate crisis¹. The Strategy outlines 13 countywide strategies under local control that have the potential to significantly reduce greenhouse gas (GHG) emissions by 2030. One of the Strategy initiatives is decarbonization by transitioning away from all use of fossil fuels. The City’s proposed gas station ban Ordinance supports the Strategy’s decarbonization initiative.

To accelerate the shift from fossil fuel to electric vehicles, the cities of Petaluma, Sebastopol, Rohnert Park, and Cotati have adopted regulations to prohibit new fossil fuel-based gas stations and to prohibit expansion of existing fossil fuel infrastructure at existing gas stations; the Town of Windsor Planning Commission has recommended Town Council approval of a gas station prohibition ordinance; and the County of Sonoma Board of Supervisors has directed Permit Sonoma staff to draft a gas station prohibition ordinance.

The United States Environmental Protection Agency (EPA) has classified gas stations and fuel storage locations as uses that may result in a brownfield site which are defined as properties where the expansion, redevelopment, or reuse thereof may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.²

Common contaminants found at gas station sites include gasoline, diesel, and petroleum oil, volatile organic compounds and solvents, polycyclic aromatic hydrocarbons, and lead³. Exposure to the types of contaminants present, or potentially present, at gas stations threatens the public health, safety, or welfare of neighboring communities⁴. Underground tanks, when used for the storage of hazardous substances

¹ <https://rcpa.ca.gov/wp-content/uploads/2020/12/Sonoma-Climate-Mobilization-Strategy-Adopted-2021-03-08.pdf>

² Environmental Protection Agency (EPA). Petroleum Brownfields. <https://www.epa.gov/ust/petroleum-brownfields>. Accessed 7.1.2022.

³ EPA. Contaminants of Concern (COC) at Underground Storage Tank Sites (UST). <https://www.epa.gov/ust/contaminants-concern-coc-underground-storage-tank-ust-sites> accessed 7.1.2022

⁴ Scientific American. Is it Safe to Live Near a Gas Station?. 2009. <https://www.scientificamerican.com/article/is-it-safe-to-live-near-gas-station/>. Accessed 7.1.2022.

and wastes, are potential sources of contamination of soil, surface water, and aquifers, and may pose other dangers to public health and the environment⁵.

REGULATORY HISTORY

On January 26, 2018, Governor Edmund G. Brown, Jr. issued Executive Order B-48-18⁶ which identifies the transportation sector as being responsible for emitting 50 percent of California's total GHG emissions and 80 percent of the smog-forming oxides of nitrogen. Executive Order B-48-18 directs all state entities to work with local government and the private sector to ensure at least 5 million zero-emission vehicles on California roads by 2030 and the creation of 250,000 zero emission vehicle charging stations to support such vehicles.

On September 9, 2019, the Sonoma County Regional Climate Protection Authority (RCPA) Board of Directors approved a resolution (Resolution No. 2019-002) endorsing the declaration of a climate emergency and immediate emergency mobilization to restore a safe climate, which included a commitment to working with the Bay Area Air Quality Management District and Northern Sonoma County Air Pollution Control District on improving air quality and reducing ozone precursors, particulate matter, toxic air contaminants, and GHG emissions.⁷

On January 14, 2020, the City Council adopted Resolution No. 2020-002 (Climate Emergency Resolution) declaring a climate emergency and elevating climate issues to the highest priority in its goal setting (see Attachment 2). The Climate Emergency Resolution commits the City to take action to mitigate, draw down, and take adaptive measures to reach carbon neutrality by 2030. Sonoma County's nine incorporated cities and the County of Sonoma have adopted similar climate emergency resolutions.

On September 23, 2020, Governor Gavin Newsom issued Executive Order N-79-20 setting 2035 as the year when all new passenger cars and trucks sold in California must be zero-emission⁸.

On May 12, 2021, staff provided the CAS with a presentation and facilitated discussion around the City's existing gas station regulations and potential policy changes.

On September 13, 2021, the RCPA Board of Directors adopted Resolution 2021-003 (see Attachment 3) which recommended the county and all incorporated jurisdictions in Sonoma County "cease acceptance of all applications for new gas stations or expansion of existing gas station infrastructure in their local jurisdiction."⁹

⁵ California Code, Health and Safety Code Section 25280 via FindLaw <https://codes.findlaw.com/ca/health-and-safety-code/hsc-sect-25280.html>. Accessed 7.1.2022.

⁶ <https://www.library.ca.gov/wp-content/uploads/GovernmentPublications/executive-order-proclamation/39-B-48-18.pdf>

⁷ https://rcpa.ca.gov/wp-content/uploads/2019/11/RCPA_CER_2019_Redacted.pdf

⁸ <https://www.gov.ca.gov/wp-content/uploads/2020/09/9.23.20-EO-N-79-20-Climate.pdf>

⁹ <https://scta.ca.gov/wp-content/uploads/2021/09/4.2b-RCPA-Gas-Station-Prohibition-Presentation.pdf>

On February 9, 2022, the City's Climate Action Subcommittee (CAS) directed staff to draft an ordinance to ban new gas stations and to prohibit expansion of fossil fuel infrastructure for existing gas stations within the City. The CAS members discussed this item and were in unanimous support of the ban.

On July 14, 2022, the Planning Commission recommended City Council approve an ordinance to prohibit new gas station land uses and to prohibit the expansion of fossil fuel infrastructure for existing gas station land uses.

ANALYSIS

GHGs from human activities are the most significant driver of observed climate change since the mid-20th century and gas stations pose significant threats to public and environmental health.¹⁰ Soil, groundwater, surface water and air can be contaminated by gasoline spills, leaks, and improper disposal of gasoline.¹¹

The transportation sector accounts for approximately 60% of GHG emissions in Sonoma County.¹² The City must reduce fossil fuel consumption by increasing transit ridership, biking, and walking; and replacing fossil fuel powered vehicles with electric and other alternatively powered vehicles.

There are 44 gas stations operating within City limits; 41 of which are in City areas that have been identified as having the highest concentration of people of color and people living in poverty¹³. Prohibiting new gas stations and the expansion of fossil fuel infrastructure for existing gas stations will contribute to the health of the entire community.

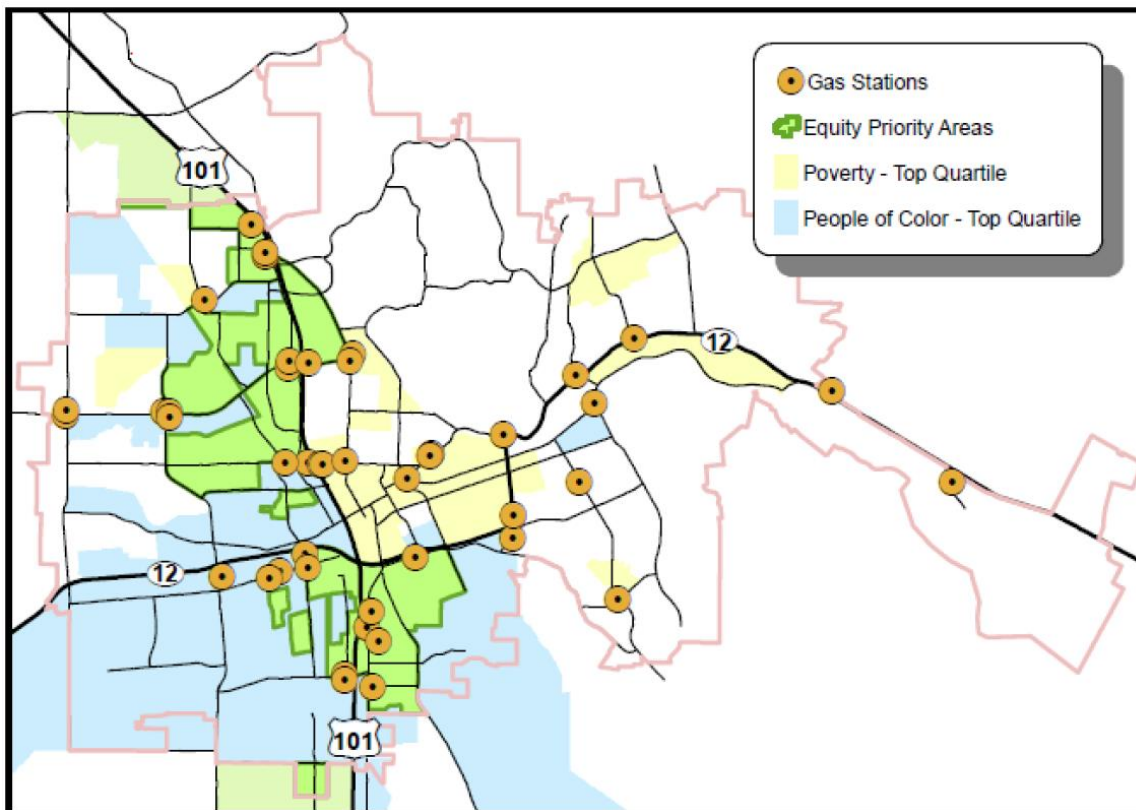
¹⁰ IPCC (Intergovernmental Panel on Climate Change). 2013. Climate change 2013: The physical science basis. Working Group I contribution to the IPCC Fifth Assessment Report. Cambridge, United Kingdom: Cambridge University Press. www.ipcc.ch/report/ar5/wg1

¹¹ Virginia Department of Health. Gasoline. <https://www.vdh.virginia.gov/environmental-health/public-health-toxicology/gasoline/> accessed on July 1, 2022.

¹² <https://rcpa.ca.gov/wp-content/uploads/2020/12/Sonoma-Climate-Mobilization-Strategy-Adopted-2021-03-08.pdf>. Page 9.

¹³ <https://www.santarosafoward.com/equity>

Figure 1: Locations of Gas Stations and Equity Priority Communities



Gas station data provided by Sonoma County Transportation Authority; Equity Priority Areas adapted from the Metropolitan Transportation Commission's definition in *Plan Bay Area*; mapped by City GIS staff on February 4, 2022

The Zoning Code currently allows new gas stations with a Conditional Use Permit in Commercial Office (CO), Neighborhood Commercial (CN), General Commercial (CG), Motor Vehicle Sales (CV), Station Mixed Use (SMU), Maker Mixed Use (MMU), Community Shopping Center (CSC), Light Industrial (IL), and General Industrial (IG) zoning districts.

Two proposed new gas station projects with complete applications are currently under review. One of the proposed gas station projects is located at 43 Middle Rincon Road and the other is at 874 North Wright Road. The Ordinance is drafted to allow these and any other projects with complete applications on the effective date of the Ordinance to continue being processed and acted on by the appropriate review authority.

The attached "Proposed Amendments to the Santa Rosa Zoning Code" outlines recommended text amendments to the following Zoning Code Sections [see Attachment 3 (in bold and strikethrough) and 4 (clean version)].

- 20-23.030 (Commercial District Land Uses and Permit Requirements) Table 2 (Allowed Land Uses and Permit Requirements for Commercial Zoning Districts)

- 20-24-030 (Industrial District Land Uses and Permit Requirements) Table 2-10 (Allowed Land Uses and Permit Requirements for Industrial Uses)
- 20-42.150 (Service Stations)
- 20-61.020 (Nonconforming Uses)
- 20-70.020 (Definitions of Specialized Terms and Phrases)

The following summarizes the proposed Zoning Code text amendments:

1. Section 20-23.030 (Commercial District Land Uses and Permit Requirements) Table 2 (Allowed Land Uses and Permit Requirements for Commercial Zoning Districts)
 - This amendment would amend the land use table to remove the reference to gas stations as an allowable use within the zoning regulations.
 - The proposed Ordinance includes a provision allowing any new gas station projects with complete applications as of the effective date of the Ordinance to continue being processed and acted on by the appropriate review authority. This is consistent with Section 20-10.050(E) which relates to the effect of code changes on projects in process.
2. 20-24-030 (Industrial District Land Uses and Permit Requirements) Table 2-10 (Allowed Land Uses and Permit Requirements for Industrial Uses)
 - This amendment would amend the land use table to remove the reference to gas stations as an allowable use within the zoning regulations.
3. 20-42.150 (Service Stations)
 - The intent of this amendment is to separate vehicle services from gas stations. This allows vehicle services to continue to be recognized and allowed within the City, while prohibiting new gas stations.
4. 20-61.020 (Nonconforming Uses) Existing gas stations and associated fossil fuel infrastructure will become a 'nonconforming use' and will be subject to the requirements of proposed Section 20-61.020.E, Modification of Gas Stations (see Draft Ordinance).
 - The intent of this new section is to allow gas station upgrades for safety/environmental reasons or as required by State or Federal law, but not to allow enhancements or modifications that would expand fossil fuel infrastructure. In the case of gas stations, upgrades not related to fossil fuel infrastructure could still be allowed with a Minor Use Permit and CEQA review.
5. 20-70.020 (Definitions of Specialized Terms and Phrases)
 - Staff proposes to add a definition for zero emission vehicles and amend the definition of gas stations to add reference to fossil fuels.

FISCAL IMPACT

This Ordinance is a City initiative with all associated staff cost previously allocated from the General Fund.

ENVIRONMENTAL IMPACT

Amending the Zoning Code to prohibit new automotive gas or fueling stations is not a project within the meaning of CEQA Guidelines Section 15378, because the amendments have no potential to result in a physical change in the environment, directly or ultimately.

This item supports the City's stated goal to reach zero GHGs across all sectors by beginning to phase out fossil fuel sales for transportation uses in the City and expanding the availability of zero emission fueling stations. Gas stations are a land use inconsistent with achieving zero GHGs. Removing gas stations as a permitted use will prevent new gas stations from being permitted and classify existing gas stations as a "nonconforming use", requiring a minor use permit with a public hearing for modifications. It will not force existing gas stations to close.

In the alternative, if the action is determined to be a project, adoption of the proposed Ordinance to prohibit new automotive gas stations and prohibit expansion of fossil fuel infrastructure for existing gas stations is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15307 and 15308 because this Ordinance constitutes action taken by a regulatory agency to protect natural resources and the environment. The proposed Ordinance would establish a limit to infrastructure that directly supports or perpetuates the use of fossil fuels for vehicles, which is the largest source of GHG emissions for the City of Santa Rosa. Consistent with the City Council's adopted Climate Emergency Resolution, this step is necessary to advance the goal of carbon neutrality by 2030.

In addition, the proposed Ordinance is exempt from CEQA pursuant to the "common sense" exemption under CEQA Guidelines section 15061(b)(3), because there is no possibility that the Ordinance might have a significant effect on the environment. This Ordinance will prohibit new gas stations and the expansion of fossil fuel infrastructure at existing gas stations, in turn, preventing future groundwater or surface water contamination, leaks from underground tanks, or improper disposal of gasoline.

The City has further determined that no exceptions to the exemptions apply and there is no reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. (CEQA Guidelines section 15300.2.)

At the time of future development proposals, additional environmental analysis may be required to analyze the potential environmental impacts associated with specific development projects and uses proposed at specific locations.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

On February 9, 2022, the Climate Action Subcommittee (CAS) directed staff to draft an Ordinance to ban new gas stations and prohibit the expansion of fossil fuel infrastructure at existing gas stations within the City.

On July 14, 2021, the Planning Commission held a public hearing and deliberated on the proposed Ordinance. The Commission received approximately 30 letters from the public and 10 people spoke during the public hearing.

The Commission made two changes to the staff recommended draft. First, staff made an additional recommendation to add an allowance for modifications due to changes in state or federal law as follows:

Section 20-61.020.E Gas Station Modifications

- 1. Gas stations and related fossil fuel infrastructure shall not be enlarged, extended, reconstructed, or moved to a different portion of the lot or parcel of land occupied by such use except as outlined below **or as required for compliance with state or federal law.***

The second change, which was heard in public comment and recommended by the Vice Chair, included deleting the following language to accommodate fueling hydrogen fuel-cell and biogas zero-emission vehicles at existing gas stations. The result of deleting this language is that existing gas stations would not be permitted to add infrastructure to support hydrogen or biogas fueled zero emission vehicles. An alternative to including this language in the current Ordinance is to establish separate land uses and permit requirements for alternative fuels.

~~*d. Modifications to Enable Zero Emission Vehicles (Hydrogen Fuel Cell and Biogas). Gas stations may be modified to include facilities for the storage, conveyance and dispensing of hydrogen or biogas to zero emission vehicles.*~~

The Planning Commission adopted a resolution of recommendation to the Council for the proposed Ordinance with the above modifications.

NOTIFICATION

On or before August 12, 2022, a public notice of the Council hearing to consider the proposed Ordinance was mailed to all property owners of existing gas stations, and to any applicants of new gas stations currently under review.

Pursuant to Zoning Code Section 20-66.020(D), Alternative to Mailing, if the number of property owners to whom notice would be mailed would exceed 1,000, the City may, as an alternative to mailing and on-site posting, provide notice by placing an advertisement

of at least one-eighth page in at least one newspaper of general circulation 10 days prior to the hearing. The proposed Zoning Code text amendments would affect properties Citywide, therefore, a one-eighth page advertisement was placed in the Press Democrat on August 12, 2022.

ATTACHMENTS

Attachment 1 – Zoning Code Text Amendments – Redline

Attachment 2 – Planning Commission Resolution No. PC-2022-016

Attachment 3 – City Council resolution No. 2020-002 (Climate Emergency Resolution)

Attachment 4 – Regional Climate Protection Authority Resolution 2021-09-13

Attachment 5 – Public Comment

Ordinance

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