

From: [Woody Hastings](#)
To: [Hopwood, Kimberly](#)
Cc: [Jenny Blaker](#)
Subject: [EXTERNAL] Comment re proposed gas station ordinance: (Fwd: Info/material regarding gasoline station ordinance)
Date: Wednesday, May 12, 2021 4:56:40 PM
Attachments: [Santa Rosa Gas Stations.png](#)
[Letter to SRCAS 4-30-21.pdf](#)
[6.A - Gas Station GMA Zoning Text Amendments Staff Report Attachments 1 - 7.pdf](#)

Hello Ms. Hopwood,

So, now I see why our comment is not in the record. I sent it too early and I didn't include you. subject line probably could have been better too.

If this could be included in the record somehow that would be much appreciated.

Thank you,

Woody Hastings, co-coordinator,
Coalition Opposing New Gas Stations

----- Forwarded message -----

From: **Woody Hastings** <woodyhastings@gmail.com>

Date: Fri, Apr 30, 2021 at 11:00 AM

Subject: Info/material regarding gasoline station ordinance

To: Chris Rogers <crogers@srcity.org>, Rogers, Natalie <NRogers@srcity.org>, Alvarez, Eddie <EAlvarez@srcity.org>

Cc: Jenny Blaker <jennyb01@wllw.net>

Good Morning Mayor Rogers and Councilmembers,

We hope you are all doing well. Please see attached letter regarding a prospective Santa Rosa ordinance addressing new gasoline stations. We have also attached a map of the ~17 gas stations currently operating in Santa Rosa. Lastly, we've attached the Petaluma ordinance adopted on February 22. Our one caveat about that is that the Petaluma ordinance included some statements about transitioning existing gas stations for other purposes. We respectfully suggest excluding anything about existing gas stations from a Santa Rosa ordinance.

We look forward to the conversation at the May 12 Climate Action Subcommittee meeting. Please let us know if you have any questions.


Thank you,

Woody Hastings and Jenny Blaker
Coali



Agenda Item #6.A

DATE: **February 22, 2021**

TO: Honorable Mayor and Members of the City Council through City Manager 

FROM: Heather Hines, Planning Manager

SUBJECT: Resolution approving a General Plan Amendment to modify Policy 4-P-10 and Introduction (first reading) of Zoning Text Amendments to the Implementing Zoning Ordinance and SmartCode to prohibit new gas station land uses and enact new policy and regulations for Zero Emission Vehicles

RECOMMENDATION

Consistent with the Planning Commission's recommendation, it is recommended that the City Council take the following actions to prohibit new gas station land uses:

- Approve a Resolution adopting a General Plan Amendment to modify General Plan Policy 4-P-10 to prohibit new fossil fuel gas station land uses and transition them to serve Zero Emission Vehicles (**Attachment 1**); and
- Introduction (first reading) of an Ordinance approving Zoning Text Amendments to the Implementing Zoning Ordinance, Ordinance 2300 N.C.S., Chapter 4 (Zone Districts and Allowable Uses), Chapter 11 (Parking and Loading Facilities, Off-Street), Chapter 22 (Non-Conforming Uses), and Chapter 28 (Glossary) to prohibit new gas station land uses (**Attachment 2**); and
- Introduction (first reading) of an Ordinance approving Zoning Text Amendment to the SmartCode, Section 3 (Building Function Standards) and Section 9 (Glossary) to prohibit new gas station land uses (**Attachment 3**).

BACKGROUND

On May 6, 2019, the City Council adopted Ordinance 2681 N.C.S. imposing a moratorium on the approval of new gas station/fueling station applications not already deemed complete as of the effective date of the ordinance (**Attachment 4**). On June 3, 2019, the City Council adopted Ordinance 2688 N.C.S. and, in doing so, extended the moratorium duration by 10 months, 15 days to April 18, 2020 (**Attachment 5**). Most recently, on March 16, 2020, the City Council adopted Ordinance 2724 N.C.S. and, in doing so, extended the moratorium for an additional one year to March 16, 2021 (**Attachment 6**).

On January 26, 2021, the Planning Commission considered the subject of this report and adopted resolutions Nos. 2021-XX, 2021-XX, and 2021-XX (Attachment 7) recommending City Council approval of a General Plan Amendment modifying General Plan Policy 4-P-10 and Zoning Text Amendments to modify the IZO and SmartCode to prohibit new gas station land uses and provide for Zero Emission Vehicles (Attachment 8). The vote was 5 to 1 with Commissioner Marzo dissenting. The Planning Commission's recommendation included a request for staff to address non-conforming provisions related to the timeframe for determining land use abandonment and its relationship to a remodel construction project, as discussed below. Legal notice for the Commission's meeting was provided in the form of an 1/8-page newspaper advertisement and expanded to include all existing gas station property owners. No public comment was provided during the Commission hearing; one written letter was received from representatives of the approved Safeway Gas Station Project (**Attachment 9**).

To date, no development permit applications for a new gas station use has been filed during the moratorium period. Pursuant to Government Code Section 65858(f), the City is precluded from further moratorium extensions. Subsequent interim ordinances affecting the same property are prohibited unless the subsequent ordinance is adopted to protect the public safety, health, and welfare from an event, occurrence or set of circumstances different from those that led to the adoption of the prior interim ordinance.

DISCUSSION

Proposed Amendments - Overview

The basic purpose of the moratorium was to enable the City Council to consider potential regulatory options regarding new gas station applications and, when doing so, address negative health, safety, or other impacts of proposed new gas station uses on, adjacent to, or nearby existing uses or neighborhoods. On May 6, 2019, and before approving the moratorium, staff provided the City Council a preliminary list of potential legislative approaches (**Attachment 4**). Although individual Council members provided brief feedback on them, no majority opinion or direction was provided as part of consideration of the item.

As described below, the Planning Commission's recommendation would eliminate the potential for new adverse effects through a prohibition on new gas stations in all zoning districts and, concurrently, enable, through new policy and regulation, existing gas stations to continue operations without future expansion(s) of elements supportive of fossil fuels (e.g., pumps, tanks) and transition to serve Zero Emission Vehicles (ZEV).

Existing Gas Stations/Fueling Stations

Staff's inventory of gas stations/fueling stations within the City of Petaluma's incorporated limits shows sixteen (16) existing stations and one (1) approved but not yet built station (**Attachment 10**). Based on this inventory, there are multiple stations located within a 5-minute drive (2.1 miles at 25 miles per hour) of every existing residence as well as all areas planned for residential development by the 2025 General Plan but not yet constructed.

Zero Emission Vehicles

California has established ambitious Zero Emission Vehicle (ZEV) infrastructure and vehicle targets for the state all of which are intended to put California on the path to host 5 million ZEVs by 2030. Given the subject of the moratorium, the ability to locally advance these targets was examined given their general consistency with Petaluma's local Resolution Declaring a Climate Emergency and the subsequent adoption of the City's Climate Emergency Framework. The result of this review was that, although the General Plan is supportive of alternatives to fossil fuels, there are no existing zoning regulations that provide standards for implementation, including specifically for the topic of ZEVs. Therefore, two types of ZEV – Battery and Hydrogen Fuel Cell – were reviewed. Detailed information on each ZEV type is included with the Planning Commission staff report at **Attachment 8**.

Zero Emission Vehicles – Battery Powered

Plug-in electric vehicle, or PEV, is an umbrella term including both 100% battery electric vehicles (BEVs) and plug-in hybrid electric vehicles (PHEVs), which run primarily on batteries but have a back-up tank of gasoline. As a percentage of new passenger car sales, PEVs continue to increase. As of July 2019, well over 600,000 PEVs have been sold in California. With their increasing popularity sales, the need for ZEV infrastructure is increasingly important.

PEV charging equipment and related site improvements are, for zoning purposes, generally treated as accessory uses not requiring discretionary review (e.g., Site Plan and Architectural Review). AB 1236 (Chiu, 2015), Electric Vehicle Charging Station (EVCS) requires that permit applications be approved through a building permit or similar non-discretionary permit focusing on public health and safety. Presently, Petaluma's zoning regulations do not directly address the requirements of AB 1236.

Zero Emission Vehicles – Hydrogen Fuel Cell Powered

Hydrogen is a carbon-free, non-toxic fuel that is domestically produced from local resources. Hydrogen is a recognized fuel for transportation and has been classified as such by the State of California. The application of appropriate codes and standards make hydrogen fuel as safe as gasoline or other commonly used fuels, such as compressed natural gas. Retail and fleet hydrogen stations are designed to be operated safely by new hydrogen users with minimal training. Retail hydrogen stations look and function like retail gas stations and, in fact, most existing retail hydrogen is integrated into existing gas stations.

California has set hydrogen infrastructure targets with the goal of developing and growing hydrogen Fuel Cell Electric Vehicle (FCEV) and hydrogen fueling market scale. Presently, the California Air Resources Board (CARB) estimates zero FCEVs within Sonoma County but projects, starting in 2022 and ending in 2026, an increase of FCEVs to 1.18% and then to 2.15% of the total, overall vehicle fleet. The end of the gas station moratorium presents a timely opportunity to implement General Plan Policy 4-P-8 supporting the development of alternative fuel stations through new zoning regulations that enable a transition to retail hydrogen.

General Plan Amendment

As the City's constitution for development, the General Plan is the heart of the planning process. It is intended to be a living document, and as such, may be subject to site-specific and comprehensive amendments. Amendments may also be needed from time to time to conform to State or federal law passed since adoption, as well as to eliminate or modify policies that may become obsolete or unrealistic due to changed conditions (such as completion of a task or project, development on a site, or adoption of an ordinance or plan).

Within Petaluma, there are multiple Gas Stations located within a 5-minute drive of every existing residence as well as all areas planned for residential development by the 2025 General Plan but not yet constructed. Therefore, there are adequate Gas Stations to serve existing and future internal combustion vehicles to the extent as they continue to exist. With this conclusion reached and given the legislative directive of City Council Resolution No. 2019-055 (Resolution Declaring a Climate Emergency) and recently adopted Climate Emergency Framework, the Planning Commission recommends General Plan Policy 4-P-10 be revised, as follows (~~striketrough~~ = deletion; underline = addition):

~~“Require electric vehicle charging and alternative fuel facilities at all new and remodeled gas stations. Prohibit new fossil fuel gas stations and transition existing stations to serve Zero Emission Vehicles.”~~

Government Code Section 65358 allows General Plan Amendments when it is deemed in the public interest to do so. Transportation remains the largest contributor of greenhouse gas and criteria pollutant emissions in California. Combating this to improve environmental and human health requires a massive transition from internal combustion engines to ZEVs. An inventory of current and approved Gas Stations shows they are, based on proximity, adequate to serve existing and planned residents dependent upon internal combustion engines. Prohibiting new Gas Stations serves the public interest by preventing new sources of pollution that adversely impact environmental and human health.

While the prohibition established by the revised policy is plain, proposed companion regulations described below underscore it (i.e., land uses/permit tables) and provide specific standards on how Gas Stations may transition to serve Zero Emission Vehicles.

Implementing Zoning Ordinance and SmartCode Amendments

The Planning Commission recommendation is to amend the IZO and SmartCode to prohibit new Gas Stations in all zones (i.e., citywide). Specifically, in IZO Table 4.1 (Allowed Land Uses and Permit Requirements), the Gas Station use will be maintained where it occurs but be denoted with “—” (Use Not Allowed) and, thus, render those existing and already approved but not built as non-conforming uses. The same is accomplished at SmartCode Table 3.1 (Allowed Building Functions and Permit Requirements). If this prohibition is codified, the balance of the Commission's recommended regulation changes can be grouped into two categories: (1) regulations needed to provide for and manage non-conforming Gas Stations; and (2) new regulations to promote ZEVs.

Regulations for Non-Conforming Fossil Fuel Gas Stations

Clear standards are necessary to describe the manner which existing Gas Stations may be modified

in the future and, when not operating, the terms under which they must cease operations. A new Implementing Zoning Ordinance Section 22.035 is recommended with the following key elements:

- Fossil fuel sales expansion prohibited (explicit emphasis on static, physical elements such as pumps/tanks without monitoring of sales/fuel volumes).
- Permissible modifications include those to:
 - Improve soil, groundwater, stormwater quality;
 - Improve traffic safety;
 - Install ZEV battery charging station(s)
 - Install ZEV hydrogen fuel cell station(s); and
 - Facilitate other commercial uses already permitted in respective zoning district (e.g., retail sales, personal services, café/coffee shop).
- Establishment of 12-month discontinuance standard applicable to the land use activity. Property ownership and/or tenant changes may not be restricted under State planning and zoning law.

The Planning Commission recommendation includes a request for staff to address non-conforming provisions related to the timeframe for land use abandonment (i.e., 12-month) and the relationship to a remodel construction project. It is possible but not certain that a remodel project could extend past 12 months. Therefore, staff recommends revised language allowing for the Zoning Administrator to extend the timeframe when presented with documentation demonstrating construction has been pursued diligently and timely.

Regulations for Zero Emission Vehicles

New regulations are recommended to facilitate the transition of Gas Stations to serve Zero Emission Vehicles (ZEV) – battery and hydrogen fuel cell. At the same time, these changes would serve to promote battery powered ZEVs, more generally and citywide, by bringing existing regulations into compliance with AB 1236. The Planning Commission recommended Zoning Text Amendments, are summarized as follows:

- Include new Zero Emission Vehicles (Battery Charging Station) and Zero Emission Vehicles (Hydrogen Fuel Cell Station) land uses.
 - Allow the Zero Emission Vehicles (Battery Charging Station) use as an allowed accessory use in all zones (i.e., citywide).
 - Allow the Zero Emission Vehicles (Hydrogen Fuel Cell Station) use at existing gas stations only as both an accessory and primary use. The accessory use is to enable incremental changes to Gas Stations; the primary use is to enable the full transition to Zero Emission Vehicles service.
- Include definitions for the following new terms:
 - Zero Emission Vehicles (Battery Charging Station) land use
 - Zero Emission Vehicles (Hydrogen Fuel Cell Station) land use
 - Electric Vehicle Supply Equipment (RE: AB 1236)
 - Zero Emission Vehicle
- Revise the IZO and SmartCode definition for Gas Station to specifically referencing the sales of fossil fuels.

The proposed amendments are subject to the standard of review at Implementing Zoning Ordinance Chapter 25 (Amendments). To approve the amendments, Implementing Ordinance §25.070 requires the following findings (Planning Commission findings included in italics).

1. That the proposed amendment is in general conformity with the Petaluma General Plan and any applicable plans.

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.

2. That the public necessity, convenience, and general welfare require or clearly permit the adoption of the proposed amendment.

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.

Environmental Analysis

In accordance with the California Environmental Quality Act (CEQA), the proposed amendments are exempt under the Section 15378 (Not a Project), Section 15061(b)(3) (General Rule), Section 15301 (Class 1: Existing Facilities), Section 15303 (Class 3: Small Structures), Section 15304 (Class 4: Minor Alterations to Land), Section 15308 (Class 8: Actions to Protect the Environment).

A detailed explanation is provided in the Planning Commission staff report (**Attachment 8**).

PUBLIC OUTREACH

Public notice was published in the Argus Courier on February 12, 2021 in accordance with Implementing Zoning Ordinance Section 25.050 and Government Code Section 65091. Additionally, and in conformance with Government Code Section 65353(b), public notice was provided to each property owner with an existing or approved Gas Station use. This item has also been posted on the City’s website in accordance with the requirements of the Brown Act and the City’s established practice.

COUNCIL GOAL ALIGNMENT

The project is in alignment with the following City Council goals for 2019-2021:

Workplan Goal (Our Environmental Legacy) Preserve and protect Petaluma’s environment for future generations and become a municipal leader in sustainability by protecting our river and open space; reducing and drawing down greenhouse gas emissions; and encouraging sustainable development.

The prohibition on new fossil fuel gas stations will directly limit the increase in the greenhouse gas emissions from the largest known source – transportation. Also, the establishment of regulations to facilitate the fueling of Zero Emission Vehicles ensures that existing and future transportation needs are provided for in a manner conducive to the current 2030 goal of carbon neutrality.

Workplan Item #54 Consider requiring electric vehicle charging systems and solar energy in new or substantially upgraded housing and commercial structures.

The recommended zoning text amendments will demonstrate explicit compliance with AB 1236 by making it clear no discretionary permit is required for charging systems. This regulatory clarity enables the quicker installation of charging system and, in turn, use of Zero Emission Vehicles.

CLIMATE ACTION

On May 6, 2019, the City Council adopted Resolution No. 2019-055 N.C.S. declaring a climate emergency and elevating climate issues to the highest priority in its goal setting. Specific to the new gas station moratorium, the declaration states to give, “precedence to climate mitigation and adaptation when evaluating policies.” On January 11, 2021, the City Council adopted a Climate Emergency Framework including, amongst other things, a goal for Petaluma to achieve carbon neutrality by 2030. The recommended actions put in place substantive policy and regulations that: (a) prevent further expansion of a land use (i.e., fossil fuel gas station) contributing to the primary source of greenhouse gas emissions (i.e., transportation); and (b) support the installation and adoption of proven alternative fuel sources for Zero Emission Vehicles.

FINANCIAL IMPACTS

These amendments are city initiative with all staff costs charged under existing contract terms for planning services. There is no cost recovery account associated with the processing of these amendments.

ATTACHMENTS

Attachment 1:	Draft Resolution Amending General Plan Policy 4-P-10
Attachment 2:	Draft Ordinance Amending the Implementing Zoning Ordinance
Attachment 3:	Draft Ordinance Amending the SmartCode
Attachment 4:	Ordinance 2681 NCS and Staff Report
Attachment 5:	Ordinance 2688 NCS and Staff Report
Attachment 6:	Ordinance 2724 NCS and Staff Report
Attachment 7:	Planning Commission Resolutions
Attachment 8:	Planning Commission Staff Report
Attachment 9:	Comment letter from Safeway Representatives – 1.26.21
Attachment 10:	Existing and Approved Gas Stations

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PETALUMA
APPROVING AN AMENDMENT TO POLICY 4-P-10 OF THE CITY OF PETALUMA
GENERAL PLAN 2025**

WHEREAS, Government Code Section 65358 allows General Plan amendments when it is deemed in the public interest to do so; and

WHEREAS, the City of Petaluma has initiated a General Plan Amendment in response to the Moratorium on Approval of Applications for New Gas Station Uses (“Moratorium”) enacted under Ordinance Nos. 2681, 2688 and 2724 and Government Code Section 65858; and

WHEREAS, with regard to Government Code Section 65858(d), this resolution would enact a measure to alleviate the condition which led to the adoption of the Moratorium; and

WHEREAS, transportation remains the largest contributor of greenhouse gas and criteria pollutant emissions in California, combating greenhouse gas emissions to improve environmental and human health requires a massive transition from internal combustion engines to Zero Emission Vehicles; and

WHEREAS, an inventory of current and approved gas stations/fueling stations within the City of Petaluma’s incorporated limits shows sixteen (16) existing stations and one (1) approved but not yet built station, and based on this inventory, there are multiple stations located within a 5-minute drive (2.1 miles at 25 miles per hour) of every existing Petaluma residence, as well as all areas planned for residential development by the 2025 General Plan but that are not yet constructed, and accordingly, there are adequate gas stations/fueling stations in Petaluma to serve existing and planned residents dependent upon internal combustion engines; and

WHEREAS, prohibiting new gas stations serves the public interest by preventing new sources of pollution that adversely impact environmental and human health; and

WHEREAS, on January 26, 2021 the Petaluma Planning Commission held a duly noticed public hearing to consider a General Plan amendment that would prohibit new or expanded gas station uses in the City, and, prior to acting to recommend the Amendment for adoption to the City Council, the Planning Commission reviewed and considered the environmental analysis prepared for regarding the proposed amendment in accordance with the California Environmental Quality Act (“CEQA”); and

WHEREAS, following the January 26, 2021 public hearing, the Planning Commission adopted a recommendation that the City Council enact a General Plan amendment (“Amendment”) would revise Petaluma General Plan 2025 Policy 4-P-10, as follows:

~~Require electric vehicle charging and alternative fuel facilities at all new and remodeled gas stations.~~ Prohibit new fossil fuel gas stations and transition existing stations to serve Zero Emission Vehicles; and

WHEREAS, on February 12, 2021, public notice of the February 22, 2021 City Council meeting to consider the Amendment as recommended by the Planning Commission 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 February 22, 2021 the City Council held a duly noticed public hearing to consider the Amendment, at which time they considered the Planning Commission's recommendation, and all interested parties had the opportunity to be heard; and

WHEREAS, on February 22, 2021, the City Council reviewed the environmental analysis prepared concerning the Amendment in accordance with the California Environmental Quality Act (CEQA), and received and considered all written and oral public comments on environmental effects of the Amendment which were submitted up to and at the time of the public hearing; and

WHEREAS, in accordance with CEQA, the proposed Amendment is not a project subject to CEQA review in accordance with Sections 15378 and 1501(b)(3) of the CEQA Guidelines because it has no potential for resulting in physical change in the environment, directly or ultimately, and it can be seen with certainty that there is no possibility that the proposed Amendment will have a significant effect on the environment in that the Amendment prevents environmental impacts resulting from new gas station uses; and

WHEREAS, for purposes of Section 65850.7 of the Government Code, enacted pursuant to AB-1236 in October, 2015, applications to install electric vehicle charging stations are generally ministerial projects exempt from CEQA review in accordance with Section 21080 of the Public Resources Code, because AB-1236 requires cities to administratively approve applications to install electric vehicle charging stations through issuance of a building permit or similar non-discretionary permit, absent substantial evidence in the record that a proposed installation would have a specific, adverse impact upon public health or safety, and that there is no feasible method to satisfactorily mitigate or avoid the adverse impact; and

WHEREAS, in the alternative, if the proposed Amendment constitutes a CEQA project, the Amendment is nonetheless exempt from CEQA review in accordance with Section 15301 of the CEQA Guidelines because the Amendment will permit minor alteration of existing private structures and mechanical equipment at existing and approved gas and fueling stations to accommodate fueling of zero emission vehicles and involve negligible or no expansion of existing uses; and

WHEREAS, if the proposed Amendment constitutes a CEQA project, the Amendment is also exempt from CEQA review in accordance with Section 15303 of the CEQA Guidelines because the Amendment will permit construction and location of limited numbers of new, small facilities or structures, the installation of small new equipment and facilities in small structures, and the conversion of existing small structures to accommodate fueling of zero emission vehicles where only minor modifications are made in the exterior of the structure; and

WHEREAS, if the proposed Amendment constitutes a CEQA project, the Amendment is also exempt from CEQA review in accordance with Section 15304 because the Amendment will permit minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees, including minor trenching and backfilling where the surface is restored to accommodate fueling of zero emission vehicles; and

WHEREAS, if the proposed Amendment constitutes a CEQA project, the Amendment is also exempt from CEQA review in accordance with Sections 15307 and 15308 because the Amendment constitutes action taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource and protection of the environment where the regulatory process involves procedures for protection of the environment by accommodating fueling of zero emission vehicles;

NOW THEREFORE BE IT RESOLVED by the City Council 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 City Council.
2. The proposed Amendment is not a project subject to CEQA review in accordance with Sections 15378 and 1501(b)(3) of the CEQA Guidelines because it has no potential for resulting in physical change in the environment, directly or ultimately, and it can be seen with certainty that there is no possibility that the proposed Amendment will have a significant effect on the environment in that the Amendment prevents environmental impacts resulting from new gas station uses.
3. For purposes of Section 65850.7 of the Government Code, enacted pursuant to AB-1236 in October, 2015, applications to install electric vehicle charging stations are generally ministerial projects exempt from CEQA review in accordance with Section 21080 of the Public Resources Code, because AB-1236 requires cities to administratively approve applications to install electric vehicle charging stations through issuance of a building permit or similar non-discretionary permit, absent substantial evidence in the record that a proposed installation would have a specific, adverse impact upon public health or safety, and that there is no feasible method to satisfactorily mitigate or avoid the adverse impact.
4. If the proposed Amendment constitutes a CEQA project, the Amendment is nonetheless exempt from CEQA review in accordance with Section 15301 of the CEQA Guidelines because the Amendment will permit minor alteration of existing private structures and mechanical equipment at existing and approved gas and fueling stations to accommodate fueling of zero emission vehicles and involve negligible or no expansion of existing uses.
5. If the proposed Amendment constitutes a CEQA project, the Amendment is also exempt from CEQA review in accordance with Section 15303 of the CEQA Guidelines because the Amendment will permit construction and location of limited numbers of new, small facilities or structures, the installation of small new equipment and facilities in small structures, and the conversion of existing small structures to accommodate fueling of zero emission vehicles where only minor modifications are made in the exterior of the structure.
6. If the proposed Amendment constitutes a CEQA project, the Amendment is also exempt from CEQA review in accordance with Section 15304 because the Amendment will permit minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees, including

minor trenching and backfilling where the surface is restored to accommodate fueling of zero emission vehicles.

7. If the proposed Amendment constitutes a CEQA project, the Amendment is also exempt from CEQA review in accordance with Sections 15307 and 15308 because the Amendment constitutes action taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource and protection of the environment where the regulatory process involves procedures for protection of the environment by accommodating fueling of zero emission vehicles.
8. The City of Petaluma General Plan 2025 is hereby Amended to revise Policy 4-P-10 to read as follows:

Prohibit new fossil fuel gas stations and transition existing stations to serve Zero Emission Vehicles.
9. The City's Planning Manager and City Clerk are hereby authorized and directed to incorporate the amendment to Policy 4-P-10 of the General Plan 2025 into the General Plan document and to publish the amended General Plan on the City website upon this resolution taking effect.
10. If any section, subsection, sentence, clause, phrase or work of this resolution is for any reason held to be unconstitutional, unlawful, or otherwise invalid by a court of competent jurisdiction or preempted by State legislation, such decision or legislation shall not affect the validity of the remaining portions of this resolution. The City Council of the City of Petaluma hereby declares that it would have passed and adopted this resolution and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional, unlawful, or otherwise invalid.
11. As a legislative act, this resolution shall become effective 30 days after the date of its adoption by the Petaluma City Council, in accordance with the ruling in *Midway Orchards v County of Butte* (1990) 220 CA3d 765, 781.

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PETALUMA
AMENDING THE TEXT OF THE IMPLEMENTING ZONING ORDINANCE,
ORDINANCE 2300 N.C.S., TO MODIFY CHAPTER 4 (ZONE DISTRICTS AND
ALLOWABLE USES), CHAPTER 11 (PARKING AND LOADING FACILITIES,
OFF-STREET), CHAPTER 22 (NON-CONFORMING USES), AND CHAPTER
28 (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 ordinance is a measure to alleviate the condition which led to the adoption of the moratorium; and

WHEREAS, Section 25.010 of the City of Petaluma Implementing Zoning Ordinance, Ordinance No. 2300 N.C.S. (IZO) 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 IZO unless the Planning Commission and City Council find the amendments to be in conformity with the City's General Plan and consistent with the public necessity, convenience, and general welfare in accordance with Section 25.050(B) of the IZO; and

WHEREAS, in accordance with Sections 25.010 and 25.050(B) of the IZO, , the proposed amendments to the IZO as in Exhibit 1 to this ordinance are in general conformity with the City's General Plan in accordance with the following:

- As amended, General Plan Policy 4-P-10 states, "Prohibit new fossil fuel gas stations and transition existing stations to serve Zero Emission Vehicles," and the IZO amendments pursuant to this ordinance prohibiting new fossil fuel gas stations and establishing non-conforming use regulations directly implements this policy ;
- General Plan Policy 4-P-8 states, "Support, where feasible, the development of alternative fuel stations," and the IZO amendments pursuant to this ordinance 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; and

WHEREAS, in accordance with Section 25.050(B) of the IZO, the IZO amendments pursuant to this ordinance are consistent with the public necessity, convenience, and welfare, in accordance with the following:

- Pursuant to Resolution No. 2019-055 Declaring a Climate Emergency the City Council has, among other things, directed giving "precedence to climate mitigation and adaptation when evaluating policies" and committed to 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 adopted Resolution No. 2021-007 N.C.S. adopting a Climate Emergency Framework which underscores the need for urgent action and accelerated the City's carbon neutrality goal to 2030; The amendments to the IZO pursuant to this ordinance prohibiting of fossil fuel gas stations and regulations regarding potential future changes to such uses constitute a public necessity and promote the general welfare by preventing the future expansion of a fuel type resulting in greenhouse emissions from the transportation sector) and, in doing so, support the Council's goal of carbon neutrality.;
- The prohibition of fossil fuel gas stations prevents future sources of environmental pollution through, for example, the transmission of fossil fuels into the soil, groundwater and surface waters, and prevents future sources of air pollution harmful to public health;
- The provisions of this ordinance facilitating the use of Zero Emission Vehicles support the use of transportation technologies without adverse environmental effects from greenhouse gas emissions, and soil, water and air pollution.

WHEREAS, the text amendments contained in Exhibit 1 to this ordinance would modify the City's IZO by codifying a prohibition on new, not already approved gas station uses, enact new non-conformity regulations specific to existing and approved Gas Station uses, and enact new regulations for the fueling of Zero Emission Vehicles; and

WHEREAS, on January 26, 2021 the Planning Commission held a duly noticed public hearing in accordance with Section 25.050 of the IZO to consider the IZO amendments and reviewed the environmental analysis prepared for the project in accordance with the California Environmental Quality Act (CEQA); and

WHEREAS, on January 26, 2021 and after all interested parties had the opportunity to be heard, the Planning Commission adopted Resolution No. 2021-02 recommending approval of the amendments without modification, in accordance with IZO Section 25.050; and

WHEREAS, on February 12, 2021, public notice of the February 22, 2021 City Council meeting to consider the 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 February 22, 2021, the City Council reviewed the environmental analysis prepared for the project in accordance with the CEQA, and received and considered all written and oral public comments on environmental effects of the Amendment which were submitted up to and at the time of the public hearing;

WHEREAS, in accordance with CEQA, this ordinance is not a project subject to CEQA review in accordance with Sections 15378 and 1501(b)(3) of the CEQA Guidelines because it

has no potential for resulting in physical change in the environment, directly or ultimately, and it can be seen with certainty that there is no possibility that this ordinance will have a significant effect on the environment in that this ordinance prevents environmental impacts resulting from new gas station uses; and

WHEREAS, for purposes of Section 65850.7 of the Government Code, enacted pursuant to AB-1236 in October, 2015, applications to install electric vehicle charging stations are generally ministerial projects exempt from CEQA review in accordance with Section 21080 of the Public Resources Code, because AB-1236 requires cities to administratively approve applications to install electric vehicle charging stations through issuance of a building permit or similar non-discretionary permit, absent substantial evidence in the record that a proposed installation would have a specific, adverse impact upon public health or safety, and that there is no feasible method to satisfactorily mitigate or avoid the adverse impact; and

WHEREAS, in the alternative, if this ordinance constitutes a CEQA project, it is nonetheless exempt from CEQA review in accordance with Section 15301 of the CEQA Guidelines because this ordinance will permit minor alteration of existing private structures and mechanical equipment at existing and approved gas and fueling stations to accommodate fueling of zero emission vehicles and involve negligible or no expansion of existing uses; and

WHEREAS, if this ordinance constitutes a CEQA project, it is also exempt from CEQA review in accordance with Section 15303 of the CEQA Guidelines because this ordinance will permit construction and location of limited numbers of new, small facilities or structures, the installation of small new equipment and facilities in small structures, and the conversion of existing small structures to accommodate fueling of zero emission vehicles where only minor modifications are made in the exterior of the structure; and

WHEREAS, if this ordinance constitutes a CEQA project, it is also exempt from CEQA review in accordance with Section 15304 because this ordinance will permit minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees, including minor trenching and backfilling where the surface is restored to accommodate fueling of zero emission vehicles; and

WHEREAS, if this ordinance constitutes a CEQA project, it is also exempt from CEQA review in accordance with Sections 15307 and 15308 this ordinance constitutes action taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource and protection of the environment where the regulatory process involves procedures for protection of the environment by accommodating fueling of zero emission vehicles; and

NOW THEREFORE BE IT ORDAINED by the Council of the City of Petaluma as follows:

Section 1. Recitals Made Findings. The above recitals are hereby declared to be true and correct and are incorporated into this ordinance as findings of the City Council.

Section 2. California Environmental Quality Act. This ordinance complies with the requirements of the California Environmental Quality Act (CEQA) in accordance with the

following:

A. Actions Relating to Gas Station Prohibition

This ordinance prohibiting new, not-already-approved gas station uses is not a project within the meaning of CEQA Guidelines Section 15378, because this ordinance has no potential for resulting in physical change in the environment, directly or ultimately. This ordinance prevents changes to the environment related to new, not-already-approved gas station use applications. Moreover, this ordinance is, 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. This ordinance will prohibit new, not-already-approved gas stations uses and, in turn, prevent physical changes to the environment, and therefore it can be seen with certainty that there is no possibility that this ordinance will have a significant effect on the environment.

B. Actions Relating to New, Non-Conformity Regulations for Gas Stations

This ordinance applies to sixteen already-developed properties and one new gas station use to be developed and which has already separately demonstrated compliance with CEQA. This ordinance prohibits the enlargement, extension, reconstruction or relocation of gas station uses and defines 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 new non-conformity regulations in this ordinance for gas station uses and that prohibit enlargement, extension, reconstruction or relocation of gas station uses are categorically exempt from CEQA under CEQA Guidelines Section 15301 which 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 new non-conformity regulations in this ordinance for gas stations uses that allow modifications to improve soil, groundwater and stormwater quality and traffic safety, are categorically exempt from CEQA in accordance with the following:

- CEQA Guidelines Section 15301 which 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 which 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 which 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 which 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.

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

The provisions of this ordinance pertaining to battery charging standards for Zero Emission Vehicles are not a project within the meaning of CEQA Guidelines Section 15378, because, pursuant to Government Code Section 65850.7, 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, the provisions of this ordinance pertaining to standards for ZEV charging standards are not a “project” within the meaning of CEQA.

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

This ordinance 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 separately demonstrated compliance with CEQA. Presently, there are no retail hydrogen stations in the City of Petaluma.

Using 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, and in particular, Pages 13 to 18, and Pages 49 to 53 of the Guidebook, 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.

Therefore, the provisions of this ordinance pertaining to hydrogen fuel cell station standards for Zero Emission Vehicles are categorically exempt from CEQA in accordance with the following:

- CEQA Guidelines Section 15301, which 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, which 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, which 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).

Section 3. Zoning Text Amendments.

The amendments to Chapter 4 (Zone Districts and Allowable Uses), Chapter 11 (Parking and Loading Facilities, Off-Street), Chapter 22 (Non-Conforming Uses), and Chapter 28 (Glossary) of the City of Petaluma Implementing Zoning Ordinance, Ordinance No. 2300 N.C.S attached to and made a part of this ordinance as Exhibit 1, are hereby adopted in accordance the findings pursuant to Sections 25.010 and 25.050 of the City's Implementing Zoning Ordinance that are contained in this ordinance.

Section 4. Severability. If any provision of the ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or

more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section 5. Effective Date. This ordinance shall become effective thirty (30) days after the date of its adoption by the Petaluma City Council.

Section 6. Publication. The City Clerk is hereby directed to publish or post this Ordinance or a synopsis for the period and in the manner provided by the City Charter and any other applicable law.

Chapter 4

Zone Districts and Allowable Land Uses

4.010 - Purpose

This Chapter lists the land uses that may be allowed by Section 2.020 (Zoning Map and Zones), determines the type of planning permit approval required for each use, and provides basic standards for site layout and building size.

4.020 – Purpose of Established Zones

- A. **OSP (Open Space and Park) zone.** The OSP zone is applied to undeveloped areas and sites that are appropriate for the preservation of natural resources, outdoor recreation, to be maintained in open space for the protection of public health and safety, and existing City public parks. City parks located in this zone may include buildings, structures, and uses that serve the community (e.g. Luchessi Community Center, Novak Center, Cavanaugh Center, Library, Water Resources building, etc.). The OSP zone is consistent with and implements the Urban Separator, Open Space, and City Park land use classifications of the General Plan.
- B. **AG (Agriculture) zone.** The AG zone is applied to areas that are actively and primarily used for grazing, or the production for sale of food and fiber. Areas subject to seasonal or historic flooding and identified by FEMA as areas warranting special consideration are included. The AG zone is consistent with and implements the Agriculture land use classification of the General Plan.
- C. **RR (Rural Residential) zone.** The RR zone is applied to areas of single dwelling development with a minimum lot size of 2 acres. This zone would be applied primarily to areas at the western perimeter of the City along the Urban Growth Boundary that are developed with single dwellings at densities ranging from 0.1 to 0.6 units per acre. This zone is intended to maintain a rural character and provide a transition to unincorporated rural and agricultural lands. The RR zone is consistent with and implements the Rural Residential land use classification of the General Plan.
- D. **R1 (Residential 1) zone.** The R1 zone is applied to areas of single dwelling development, primarily the western hillsides, with densities ranging from 0.6 to 2.5 units per acre, and larger lots required for sloped sites. The R1 zone is consistent with and implements the Very Low Density Residential land use classification of the General Plan.
- E. **R2 (Residential 2) zone.** The R2 zone is applied to areas previously developed and intended for detached single dwellings on individual lots, at densities ranging from 2.6 to 8.0 units per acre. The R2 zone is consistent with and implements the Low Density Residential land use classification of the General Plan.
- F. **R3 (Residential 3) zone.** The R3 zone is applied to the older neighborhoods surrounding the downtown that are characterized by a variety of housing types and densities in a walkable context. Densities range from 6.1 to 12.0 units per acre. The R3 zone is consistent with and implements the Diverse Low Density Residential land use classification of the General Plan.
- G. **R4 (Residential 4) zone.** The R4 zone is applied to areas intended for a variety of housing types ranging from single dwellings to multi-unit structures. Densities range from 8.1 to 18.0 units per acre. The R4 zone is consistent with and implements the Medium Density Residential land use classifications of the General Plan.
- H. **R5 (Residential 5) zone.** The R5 zone is applied to areas intended for the most urban housing types at densities ranging from 18.1 to 30.0 units per acre, but where existing lower density housing is considered conforming. The R5 zone is consistent with and implements the High Density Residential land use classification of the General Plan.
- I. **MH (Mobile Home) zone.** The MH zone is applied to existing mobile home parks throughout the City. The MH zone is consistent with the Mobile Home land use classification of the General Plan.
- J. **C1 (Commercial 1) zone.** The C1 zone is applied to existing smaller-scale shopping centers with off-street parking, or clusters of street-front stores that serve the surrounding neighborhood. The C1 zone is consistent with and implements the Neighborhood Commercial land use classification of the General Plan, which establishes a maximum floor area ratio of 0.8 for the classification.

- K. **C2 (Commercial 2) zone.** The C2 zone is applied to existing community and regional shopping center sites. The C2 district is consistent with and implements the Community Commercial land use classification of the General Plan, which establishes a maximum floor area ratio of 1.2 for the classification.
- L. **MU1A, MU1B, MU1C (Mixed Use 1) zone.** The MU1 zone is applied to areas intended for pedestrian-oriented, mixed-use development with ground-floor retail or office uses adjacent to the Downtown Core, and in other areas of the city where existing auto-oriented commercial areas are intended for improvement into pedestrian-oriented mixed use development. The MU1 zone is consistent with and implements the Mixed Use land use classification of the General Plan, which establishes a maximum floor area ratio of 2.5 for both residential and non-residential uses within the classification, and a maximum density of 30 units per acre for residential.

Note:

- Mixed Use 1A zone. This zone is applied to parcels located along corridors such as East Washington Street, Petaluma Boulevard North, Bodega Avenue and Lakeville Street. The parcels in these zones vary in size and are typically located adjacent to residential zones.
 - Mixed Use 1B zone. This zone is applied to larger parcels located primarily along major arterial roadways. The larger parcel size should allow for a mix of uses on the site.
 - Mixed Use 1C zone. This zone is applied to smaller parcels located in West Petaluma. Most of these parcels are located in residential areas and the intensity of the uses permitted in this zone is limited.
- M. **MU2 (Mixed Use 2) zone.** The MU2 zone is applied to the Petaluma Downtown and adjacent areas that are intended to evolve into the same physical form and character of development as that in the historic downtown area. The MU2 zone is consistent with and implements the Mixed Use land use classification of the General Plan, which establishes a maximum floor area ratio of 2.5 for both residential and non-residential uses within the classification, and a maximum density of 30 units per acre for residential.
- N. **BP (Business Park) zone.** The BP zone is intended for business and professional offices, technology park clusters, research and development, light industrial operations, and visitor service establishments, with retail as a secondary use only. The BP zone is consistent with and implements the Business Park land use classification of the General Plan, which establishes a maximum floor area ratio of 1.5 for the classification, although an FAR of 3.0 is allowed if all required parking is structured.
- O. **I (Industrial) zone.** The I zone is applied to areas that are appropriate for a full range of manufacturing, industrial processing, general service, warehousing, storage and distribution operations. Small restaurants and service commercial are allowed as ancillary uses. The I zone is consistent with and implements the Industrial land use classification of the General Plan, which establishes a maximum floor area ratio of 0.6 for the classification.
- P. **CF (Civic Facility) district.** The CF zone is applied to sites for proposed public utility facilities, government offices, community service uses and lands, and significant sites owned and operated by the elementary, secondary, or community college districts, as well as private and/or parochial schools. The zone implements and is consistent with the Public/Semi-Public, and Education classifications of the General Plan.
- Q. **FW (Floodway) zone.** The FW zone is applied to sites within the boundaries of the “Areas of Special Flood Hazard” and identified as “Floodway” areas. See Chapter 6 for the requirements of the Floodway zone.
- R. **Planned Unit Districts and Planned Community Districts.** The historic use of P.U.D.s and P.C.D.s for the development of residential, industrial, and commercial properties in various zones in which the underlying P.U.D. and/or P.C.D. uses are permitted is hereby recognized. Non-residential P.C.D.s in existence as of May 19, 2008, and residential P.U.D.s are recognized to be consistent with the intent of these regulations by the establishment of their individual and respective P.U.D. and P.C.D. standards. Development and redevelopment of lands within P.U.D.s and P.C.D.s, including modification of P.C.D.s and/or addition of land to P.C.D.s, shall be in accordance with the individual adopted standards for said P.U.D. or P.C.D. and other applicable zoning standards not otherwise modified by the P.U.D. or P.C.D. adopted standards. The creation and modification of P.U.D.s, and the modification and/or addition of land to P.C.D.s existing as of May 19, 2008, is regulated by Chapter 19 herein. The creation of

wholly new P.C.D.s, or the addition of land to a P.C.D. where the expansion area is not immediately adjacent, is not permitted by this Ordinance.

4.030 - Allowable Land Uses and Permit Requirements

- A. **General permit requirements.** Tables 4.1 through 4.5 identify the land uses allowed by this Zoning Ordinance in each zone, and the planning permit required to establish each use, in compliance with Section 3.030 (Allowable Land Uses and Planning Permit Requirements).
- B. **Requirements for certain specific land uses.** Where the last column in Tables 4.1 through 4.5 ("Specific Use Regulations") includes a section number, the referenced section may affect whether the use requires a Conditional Use Permit, and/or may establish other requirements and standards applicable to the use.

4.040 - Site Planning and Building Standards

Subdivisions, new land uses and structures, and alterations to existing land uses and structures, shall be designed, constructed, and established in compliance with the requirements in Tables 4.6 through 4.13, in addition to the applicable standards (e.g., landscaping, parking and loading, etc.) in Chapters 11, 13, 14.

4.050 – Dedication Required and Exceptions

- A. **Dedication required.** The developer shall dedicate any necessary right-of-way to the City to the alignment established by plan lines established in Chapter 13.20 of the Petaluma Municipal Code, or to an alignment consistent with applicable City right-of-way standards across the entire frontage or frontages and shall construct public improvements (including, but not limited to curbs, gutters, sidewalk, half street, water mains, storm drains and sanitary sewers) across such frontage to current city standards, whenever a development project is located, or which is proposed to be located:
 - 1. Upon one or more streets or roads where future right-of-way plan lines have been established pursuant to Chapter 13.20 of the Petaluma Municipal Code, or
 - 2. Upon one or more streets or roads which are not improved with existing curbs, gutters, sidewalks and other contiguous street improvements across the frontage or frontages of the property upon which said development project is located, or
 - 3. Upon a parcel of real property which has frontage on a dedicated street right-of-way where no such improvements have been constructed contiguous to the parcel upon which the development project is located. Nothing in this section shall be construed to prevent the City from requiring construction of frontage improvements pursuant to any other ordinance or regulation of the city.
- B. **Exceptions. Section 4.050(A)** shall not apply when any one or more of the following conditions exist:
 - 1. Where a condition of any subdivision or parcel map requires dedication and construction or public improvements as a condition of approval of the same development project.
 - 2. Where the value of the construction is less than \$10,000. This valuation may be raised by resolution of the City Council to compensate for inflation and increased building costs.
 - 3. Where the proposed development project is clearly accessory as determined by standards in the Zoning Ordinance, to an existing use upon the property.
 - 4. Where the development project consists primarily of the rehabilitation of an existing structure, when no change of use will occur.
 - 5. Where the developer establishes that the required dedication would render the real property upon which

the development project is to be constructed substantially valueless for any private use, but final determination of such fact shall be made only by the City Council upon petition of the developer or owner.

Natural and Rural Zones					
TABLE 4.1 Allowed Land Uses and Permit Requirements for Natural and Rural Zones	P(16) Permitted Use				
	CUP Conditional Use Permit Required				
	S Permit Requirement in Specific Use Regulations				
	A Accessory Use				
	— Use Not Allowed				
LAND USE TYPE (1)	Permit Required by Zone				Specific Use Regulations
	OSP	AG	RR	R1	
AGRICULTURAL & RESOURCE USES					
Crop production, horticulture, orchard, vineyard	P	P	P	P	
Farm animal keeping	P	P	P	P	
LODGING					
Lodging - Short-Term Vacation Rentals	—	—	P(15)	P(15)	Section 7.110
Lodging - Bed & Breakfast Inn	—	—	—	CUP	Section 7.100
RECREATION, EDUCATION & PUBLIC ASSEMBLY					
Community Meeting Facility	—	CUP	CUP	CUP	
Commercial recreation - Indoor	—	—	—	—	
Commercial recreation - Outdoor	—	—	—	—	
Golf course, country club	CUP	—	—	—	
Park	P	P	P	P	
School - Elementary, secondary, or college, private	—	CUP	CUP	CUP	
RESIDENTIAL					
Dwelling, Accessory	—	A,S	A,S	A,S	Section 7.030
Dwelling, Junior Accessory	—	A,S	A,S	A,S	Section 7.035
Dwelling, Caretaker	—	—	—	—	
Dwelling, Group	—	—	S(5)	S(5)	Section 7.040
Dwelling, Multiple	—	—	—	—	
Dwelling, Single Household	—	P	P	P	
Home Occupation	—	A,S(2)	A,S(2)	A,S(2)	Section 7.050
Residential, Accessory Structure	—	A	A	A	
Residential Care, 6 or fewer clients, in a home	—	—	P	P	
Residential Care, 7 or more clients	—	—	—	—	
Swimming Pool, Hot Tub, Spa	—	—	A,S	A,S	
Work/Live	—	—	—	—	
SERVICES - GENERAL					
Day care - Large family day care home	—	—	A(4)	A(4)	Section 7.060
Day care - Small family day care home	—	—	A(3)	A(3)	
Public safety facility	—	—	P	P	
TRANSPORTATION, COMMUNICATIONS, INFRASTRUCTURE					
City Water & Sewer Facility	CUP	P	P	P	
Telecommunications Facility	S	S	S	S	Section 7.090 & Muni Code 14.44
Zero Emission Vehicles (Battery Charging Station)	A(18)	A(18)	A(18)	A(18)	

Key to zone symbols

OS - Open Space

AG - Agriculture

RR - Rural Residential

R1 - Residential 1

Notes:

- (1) See glossary for land use definitions.
- (2) Home Occupation Permit and Business License Required
- (3) Business License Required
- (4) Business License & Compliance with Section 7.060 Required
- (5) Site Plan and Architectural Review Required & Compliance with Section 7.040 Required
- (6) Use allowed only on an upper floor or behind a ground floor street fronting use; use in other locations allowed subject to a CUP
- (7) Permitted use (P) if limited to a maximum of 5,000 square feet on the ground floor
- (8) A CUP is required for overnight board and care
- (9) Neighborhood serving and open at lunch
- (10) Allowed only on floors above the ground floor
- (11) Urgent care facilities may be located on the ground floor as a street fronting use
- (12) Allowed only in a shopping center
- (13) Use permitted only on Lakeville Highway between Baywood Drive and Casa Grande Road
- (14) See section 21.030 (Residential Uses Abutting Non-Residential Uses)
- (15) Short-term vacation rental permit, business license and transient occupancy tax certificate required (see section 7.110 of Implementing Zoning Ordinance)
- (16) Use must be at least 600 feet from a school or a childcare center, at least 200 feet from parks, youth centers, or the library, and 100 feet from residential districts as measured from property line to property line
- (17) All Cannabis Businesses must obtain an annual Commercial Cannabis Permit
- (18) Pursuant to Government Code Section 65850.7, this Zoning Ordinance requires no permit for stations.
- (19) Allowed as primary or accessory use when located on site of an existing Fueling Station/Gas Station land use.

Residential Zones					
TABLE 4.2 Allowed Land Uses and Permit Requirements for Residential Uses	P(16)	Permitted Use			
	CUP	Conditional Use Permit Required			
	S	Permit Requirement in Specific Use Regulations			
	A	Accessory Use			
	—	Use Not Allowed			
LAND USE TYPE (1)	Permit Required by Zone				Specific Use Regulations
	R2	R3	R4	R5	
LODGING					
Lodging - Short-Term Vacation Rentals	P(15)	P(15)	P(15)	P(15)	Section 7.110
Lodging -Bed & breakfast inn (B & B)	CUP	CUP	—	—	Section 7.100
RECREATION, EDUCATION & PUBLIC ASSEMBLY					
Community Meeting Facility	CUP	CUP	CUP	CUP	
Golf course, country club	—	—	—	—	
Park	P	P	P	P	
School - Elementary, secondary, or college, private	CUP	CUP	CUP	CUP	
RESIDENTIAL					
Dwelling, Accessory	A,S	A,S	A,S	A,S	Section 7.030
Dwelling, Junior Accessory	A,S	A,S	A,S	A,S	Section 7.035
Dwelling, Group	S(5)	S(5)	—	—	Section 7.040
Dwelling, Multiple	—	P	P	P	
Dwelling, Single Household	P	P	P	P	
Home Occupation	A,S(2)	A,S(2)	A,S(2)	A,S(2)	Section 7.050
Residential, Accessory Structure	A	A	A	A	
Residential Care, 6 or fewer clients, in a home	P	P	P	P	
Residential Care, 7 or more clients	—	—	—	—	
Swimming Pool, Hot Tub, Spa	A,S	A,S	A,S	A,S	Section 7.080
Work/Live	—	—	—	—	
SERVICES - BUSINESS, FINANCIAL, PROFESSIONAL					
Medical services -Major	—	—	—	—	
Medical Services-Minor	—	—	—	—	
SERVICES - GENERAL					
Adult day program	—	—	—	—	
Child care center	—	—	—	—	
Day care - Large Family	A (4)	A (4)	A (4)	A (4)	Section 7.060
Day care - Small Family	A(3)	A(3)	A(3)	A(3)	
Public safety facility	P	P	P	P	
TRANSPORTATION, COMMUNICATIONS, INFRASTRUCTURE					
City Water & Sewer Facility	P	P	P	P	
Telecommunications facility	S	S	S	S	Section 7.090 & Muni Code 14.44
Utility facility	—	—	—	—	
Zero Emission Vehicles (Battery Charging Station)	A (18)	A (18)	A (18)	A (18)	

Key to zone symbols**R2 - Residential 2****R3 - Residential 3****R4 - Residential 4****R5 - Residential 5**

Notes:

- (1) See glossary for land use definitions.
- (2) Home Occupation Permit and Business License Required
- (3) Business License Required
- (4) Business License & Compliance with Section 7.060 Required
- (5) Site Plan and Architectural Review Required & Compliance with Section 7.040 Required
- (6) Use allowed only on an upper floor or behind a ground floor street fronting use; use in other locations allowed subject to a CUP
- (7) Permitted use (P) if limited to a maximum of 5,000 square feet on the ground floor
- (8) A CUP is required for overnight board and care
- (9) Neighborhood serving and open at lunch
- (10) Allowed only on floors above the ground floor
- (11) Urgent care facilities may be located on the ground floor as a street fronting use
- (12) Allowed only in a shopping center
- (13) Use permitted only on Lakeville Highway between Baywood Drive and Casa Grande Road
- (14) See section 21.030 (Residential Uses Abutting Non-Residential Uses)
- (15) Short-term vacation rental permit, business license and transient occupancy tax certificate required (see section 7.110 of Implementing Zoning Ordinance)
- (16) Use must be at least 600 feet from a school or a childcare center, at least 200 feet from parks, youth centers, or the library, and 100 feet from residential districts as measured from property line to property line
- (17) All Cannabis Businesses must obtain an annual Commercial Cannabis Permit
- (18) Pursuant to Government Code Section 65850.7, this Zoning Ordinance requires no permit for stations.
- (19) Allowed as primary or accessory use when located on site of an existing Fueling Station/Gas Station land use.

Mixed Use Zones					
TABLE 4.3 Allowed Land Uses and Permit Requirements for Mixed Use Zones	P(16)	Permitted Use			
	CUP	Conditional Use Permit Required			
	S	Permit Requirement in Specific Use Regulations			
	A	Accessory Use			
	—	Use Not Allowed			
LAND USE TYPE (1)	Permit Required by Zone				Specific Use Regulations
	MU1A	MU1B	MU1C	MU2	
INDUSTRY, MANUFACTURING & PROCESSING					
Artisan/craft product manufacturing	P	P	—	CUP(6)	
Catering service, as a primary use	P(6)	P	—	P(6)	
Furniture and fixture manufacturing, cabinet making	—	P	—	—	
Laboratory - Medical, analytical	—	P	—	—	
Manufacturing, light	—	P(14)	—	—	
Media production	P(6)	P	—	P(6)	
Printing and publishing	P(6)	P	—	P(6)	
Research and development	—	P	—	—	
LODGING					
Lodging - Short-Term Vacation Rentals	P(15)	P(15)	P(15)	P(15)	Section 7.110
Lodging - Bed & breakfast inn (B&B)	—	—	—	P	
Lodging - Hotel/Motel	P	P	—	P	
RECREATION, EDUCATION & PUBLIC ASSEMBLY					
Cardroom	CUP	CUP	—	CUP	Chapter 9
Community Meeting Facility	CUP	CUP	CUP	CUP	
Commercial recreation - Indoor	CUP	CUP	—	P(6)	
Fitness/health facility	P	P	—	P	
Library, museum, art gallery	P	P	—	P	
Park	P	P	P	P	
School - Elementary, secondary, or college, private	CUP	CUP	CUP	CUP	
School - Specialized Education and Training	CUP	CUP	—	CUP	
Studio - Art, dance, martial arts, music, etc.	P	P	—	P	
Theater, cinema or performing arts	CUP	CUP	—	CUP	Theater District Ord. 2158
RESIDENTIAL					
Dwelling, Multiple	CUP	CUP	P	—	
Dwelling, Accessory	A,S	A,S	A,S	A,S	Section 7.030
Dwelling, Junior Accessory	A,S	A,S	A,S	A,S	Section 7.035
Dwelling, Single	—	—	P	—	
Home Occupation	A,S(2)	A,S(2)	A,S(2)	A,S(2)	Section 7.050
Residential care, 7 or more clients	P(10)	P(10)	P	CUP(10)	
Residential care facility, adult	P(6)	P(6)	—	CUP(10)	
Residential care facility, for the chronically ill	P(6)	P(6)	—	CUP(10)	
Residential care facility, for the elderly	P(6)	P(6)	—	CUP(10)	
Residential in mixed use building	P(10)	P(10)	P(10)	P(10)	
Work/Live	P(6)	P(6)	P	P(6)	

TABLE 4.3		P(16) Permitted Use CUP Conditional Use Permit Required S Permit Requirement in Specific Use Regulations A Accessory Use — Use Not Allowed				
Allowed Land Uses and Permit Requirements for Mixed Use Zones		Permit Required by Zone				Specific Use Regulations
		MU1A	MU1B	MU1C	MU2	
LAND USE TYPE (1)						
RETAIL						
Adult oriented business	CUP	CUP	—	CUP	Chapter 10	
Artisan Shop	P	P	—	P		
Auto parts sales	P	P	—	—		
Bar, tavern, night club	CUP	CUP	—	CUP	Chapter 8	
Building and landscape materials sales - Indoor	P	P	—	P		
Fueling Station/Gas station	CUP =	CUP =	—	—		
General retail	P	P	—	P		
Groceries/specialty foods - 25,000 sf or less	P	P	—	P		
Groceries/specialty foods - More than 25,000 sf	P	P	—	—		
Plant nursery	P	P	—	—		
Restaurant, café, coffee shop	P	P	CUP	P		
SERVICES - BUSINESS, FINANCIAL, PROFESSIONAL						
ATM	P	P	P	P		
Bank, financial services	P	P	—	P		
Business support service	P	P	—	P		
Medical services - Health Care Facility	P(6)	P(6)	—	P(6)		
Medical services - Major	P	P	—	P		
Medical services - Minor	P(6), (11)	P(6), (11)	P	P(6), (11)		
Office - government	P	P	P	P(6)		
Office - Headquarters, or processing	P(6)	P	—	P(6)		
Office - Professional, administrative	P	P	P	P(6)		
SERVICES - GENERAL						
Adult Day Program	CUP	CUP	CUP	P		
Child Care Center	P(6)	P(6)	—	P(6)		
Child day care - Large Family	—	—	A(4)	—	Section 7.060	
Child day care - Small Family	A(3)	A(3)	A(3)	A(3)		
Kennel, animal boarding	—	CUP	—	—		
Meals Assembly Business	P(12)	—	—	—		
Mortuary, funeral home	CUP	—	—	—		
Personal services	P	P	—	P		
Personal services - Restricted	P	P	—	P		
Public safety facility	P	P	P	P		
Vehicle services - Minor maintenance/repair	—	P	—	CUP		
Veterinary clinic, animal hospital	P(8)	P(8)	—	P(8)		

TABLE 4.3 Allowed Land Uses and Permit Requirements for Mixed Use Zones	P(16) Permitted Use				
	CUP Conditional Use Permit Required				
	S Permit Requirement in Specific Use Regulations				
	A Accessory Use				
	— Use Not Allowed				
LAND USE TYPE (1)	Permit Required by Zone				Specific Use Regulations
	MU1A	MU1B	MU1C	MU2	
TRANSPORTATION, COMMUNICATIONS, INFRASTRUCTURE					
City water & sewer facility	P	P	P	P	
Parking facility, public or commercial	CUP	—	—	CUP	
Telecommunications facility	S	S	S	S	Section 7.090 & Muni Code 14.44
Utility facility	CUP	CUP	—	CUP	
<u>Zero Emission Vehicles (Battery Charging Station)</u>	<u>A (18)</u>	<u>A (18)</u>	<u>A (18)</u>	<u>A (18)</u>	
<u>Zero Emission Vehicles (Hydrogen Fuel Cell Station)</u>	<u>P, A (19)</u>	<u>—</u>	<u>—</u>	<u>P, A (19)</u>	

Key to zone symbols**MU1A - Mixed Use 1A****MU1C - Mixed Use 1C****MU1B - Mixed Use 1B****MU2 - Mixed Use 2****Notes:**

- (1) See Glossary for land use definitions.
- (2) Home Occupation Permit and Business License Required
- (3) Business License Required
- (4) Business License & Compliance with Section 7.060 Required
- (5) Site Plan and Architectural Review Required & Compliance with Section 7.040 Required
- (6) Use allowed only on an upper floor or behind a ground floor street fronting use; use in other locations allowed subject to a CUP
- (7) Permitted use (P) if limited to a maximum of 5,000 square feet on the ground floor
- (8) A CUP is required for overnight board and care
- (9) Neighborhood serving and open at lunch
- (10) Allowed only on floors above the ground floor
- (11) Urgent care facilities may be located on the ground floor as a street fronting use
- (12) Allowed only in a shopping center
- (13) Use permitted only on Lakeville Highway between Baywood Drive and Casa Grande Road
- (14) See section 21.030 (Residential Uses Abutting Non-Residential Uses)
- (15) Short-term vacation rental permit, business license and transient occupancy tax certificate required (section 7.110 of Implementing Zoning Ordinance)
- (16) Use must be at least 600 feet from a school or a childcare center, at least 200 feet from parks, youth centers, or the library, and 100 feet from residential districts as measured from property line to property line
- (17) All Cannabis Businesses must obtain an annual Commercial Cannabis Permit
- (18) Pursuant to Government Code Section 65850.7, this Zoning Ordinance requires no permit for stations.
- (19) Allowed as primary or accessory use when located on site of an existing Fueling Station/Gas Station land use.

Commercial, Business Park, and Industrial Zones					
TABLE 4.4 Allowed Land Uses and Permit Requirements for Commercial, Business Park, and Industrial Zones	P(16)	Permitted Use			
	CUP	Conditional Use Permit Required			
	S	Permit Requirement in Specific Use Regulations			
	A	Accessory Use			
	—	Use Not Allowed			
LAND USE TYPE (1)	Permit Required by Zone				Specific Use Regulations
	C1	C2	BP	I	
INDUSTRY, MANUFACTURING & PROCESSING					
Artisan/craft product manufacturing	—	—	P	P	
Catering service, as a primary use	P(6)	P(6)	P	P	
Furniture and fixtures manufacturing, cabinet shop	—	—	—	P	
Laboratory - Medical, analytical	—	—	P	P	
Laboratory - Cannabis	—	—	P(16,17)	P(16,17)	PMC 10.15
Laundry, dry cleaning plants	—	—	—	P	
Manufacturing/processing - Light	—	—	P	P	
Manufacturing/processing - Medium intensity	—	—	—	P	
Manufacturing/processing - Cannabis	—	—	P(16,17)	P(16,17)	PMC 10.15
Media production	—	—	P	P	
Petroleum product storage and distribution	—	—	—	CUP	
Printing and publishing	—	—	P	P	
Recycling facility	—	—	CUP	CUP	
Recycling facility - Scrap and dismantling yard	—	—	—	—	
Retail Sale and Delivery - Cannabis	—	—	P(16,17)	P(16,17)	PMC 10.15
Research and development	—	—	P	P	
Storage yard- outdoor	—	—	—	CUP	
Storage - warehouse, indoor storage	—	—	CUP	P	
Wholesaling and distribution	—	—	P	P	
LODGING					
Lodging - Hotel/Motel	—	P	CUP	—	
RECREATION, EDUCATION & PUBLIC ASSEMBLY					
Cardroom	CUP	CUP	CUP	—	Chapter 9
Community Meeting Facility	P	P	CUP	CUP	
Commercial recreation - Indoor	—	CUP	CUP	—	
Commercial recreation - Outdoor	—	CUP	—	—	
Conference/convention facility	—	—	CUP	—	
Fitness/health facility	P	P	P	CUP	
Park	P	P	P	P	
School - Elementary, secondary, or college, private	—	—	CUP	—	
School - Specialized Education and Training	P(6)	P(6)	CUP	—	
Sports and entertainment assembly	—	—	—	—	
Studio - Art, dance, martial arts, music, etc.	P	P	P	—	
RESIDENTIAL					
Emergency Shelter	—	—	—	P	
Dwelling, Caretaker	—	—	P	P	
Home Occupation	A, S(2)	A, S(2)	—	—	Section 7.050
Residential care, 7 or more clients	CUP(10)	CUP(10)	—	—	
Residential care, adult	CUP(10)	CUP(10)	—	—	
Residential care, for the chronically ill	CUP(10)	CUP(10)	—	—	
Residential care, for the elderly	CUP(10)	CUP(10)			
Residential in mixed use building	P(10)	P(10)	—	—	
Work/Live	P(6)	P(6)	—	—	

TABLE 4.4 Allowed Land Uses and Permit Requirements for Commercial, Business Park, and Industrial Zones	P(16) Permitted Use CUP Conditional Use Permit Required S Permit Requirement in Specific Use Regulations A Accessory Use — Use Not Allowed				
	Permit Required by Zone				Specific Use Regulations
LAND USE TYPE (1)	C1	C2	BP	I	
RETAIL					
Adult oriented business	CUP	CUP	—	—	Chapter 10
Artisan Shop	P	P	—	—	
Auto vehical sales and rental	—	—	—	—	
Bar, tavern, night club	CUP	CUP	—	—	Chapter 8
Building and landscape materials sales - Indoor	P	P	—	—	
Building and landscape materials sales - Outdoor	—	—	—	—	
Fueling Station/Gas station	P	P	CUP	—	
General retail	P	P	—	—	
Groceries/specialty foods - 25,000 sf or less	P	P	—	—	
Groceries/specialty foods - More than 25,000 sf	P	P	—	—	
Plant nursery	P	P	—	—	
Restaurant, café, coffee shop	P	P	P(9)	P(9)	
SERVICES - BUSINESS, FINANCIAL, PROFESSIONAL					
ATM	P	P	P	P	
Bank, financial services	P	P	P	—	
Business support service	P	P	P	P	
Medical services - Health Care Facility	P(6)	P(6)	P	—	
Medical services - Major	—	—	P	—	
Medical services - Minor	P(6), (11)	P(6), (11)	P	—	
Office - government	P	P	P	—	
Office - Headquarters, or processing	P(6)	P(6)	P	—	
Office - Professional, administrative	P	P	P	—	
SERVICES - GENERAL					
Adult Day Program	P	P	P	—	
Child Care Center	P	P	P(6)	P(6)	
Child day care - Large Family	—	—	—	—	
Child day care - Small Family	A(3)	A(3)	—	—	
Kennel, animal boarding	—	—	—	CUP	
Maintenance/repair service - Client site services	—	—	P	P	
Maintenance/repair service - Equipment, appliances	—	—	—	P	
Meals Assembly Business	P(12)	P(12)	—	—	
Mortuary, funeral home	—	—	—	—	
Personal services	P	P	—	—	
Personal services - Restricted	P	P	—	—	
Public safety facility	P	P	P	P	
Vehicle services - Major repair/body work	—	—	—	P	
Vehicle services - Minor maintenance/repair	—	—	—	P	
Veterinary clinic, animal hospital	P(8)	P(8)	P	P	

TABLE 4.4 Allowed Land Uses and Permit Requirements for Commercial, Business Park, and Industrial Zones	P(16)	Permitted Use			
	CUP	Conditional Use Permit Required			
	S	Permit Requirement in Specific Use Regulations			
	A	Accessory Use			
	—	Use Not Allowed			
LAND USE TYPE (1)	Permit Required by Zone				Specific Use Regulations
	C1	C2	BP	I	
TRANSPORTATION, COMMUNICATIONS, INFRASTRUCTURE					
City water & sewer facility	P	P	P	P	
Parking facility, public or commercial	CUP	CUP	—	—	
Telecommunications facility	S	S	S	S	Section 7.090 & Muni Code 14.44
Utility facility	CUP	CUP	CUP	CUP	
<u>Zero Emission Vehicles (Battery Charging Station)</u>	<u>A (18)</u>	<u>A (18)</u>	<u>A (18)</u>	<u>A (18)</u>	
<u>Zero Emission Vehicles (Hydrogen Fuel Cell Station)</u>	<u>P, A (19)</u>	<u>P, A (19)</u>	<u>≡</u>	<u>≡</u>	

Key to zone symbols:**C1 - Commercial 1****BP - Business Park****C2 - Commercial 2****I - Industrial****Notes:**

- (1) See glossary for land use definitions.
- (2) Home Occupation Permit and Business License Required
- (3) Business License Required
- (4) Business License & Compliance with Section 7.060 Required
- (5) Site Plan and Architectural Review Required & Compliance with Section 7.040 Required
- (6) Use allowed only on an upper floor or behind a ground floor street fronting use; use in other locations allowed subject to a CUP
- (7) Permitted use (P) if limited to a maximum of 5,000 square feet on the ground floor
- (8) A CUP is required for overnight board and care
- (9) Neighborhood serving and open at lunch
- (10) Allowed only on floors above the ground floor
- (11) Urgent care facilities may be located on the ground floor as a street fronting use
- (12) Allowed only in a shopping center
- (13) Use permitted only on Lakeville Highway between Baywood Drive and Casa Grande Road
- (14) See section 21.030 (Residential Uses Abutting Non-Residential Uses)
- (15) Short-term vacation rental permit, business license and transient occupancy tax certificate required (see section 7.110 of Implementing Zoning Ordinance)
- (16) Use must be at least 600 feet from a school or a childcare center, at least 200 feet from parks, youth centers, or the library, and 100 feet from residential districts as measured from property line to property line
- (17) All Cannabis Businesses must obtain an annual Commercial Cannabis Permit
- (18) Pursuant to Government Code Section 65850.7, this Zoning Ordinance requires no permit for stations.
- (19) Allowed as primary or accessory use when located on site of an existing Fueling Station/Gas Station land use.

Civic Facility Zone		
TABLE 4.5 Allowed Land Uses and Permit Requirements for Civic Facility Zone	P(16)	Permitted Use
	CUP	Conditional Use Permit Required
	S	Permit Requirement in Specific Use Regulations
	A	Accessory Use
	—	Use Not Allowed
LAND USE TYPE (1)	Permit Required by Zone	Specific Use Regulations
	CF	
RECREATION, EDUCATION & PUBLIC ASSEMBLY		
Park	P	
Community Meeting Facility	CUP	
School - Elementary, secondary, or college, private	CUP	
Theater, cinema or performing arts	CUP	Theater District Ord. 2158
RESIDENTIAL		
Emergency Shelter	CUP	
Dwelling, Caretaker	P	
SERVICES - BUSINESS, FINANCIAL, PROFESSIONAL		
Office - Business, service, or government	P	
SERVICES - GENERAL		
Adult Day Program	CUP	
Child Care Center	P	
Public safety facility	P	
TRANSPORTATION, COMMUNICATIONS, INFRASTRUCTURE		
City water & sewer facility	P	
Parking facility, public or commercial	P	
Telecommunications facility	S	Section 7.090 & Muni Code 14.44
Utility facility	CUP	
Zero Emission Vehicles (Battery Charging Station)	A (18)	

Key to zone symbols:**CF - Civic Facilities****Notes:**

- (1) See glossary for land use definitions.
- (2) Home Occupation Permit and Business License Required
- (3) Business License Required
- (4) Business License & Compliance with Section 7.060 Required
- (5) Site Plan and Architectural Review Required & Compliance with Section 7.040 Required
- (6) Use allowed only on an upper floor or behind a ground floor street fronting use; use in other locations allowed subject to a CUP
- (7) Permitted use (P) if limited to a maximum of 5,000 square feet on the ground floor
- (8) A CUP is required for overnight board and care
- (9) Neighborhood serving and open at lunch
- (10) Allowed only on floors above the ground floor
- (11) Urgent care facilities may be located on the ground floor as a street fronting use
- (12) Allowed only in a shopping center
- (13) Use permitted only on Lakeville Highway between Baywood Drive and Casa Grande Road
- (14) See section 21.030 (Residential Uses Abutting Non-Residential Uses)
- (15) Short-term vacation rental permit, business license and transient occupancy tax certificate required (see section 7.110 of Implementing Zoning Ordinance)

TABLE 4.6 OSP AND AG ZONE DEVELOPMENT STANDARDS

Development Feature	Requirement by Zone	
	OSP Open Space & Parks	AG Agriculture
Lot size	<i>Minimum area and width required for each lot in a new subdivision</i>	
Minimum area	NA	20,000 sf
Minimum width		
Interior lot	NA	100 ft
Corner lot	NA	110 ft
Minimum depth	NA	130 ft
Setbacks	<i>Minimum setbacks required. See Chapter 12 for modifications, reductions, and encroachments. See Chapter 7 for any setback requirements applicable to a specific land use.</i>	
Primary structure		
Front	40 ft ¹	30 ft
Side – Interior (each)	20 ft ¹	15 ft
Side – Street side	40 ft ¹	30 ft
Rear	40 ft ¹	30 ft
Garage front	40 ft ¹	30 ft
Detached Accessory Structure		
Front	Not Permitted ¹	Not Permitted
Side – Interior (each)	4 ft ¹	4 ft
Side – Street	30 ft ¹	30 ft
Rear	5 ft ¹	5 ft
Site coverage	<i>The percent of the total site area covered by structures, open or enclosed, excluding uncovered steps, patios and terraces.</i>	
Maximum coverage		
Primary structure	NA	NA
Accessory structure, detached	10% of the required setback area or 500 sf, whichever is greater	10% of the required setback area or 500 sf, whichever is greater
Height limit	<i>Maximum allowable height of structures. See Glossary for height measurement requirements, and Chapter 12 for height limit modifications.</i>	
Maximum height		
Principal Building	25 ft	25 ft
Accessory Structure	25 ft	25 ft
Usable Open Space	NA	NA
Fencing, Landscaping, & Tree Preservation	See Chapters 13, 14, and 17	
Parking	See Chapter 11	
Signs	See Chapter 20	

1. The development standards for buildings and structures in City parks shall be as prescribed in Table 4.13 (Civic Facilities).

TABLE 4.7 – RR AND R1 ZONE DEVELOPMENT STANDARDS

Development Feature	Requirement by Zone	
	RR Rural Residential	R1 Residential 1
Lot size	<i>Minimum area and width required for each lot in a new subdivision</i>	
Minimum area	2 acres ¹	20,000 sf ¹
Minimum width		
Interior lot		100 ft
Corner lot	150 ft 165 ft	110 ft
Minimum depth	150 ft	130 ft
Setbacks	<i>Minimum setbacks required. See Chapter 12 for modifications, reductions, and encroachments. See Chapter 7 for any setback requirements applicable to a specific land use.</i>	
Primary structure		
Front	40 ft	30 ft
Side – Interior (each)	20 ft	15 ft
Side – Street side	40 ft	30 ft
Rear	40 ft	30 ft
Garage front	40 ft	30 ft
Detached Accessory Structure		
Front	Not Permitted	Not Permitted
Side – Interior (each)	4 ft	4 ft
Side – Street	40 ft	30 ft
Rear	5 ft	5 ft
Rear – Accessory Dwelling	4 ft	4 ft
Site coverage	<i>The percent of the total site area covered by structures, open or enclosed, excluding uncovered steps, patios and terraces.</i>	
Maximum coverage		
Primary structure	NA	NA
Accessory structure, detached ²	10% of the required setback area or 500 sf, whichever is greater	10% of the required setback area or 500 sf, whichever is greater
Height limit	<i>Maximum allowable height of structures. See Glossary for height measurement requirements, and Chapter 12 for height limit modifications.</i>	
Maximum height		
Principal Building	25 ft	25 ft
Accessory Structure	15 ft	15 ft
Accessory Dwelling	21 ft	21 ft
Usable Open Space	NA	NA
Fencing, Landscaping, & Tree Preservation	See Chapters 13, 14, and 17	
Parking	See Chapter 11	
Signs	See Chapter 20	

1. If slope of the parcel is 10% or greater, the minimum parcel size is determined by Section 16.070(C).

2. See Section 7.030. Does not apply to accessory dwelling units 800 sf or less.

TABLE 4.8 – R2 AND R3 ZONE DEVELOPMENT STANDARDS

Development Feature	Requirement by Zone	
	R2 Residential 2	R3 Residential 3
Lot size	<i>Minimum area and width required for each lot in a new subdivision</i>	
Minimum area	6,000 sf ¹	4,000 sf ¹
Minimum width		
Interior lot	50 ft	40 ft
Corner lot	55 ft	45 ft
Minimum depth	70 ft	70 ft
Setbacks	<i>Minimum setbacks required. See Chapter 12 for modifications, reductions, and encroachments. See Chapter 7 for any setback requirements applicable to a specific land use.</i>	
Primary structure		
Front	20 ft	15 ft
Side – Interior (each)	5 ft	3 ft
Side – Street side		
Corner Lot	10 ft	10 ft
Reverse Corner Lot	15 ft	10 ft
Rear	20 ft	15 ft
Garage front	20 ft	20 ft
Detached Accessory Structure		
Front	Not Permitted	Not Permitted
Side – Interior (each)	4 ft	4 ft
Side – Street	10 ft	10 ft
Rear	5 ft	5 ft
Rear – Accessory Dwelling	4 ft	4 ft
Site coverage	<i>The percent of the total site area covered by structures, open or enclosed, excluding uncovered steps, patios and terraces.</i>	
Maximum coverage		
Primary structure	NA	NA
Accessory structure, detached ²	10% of the required setback area or 500 sf, whichever is greater	10% of the required setback area or 500 sf, whichever is greater
Height limit	<i>Maximum allowable height of structures. See Glossary for height measurement requirements, and Chapter 12 for height limit modifications.</i>	
Maximum height		
Principal Building	25 ft	25 ft
Accessory Structure	15 ft	15 ft
Accessory Dwelling	21 ft	21 ft
Usable Open Space	NA	600 sf
Fencing, Landscaping, & Tree Preservation	See Chapters 13, 14, and 17	
Parking	See Chapter 11	
Signs	See Chapter 20	

1. If slope of the parcel is 10% or greater, the minimum parcel size is determined by Section 16.070(C).

2. See Section 7.030. Does not apply to accessory dwelling units 800 sf or less.

TABLE 4.9 – R4 AND R5 ZONE DEVELOPMENT STANDARDS

Development Feature	Requirement by Zone	
	R4 Residential 4	R5 Residential 5
Lot size	<i>Minimum area and width required for each lot in a new subdivision</i>	
Minimum area	3,500 sf ¹	1,500 sf ¹
Minimum width		
Interior lot	35 ft	NA
Corner lot	40 ft	NA
Minimum depth	70 ft	NA
Setbacks	<i>Minimum setbacks required. See Chapter 12 for modifications, reductions, and encroachments. See Chapter 7 for any setback requirements applicable to a specific land use.</i>	
Primary structure		
Front	10 ft	0 ft
Side – Interior (each)	0 ft	0 ft
Side – Street side	10 ft	0 ft
Rear	10 ft	0 ft
Garage front	20 ft	0 ft
Detached Accessory Structure		
Front	Not Permitted	Not Permitted
Side – Interior (each)	4 ft	4 ft
Side – Street	10 ft	10 ft
Rear	5 ft	5 ft
Rear – Accessory Dwelling	4 ft	4 ft
Site coverage	<i>The percent of the total site area covered by structures, open or enclosed, excluding uncovered steps, patios and terraces.</i>	
Maximum coverage		
Primary structure	60%	NA
Accessory structure, detached ²	10% of the required setback area or 500 sf, whichever is greater	NA
Height limit	<i>Maximum allowable height of structures. See Glossary for height measurement requirements, and Chapter 12 for height limit modifications.</i>	
Maximum height		
Principal Building	35 ft	45 ft ³
Accessory Structure	25 ft	25 ft
Accessory Dwelling	21 ft	21 ft
Usable Open Space	300 sf/unit	400 sf/unit May include common open space
Fencing, Landscaping, & Tree Preservation	See Chapters 13, 14, and 17	
Parking	See Chapter 11	
Signs	See Chapter 20	

1. If slope of the parcel is 10% or greater, the minimum parcel size is determined by Section 16.070(C).

2. See Section 7.030. Does not apply to accessory dwelling units 800 sf or less.

3. An increase in height may be permissible as prescribed in Section 12.025.

TABLE 4.10 MU1 AND MU2 ZONE DEVELOPMENT STANDARDS

Development Feature	Requirement by Zone	
	MU1 Mixed Use 1	MU Mixed Use 2
Lot size	<i>Minimum area and width required for each lot in a new subdivision</i>	
Minimum area	NA	2,000 sf
Minimum width	NA	NA
Minimum depth	NA	NA
Setbacks Primary structure	<i>Minimum setbacks required. See Chapter 12 for modifications, reductions, and encroachments. See Chapter 7 for any setback requirements applicable to a specific land use.</i>	
Front	0 ft	0 ft minimum 10 ft maximum
	0 ft	0 ft minimum 10 ft maximum
Side – Interior (each)	Abutting an R District: 15 ft plus 1 foot of additional setback for each foot of building height over 20 ft	Abutting an R District: 15 ft plus 1 foot of additional setback for each foot of building height over 20 ft
Side – Street side	0 ft	0 ft minimum 10 ft maximum
	0 ft	0 ft
Rear	Abutting an R District: 15 ft plus 1 foot of additional setback for each foot of building height over 20 ft	Abutting an R District: 15 ft plus 1 foot of additional setback for each foot of building height over 20 ft
Garage front	NA	NA
Detached Accessory Structure		
Front	Not Permitted	Not Permitted
Side – Interior (each)	4 ft	4 ft
Side – Street	10 ft	10 ft
Rear	5 ft	5 ft
Rear – Accessory Dwelling	4 ft	4 ft
Site coverage Maximum coverage ²	Floor Area Ratio. The gross floor area of all buildings on a lot divided by the building site area.	Site Coverage. The percent of the total site area covered by structures, open or enclosed, excluding uncovered steps, patios and terraces.
	2.5 floor area ratio	80 % 100% for structured parking
Height limit Maximum height	<i>Maximum allowable height of structures. See Glossary for height measurement requirements, and Chapter 12 for height limit modifications.</i>	
Principal Building	30 ft ¹	45 ft
Accessory Structure	20 ft	20 ft
Usable Open Space	30 sf/unit ²	30 sf/unit ²
Fencing, Landscaping, & Tree Preservation	See Chapters 13, 14, and 17	
Parking	See Chapter 11	
Signs	See Chapter 20	

1. When the building is more than 30 feet from an abutting property line, one additional foot of height is permitted with each additional foot of setback over 30 feet for a maximum building height of 45 feet.

2. See Section 7.030. Does not apply to accessory dwelling units 800 sf or less.
3. The minimum depth of usable open space is 3 feet. Usable common open space is strongly encouraged.

TABLE 4.11 – C1 AND C2 ZONE DEVELOPMENT STANDARDS

Development Feature	Requirement by Zone	
	C1 Commercial 1	C2 Commercial 2
Lot size	<i>Minimum area and width required for each lot in a new subdivision</i>	
Minimum area	NA	NA
Minimum width	NA	NA
Minimum depth	NA	NA
Setbacks	<i>Minimum setbacks required. See Chapter 12 for modifications, reductions, and encroachments. See Chapter 7 for any setback requirements applicable to a specific land use.</i>	
Primary structure		
Front	0 ft	0 ft
	0 ft	0 ft
Side – Interior (each)	Abutting an R District: 15 ft plus 1 foot of additional setback for each foot of building height over 20 ft	Abutting an R District: 15 ft plus 1 foot of additional setback for each foot of building height over 20 ft
Side – Street side	0 ft	0 ft
	0 ft	0 ft
Rear	Abutting an R District: 15 ft plus 1 foot of additional setback for each foot of building height over 20 ft	Abutting an R District: 15 ft plus 1 foot of additional setback for each foot of building height over 20 ft
Garage front	NA	NA
Detached Accessory Structure		
Front	Not Permitted	Not Permitted
Side – Interior (each)	4 ft	4 ft
Side – Street	10 ft	10 ft
Rear	5 ft	5 ft
Site coverage	<i>Floor Area Ratio. The gross floor area of all buildings on a lot divided by the building site area.</i>	
Maximum Coverage		
Floor Area Ratio	0.8	1.2
Height limit	<i>Maximum allowable height of structures. See Glossary for height measurement requirements, and Chapter 12 for height limit modifications.</i>	
Maximum height		
Principal Building	30 ft	40 ft
Accessory Structure	15 ft	15 ft
Usable Open Space	NA	NA
Fencing, Landscaping, & Tree Preservation	See Chapters 13, 14, and 17	
Parking	See Chapter 11	
Signs	See Chapter 20	

TABLE 4.12 – BP AND I ZONE DEVELOPMENT STANDARDS

Development Feature	Requirement by Zone	
	BP Business Park	I Industrial
Lot size	<i>Minimum area and width required for each lot in a new subdivision</i>	
Minimum area	20,000 sf	20,000 sf
Minimum width		
Interior lot	100 ft	100 ft
Corner lot	110 ft	110 ft
Minimum depth	100 ft	100 ft
Setbacks	<i>Minimum setbacks required. See Chapter 12 for modifications, reductions, and encroachments. See Chapter 7 for any setback requirements applicable to a specific land use.</i>	
Primary structure		
Front	0 ft	0 ft
Side – Interior (each)	0 ft	0 ft
Side – Street side	Adjacent to a non-industrial or non-business park use: 20 ft	Adjacent to a non-industrial or non-business park use: 20 ft
Rear	0 ft	0 ft
Garage front	Adjacent to a non-industrial or non-business park use: 20 ft	Adjacent to a non-industrial or non-business park use: 20 ft
Detached Accessory Structure	NA	NA
Front	Not Permitted	Not Permitted
Side – Interior (each)	4 ft	4 ft
Side – Street	10 ft	10 ft
Rear	5 ft	5 ft
Site coverage	<i>Floor Area Ratio. The gross floor area of all buildings on a lot divided by the building site area.</i>	
Maximum Coverage		
Floor Area Ratio	1.5	0.6
Height limit	<i>Maximum allowable height of structures. See Glossary for height measurement requirements, and Chapter 12 for height limit modifications.</i>	
Maximum height		
Principal Building	40 ft	40 ft
Accessory Structure	15 ft	15 ft
Usable Open Space	NA	NA
Fencing, Landscaping, & Tree Preservation	See Chapters 13, 14, and 17	
Parking	See Chapter 11	
Signs	See Chapter 20	

TABLE 4.13 – CF ZONE DEVELOPMENT STANDARDS

Development Feature	Requirement by Zone	
	CF Civic Facilities	
Lot size	<i>Minimum area and width required for each lot in a new subdivision</i>	
Minimum area	Same as abutting zoning district	
Minimum width		
Interior lot		
Corner lot	Same as abutting zoning district	
Minimum depth	Same as abutting zoning district	
Setbacks	<i>Minimum setbacks required. See Chapter 12 for modifications, reductions, and encroachments. See Chapter 7 for any setback requirements applicable to a specific land use.</i>	
Primary structure		
Front	Same as abutting zoning district	
Side – Interior (each)	Same as abutting zoning district	
Side – Street side	Same as abutting zoning district	
Rear	Same as abutting zoning district	
Garage front	Same as abutting zoning district	
Detached Accessory Structure		
Front	Not Permitted	
Side – Interior (each)	4 ft	
Side – Street	10 ft	
Rear	5 ft	
Site coverage	<i>The percent of the total site area covered by structures, open or enclosed, excluding uncovered steps, patios and terraces.</i>	
Maximum coverage		
Primary structure	Same as abutting zoning district	
Accessory structure, detached	Same as abutting zoning district	
Height limit	<i>Maximum allowable height of structures. See Glossary for height measurement requirements, and Chapter 12 for height limit modifications.</i>	
Maximum height		
Principal Building	25 ft	
Accessory Structure	15 ft	
Usable Open Space	NA	
Fencing, Landscaping, & Tree Preservation	See Chapters 13, 14, and 17	
Parking	See Chapter 11	
Signs	See Chapter 20	

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Chapter 11**Parking and Loading Facilities, Off-Street****11.010 - Purpose of Off-Street Parking and Loading**

This chapter establishes regulations to reduce street congestion and traffic hazards in the City of Petaluma by incorporating safe, adequate, attractively designed facilities for off-street parking and loading as an integral part of every use of land in the City requiring such facilities and by providing adequate shower facilities in commercial settings to encourage employee bicycle commuting to and from the workplace.

11.020 - Definitions

The following definitions shall apply to this chapter:

- A. **Floor Area.** In the case of office, merchandise or service uses, the gross area used or intended to be used by tenants, or for service to the public as customers, patrons, clients, or patients including areas occupied by fixtures and equipment used for display or sales of merchandise. It does not include areas used principally for non-public purposes, such as storage and incidental repair.
- B. **Off-Street Parking Space.** A permanently surfaced area for automobile and bicycle parking which has been delineated, in accordance with City standards, located either within a structure or in the open, excluding aisles, driveways and access drives.
- C. **Off-Street Parking Facility.** A site, or a portion of a site, devoted to off-street parking of automobiles and bicycles, including parking spaces, aisles, access drives and landscaped areas, and providing automobile and bicycle access to a public street or bikeway.

11.030 - Off-Street Parking – General Regulations

The following general requirements apply to off-street parking:

- A. **Off-Street Parking.** There shall be provided on the same site with any use off-street parking, spaces for automobiles and bicycles in accordance with the requirements of this Chapter, or as provided in Section 11.040 (Alternatives to On-Site Parking). In all cases where bicycle parking is required, bicycle parking shall not be more inconveniently located than car parking and attempts should be made to have bicycle parking more convenient. All deviations from the City of Petaluma Municipal Code or the City of Petaluma Zoning Ordinance regarding bicycle parking shall be routed through the PBAC. Where existing buildings not now meeting these requirements are proposed to be enlarged or increased in capacity in excess of ten percent (10%), in any district except as provided in Table 11.1 for addition of new bedrooms, off-street parking shall be provided as required herein for the entire floor area of the structure.
- B. **Off-Street Parking Facilities to Serve One Use.** Off-street parking facilities for one use shall not be considered as providing required off-street parking facilities for any other use except as provided for in Section 11.065(C).
- C. **More Than One Use on a Site.** If more than one use is located on a site, the number of parking spaces provided shall be equal to the sum of the requirements prescribed in this Chapter for each use.

11.035 - Exception to Off-Street Parking

Sites and structures located in a municipal parking assessment district are exempt from the requirement to provide off-street parking facilities.

11.040 - Alternatives to On-Site Parking

- A. The requirements of Section 11.030(A) shall be considered satisfied if the required parking is provided up to six hundred (600) feet from the site of the use being served and the required bicycle parking is provided up to 100 feet from the site, such distance being measured along the shortest available route of pedestrian access to the primary building entrance. The determination of the distance to be permitted (0-600') shall be made by the Community Development Director on a case-by-case basis. The Director shall consider the following in making the determination: type of use being served; ease of bicycle and pedestrian access from the off-site location to the site

being served; characteristics of the off-site parking facility(s); potential adverse effects that reduced on-site parking may present to the immediate area; term of off-site rental/lease arrangements. This alternative does not apply to residential parking.

- B. Requirements for the provision of parking facilities, with respect to two or more establishments on the same or different sites, may be satisfied by the permanent allocation of the requisite number of spaces for each use in a common parking facility, located not farther than three hundred (300) feet measured along the shortest available route of pedestrian access from the site of any such participating use. In such cases, bicycle parking shall still be required adjacent to each building.
- C. The Director may approve valet parking in place of on-site parking. For purposes of this section, valet parking is defined as an approved parking facility more than 300 feet from the facility served, together with a developer or occupant-provided service which either provides on-demand customer transportation to the facility from the parking area, and vice-versa, or which provides attendants to park and retrieve customer vehicles from the parking area. The following standards shall apply to valet parking:
 - 1. The lot to be used for valet parking must be able to accommodate the number of parking spaces that are required in Section 11.060 of this Ordinance. The on-site parking spaces being provided for this use may be deducted from the total number required in Section 11.060.
 - 2. The standards for off-street parking facilities in Section 11.070 of this Ordinance shall apply to valet parking lots except that, if attendants will park the cars, the requirements of Sections 11.070(A) and (B) may be relaxed, consistent with practical design standards.
 - 3. Valet parking lots shall not be permitted in residential zoning districts (RR, R1, R2, R3, R4, R5, MH, or residential P.U.D. districts).
 - 4. The valet parking lot shall be located within 1/2 mile of the use that it serves.
 - 5. If the valet parking lot serves more than one use, the number of spaces provided shall be equal to the sum of the requirements prescribed in Section 11.060 for each use.
 - 6. The valet parking service (attendants or transportation) shall be maintained in service during all hours of operation of the facility served.
 - 7. At any time that the valet parking lot is no longer available for use as a valet parking lot for the approved use, that use shall cease or be reduced to an intensity consistent with available off-street parking until such time as the required off-street parking can be provided.
 - 8. The applicant for valet parking shall be required to submit proof of entitlement to use the proposed valet parking area (lease, rental agreement, ownership) and any permit granted pursuant to this ordinance may be conditioned upon the duration of such entitlement.

11.050 - Planned Districts

Separate parking requirements may be adopted pursuant to Chapter 19 for Planned Unit. The more restrictive requirements of this Zoning Ordinance or the Planned District regulations shall prevail.

11.060 - Number of Automobile Parking Spaces Required

The number of automobile parking spaces required shall be determined as indicated in Table 11.1.

Table 11.1

Use	Number of Parking Spaces Required
Artisan/Craft Product Manufacturing	1 space per 500 square feet of gross floor area
Artisan Shop	1 for each 300 gross square feet of floor area
Auto and Vehicle Sales	1 for each 400 square feet of gross floor area
Auto Parts Sales	1 for each 300 gross square feet of floor area
Banks and Financial Services	1 for each 300 gross square feet of floor area
Bars, Taverns, Nightclubs	1 for each 2.5 seats
Bed and Breakfast Inns	1 for each guest room plus 1 for the inn owner/manager
Child Care Center	1 for each staff member (employee, parent volunteer, etc.) plus 1 loading/unloading space for each 10 children
Commercial Recreation- Bowling Alleys	5 for each alley
Commercial Recreation- Indoor. Dance halls, coin operated amusement arcades, electronic games arcades, ice and roller skating, pool and billiard rooms.	1 for each 50 square feet of gross floor area
Conference/Convention Facility	1 for each 3.5 seats of maximum seating capacity or 1 for each 60 square feet of gross floor area if there are no fixed seats
Dwelling- Accessory	No additional parking requirements apply beyond what currently exists for the existing primary dwelling See specific use regulations in Section 7.030
Dwelling- Single Household, including Attached Townhomes	1 covered space plus 2 additional covered or uncovered spaces
Dwelling- Single Household Addition of New Bedrooms	1 additional space for each additional bedroom over 4 bedrooms
Dwelling- Single Household Conversion of Required Covered Parking to Living Space	Space(s) converted to living quarters replaced with covered or uncovered parking space No replacement parking required for conversions to accessory dwelling units or junior accessory dwelling units.
Dwelling- Mobile Home Park	2 for each mobile home space in the park
Dwellings- Multiple Household	1 which may be covered or uncovered for each bedroom, studio, or efficiency unit. In no case shall a project provide an overall parking ratio of less than 1.5 spaces per unit.
Fueling/Gas Stations	1 for each Pump Island, plus 1 for each Service Bay, plus 1 for each Employee on the Maximum Shift

Funeral Homes, Mortuaries	1 for each 5 seats for the aggregate number of seats provided in all assembly rooms of the mortuary
General Retail Groceries, Specialty Foods	1 for each 300 square feet of gross floor area
Hotels and Motels	1 for each living or sleeping unit plus 1 for the owner or manager
Libraries, Museums and Art Galleries	1 for each 1.5 employees plus 1 for each 200 square feet of gross floor area
Maintenance/Repair Service	1 for each 400 square feet of gross floor area
Manufacturing/Processing	1 space per 500 square feet of gross floor area
Medical Services- Health Care Facility Medical Services- Major	1 for each 3 beds plus 1 for each employee on the maximum shift plus 1 for each 2 staff doctors
Medical Services- Minor	1 for each 200 square feet of gross floor area
Offices- Business/Service, Government, Processing, Professional	1 for each 300 gross square feet of floor area
Public/Civic Buildings and Grounds other than Schools and Administrative Offices	1 for each 2 employees on the maximum shift
Religious Facilities	1 for each 4 seats
Restaurant, Coffee Shop, Café	1 for each 2.5 seats
Rooming, Boarding, Lodging Houses	1 for each bedroom
School-Private Elementary and Junior High	1 for each employee on the maximum shift
School-Private High School and College	1 for each employee on the maximum shift 1 for each 2 students
School- Specialized Education and Training	1 for each employee on the maximum shift 1 for each 2 students
Sports and Entertainment Assembly Facility	1 for each 3.5 seats of maximum seating capacity or 1 for each 60 square feet of gross floor area if there are no fixed seats
Studio- Art, Dance, Martial Arts, Music	1 for each employee on the maximum shift 1 for each 2 students
Theater, Cinema or Performing Arts	1 for each 3.5 seats of maximum seating capacity or 1 for each 60 square feet of gross floor area if there are no fixed seats
Vehicle Services- Major and Minor	1 for each 400 square feet of gross floor area
Wholesaling and Warehouse	1 space per 500 square feet of gross floor area
Unspecified Uses of Buildings, Structures, or Premises	The number of spaces shall be determined by the Zoning Administrator (Director) in accordance with the general purposes standards herein. All new structures in Industrial zones shall provide no less than 35 spaces per acre of land

11.065 - Power of the Zoning Administrator (Director) to Modify Requirements

The provisions of this section as to number of spaces may be modified by the Zoning Administrator (Director) in the following cases only. Any other request for modification shall be submitted as, and meet the tests for, a variance. If the modification pertains to bicycle parking, it shall be routed through the PBAC as well.

- A. Compact spaces may be proposed as set forth within the adopted City standards, subject to review and approval of the Planning Commission.
- B. The number of spaces required may be modified for uses such as elderly housing or retirement homes where it can be demonstrated that automobile use or ownership is significantly lower than for other dwelling or lodging houses.
- C. When a common off-street parking facility, located within three hundred (300) feet of the uses served will provide twenty (20) or more parking spaces, the total number of parking spaces required for all the uses served may be reduced by not more than twenty-five (25) percent upon the obtaining of a conditional use permit. The Zoning Administrator (Director) shall determine prior to granting a conditional use permit for such a reduction that the typical use of the off-street parking facility would be staggered to such an extent that the reduced number of spaces would be adequate to serve all uses sharing the facility.

11.070 - Standards for Off-Street Automobile Parking Facilities

All off-street parking facilities shall conform with the following standards:

- A. **Aisles.** Access to each off-street automobile or bicycle parking space shall be from a driveway or aisle, which is sufficient for readily turning and maneuvering automobiles and bicycles.
- B. **Access.** Each parking space shall be accessible from a street or alley or from an aisle or drive connecting with a street or alley. No off-street parking facility for five (5) or more spaces in an R District shall be designed so that vehicles must back across a sidewalk in order to gain access to a street or alley.

When a parking facility does not abut a public or private street, alley, or access easement, there shall be provided an access drive of not less than twenty (20) feet in width, except as follows:

- 1. Drives furnishing access to parking facilities serving from three (3) to ten (10) dwelling units shall be not less than twelve (12) feet in width and drives serving two (2) or fewer dwelling units shall be not less than ten (10) feet in width.
- 2. Where separated one-way access drives are proposed, these shall consist of two (2) drives each of which shall not be less than twelve (12) feet in width.
- C. **Site Distance.** Each entrance and exit to a parking lot or driveway shall be constructed and maintained so that any vehicle entering or leaving such parking lot shall be clearly visible a distance of not less than fifteen feet (15') to a person approaching such entrance or exit on any abutting pedestrian walk or foot path and not less than thirty feet (30') to a person approaching such entrance or exit on any abutting bikeway.
- D. **Driveway Gradients.** The maximum gradient for an aisle or drive connecting off-street parking space(s) with the public right-of-way shall not exceed fifteen (15) percent except in hilly areas where maximum gradient shall not exceed eighteen (18) percent and the maximum change in gradient of any such aisle or drive shall not exceed twelve (12) percent rise or eight (8) percent decline in any thirty (30) linear feet.
- E. **Parking in Required Yards.** Parking areas for other than single-family, residential duplex, and bed and breakfast structures shall not be permitted in required front setback or required street side setback.
- F. **Permanent Surface.** Parking areas, aisles, and access drives shall be constructed and maintained to provide a durable, dustless surface and shall be graded and drained to dispose of surface water without damage to private or public properties, streets, or alleys.

- G. **Lighting.** Any lights provided to illuminate a parking facility shall be arranged so as to reflect the light away from any adjacent properties, streets or highways.
- H. **Repair Work.** No repair work or servicing of vehicles shall be conducted on parking area.
- I. **Parking Stall Size.** Parking stall size shall be determined by the Planning Commission in the Site Plan and Architectural Review Procedures and Guidelines.
- J. **Landscape Reserve.** Parking spaces required Industrial and Business Parks zoning districts that exceed current employment needs may be reserved as landscaped area, subject to approval by the Director.

11.080 - Site Plan Approval

All parking facilities except those provided for permitted principal uses in the A, RR, R1, R2, and R3 Districts shall be subject to site plan approval as provided in Section 24.010 of this ordinance, and all areas not used for parking spaces and access drives shall be landscaped in accordance with the standards of Chapter 14 herein.

11.090 - Standards for Bicycle Facilities

The following bicycle facilities shall be provided:

- A. **Number of A Bicycle Parking Spaces Required.** The number of bicycle parking spaces required shall be a minimum of 10% of the automobile spaces required, except for Commercial Recreation and Community Facilities which shall provide a minimum of 25% of the automobile spaces required.
- B. **Type of Bicycle Parking.** The City shall require the installation of a certain percentage of Bicycle Parking (bicycle locker and guarded parking, covered and uncovered bicycle racks) depending on the type of land use. Unless otherwise specified on a case by case basis, of the total bicycle spaces required 60% should be bicycle lockers, another form of enclosed bicycle parking, or guarded parking and 40% should be bicycle racks covered. The intent of this requirement is to provide secure parking at locations where employees and customers will be parking for long periods of time, in particular adjacent to any areas close to public transportation. All deviations from this requirement shall be routed through the PBAC.
- C. **Showers.** Employee shower facilities shall be provided for any new building constructed or for any addition to or enlargement of any existing building in compliance with the Table 11.2:

Table 11.2

Use	Number of Showers Required
Medical, Professional General Business Offices, Financial Services, Business and Trade Schools, General Business Services, Research and Development, Manufacturing	
Less than 10,000 gross square feet	None
10,000-19,999 gross square feet	1
20,000 – 49,999 gross square feet	2
More than 50,000 gross square feet	4
Retail, Personal Services, Eating and Drinking Establishments	
Less than 10,000 gross square feet	None
10,000 -24,999 gross square feet	1
25,000 – 49,999 gross square feet	2
More than 100,000 gross square feet	4

11.095 – Modifications

The provisions of this section as to square footage requiring showers may be modified. Any request for modification shall be routed through the Petaluma Bicycle Advisory Committee for recommendation to the Planning Commission.

11.100 - Off-Street Loading Berth Requirements

For every building or addition, the number of off-street loading berths required shall be as indicated in Table 11.3.

Table 11.3

Use	Number of Loading Berths Required
Motels, hotels, restaurants, public and private business and administrative office, post offices, hospitals, sanitariums, nursing homes, and charitable and religious institutions and clubs	
less than 5,000 sq. ft. of gross floor area	0
5,001 to 50,000 sq. ft. of gross floor area	1
50,001 to 150,000 sq. ft. of gross floor area	2
each additional 150,000 sq. ft. of gross floor area	1
Commercial and industrial establishments, including retail stores, personal service establishments, commercial service enterprises, warehouses, storage facilities, manufacturing plants, and other industrial uses	
less than 12,500 sq. ft. of gross floor area	1
12,501 to 20,000 sq. ft. of gross floor area	2
20,000 to 30,000 sq. ft. of gross floor area	3
30,000 to 50,000 sq. ft. of gross floor area	4
50,000 to 75,000 sq. ft. of gross floor area	5
each additional 25,000 sq. ft. of gross floor space	1
Offices, public buildings other than administrative offices, schools and colleges, places of public assembly, charitable and religious institutions and clubs not used for human habitation, and public utility and public service structures and installations, when any of the foregoing requires the recurring receipt, delivery, or distribution of goods or equipment by truck	One loading berth, plus such additional berths as may be prescribed by the Zoning Administrator (Director)
Mortuaries	
less than 5,000 sq. ft. of gross floor area	1
5,000 to 10,000 sq. ft. of gross floor area	2
each additional 5,000 sq. ft. of gross floor space	1
Cemeteries, columbaria and crematories	One berth plus the number of additional berths prescribed by the Zoning Administrator (Director)
Any other use which requires the recurring receipt or distribution of goods or equipment by truck	One berth plus the number of additional berths prescribed by the Zoning Administrator (Director)

11.105 - Power of the Zoning Administrator to (Director) to Modify or Increase Requirements

The provisions of this section as to number of spaces may be modified or increased by the Zoning Administrator (Director) in the following cases only. Any other request for modification shall be submitted as, and meet the tests for, a variance. If the modification pertains to bicycle parking, it shall be routed through the PBAC as well.

- A. The number of off-street loading spaces may be reduced by not more than ten (10) percent when a common loading facility is provided within three hundred (300) feet of the uses served, upon the obtaining of a conditional use permit. The Zoning Administrator (Director) shall determine prior to granting a conditional use permit for such a reduction that the typical use of the off-street loading facility would be staggered to such an extent that the reduced number of spaces would be adequate to serve all uses sharing the facility.
- B. Off-street loading berths in addition to those prescribed in the schedule of off-street loading berth requirements shall be provided if the Zoning Administrator (Director) finds that such additional berths are necessary to ensure that trucks will not be loaded, unloaded, or stored on public streets. A finding of the Zoning Administrator (Director) shall be based on an investigation of the anticipated frequency of truck pick-ups and deliveries and of the truck storage requirements of the use for which the off-street loading berths are required.

11.110 - Off-Street Loading Facilities – General Regulations

The following general requirements apply to off-street parking:

- A. At the time of initial occupancy, major alteration, or enlargement of a site, or of completion of construction of a structure or of a major alteration or enlargement of a structure, there shall be provided off-street loading facilities for trucks in accordance with the schedule of off-street loading berth requirements prescribed in Section 11.100. For the purpose of this section, the terms “major alteration” or “enlargement” shall mean a change of use or an addition which would increase the number of loading berths required by not less than ten (10) percent of the total number required. The number of loading berths provided for a major alteration or enlargement of a site or structure shall be in addition to the number existing prior to the alteration or enlargement, unless the pre-existing number is greater than the number prescribed in Section 11.100 in which instance the number in excess of the prescribed minimum shall be counted in calculating the number provided to serve the major alteration or enlargement.
- B. **Location of Off-Street Loading Facilities.** Off-street loading facilities prescribed in Section 11.100, inclusive, shall be located on the same site with the use for which the berths are required or on an adjoining site.
- C. **Off-Street Loading Facilities to Serve One Use.** Off-street loading facilities for one use shall not be considered as **providing** required off-street loading facilities for any other use except as provided for in Section 11.105.
- D. **More Than One Use on a Site.** If more than one use is located on a site, the number of loading berths provided shall be equal to the sum of the requirements prescribed in this article for each use. If more than one use is located on a site and the gross floor area of each use is less than the minimum for which loading berths are required, off-street loading berths shall be provided as if the aggregate gross floor area were used for the use requiring the greatest number of loading berths.
- E. Space allocated to any off-street loading berth shall not, while so located, be used to satisfy the space requirements for any off-street parking facility.

11.120 - Standards for Off-Street Loading Facilities

All off-street loading facilities shall conform to the following standards:

- A. Each loading berth shall be not less than forty-five (45) feet in length and twelve (12) feet in width exclusive of aisle or maneuvering space, and shall have an overhead clearance of not less than fourteen (14) feet, except that for mortuaries, cemeteries, columbariums and crematories, a loading berth used exclusively for hearses shall be not less than twenty-four (24) feet in length and ten (10) feet in width and shall have an overhead clearance of not less than eight (8) feet.

- B. Such space may occupy all or any part of any required setback, except front and street side setbacks, and shall not be located closer than fifty (50) feet to any lot in any R District, unless enclosed on all sides by a wall not less than eight (8) feet in height.
- C. Sufficient room for turning and maneuvering vehicles shall be provided on the site.
- D. Each loading berth shall be accessible from a street or alley or from an aisle or drive connecting with a street or alley.
- E. Entrances from and exits to streets and alleys shall be designed to minimize traffic congestion and shall be placed at locations approved by the Zoning Administrator (Director).
- F. The loading area, aisles, and access drives shall be paved so as to provide a durable, dustless surface and shall be so graded and drained so as to dispose of surface water without damage to private or public properties, streets, or alleys.
- G. Bumper rails shall be provided at locations approved by the Zoning Administrator (Director) where needed for safety or to protect property.
- H. If the loading area is illuminated, lighting shall be deflected away from abutting residential sites so as to cause no annoying glare.
- I. No repair work or servicing of vehicles shall be conducted in a loading area.
- J. Landscaping and screening, in accordance with the standards of Chapter 14.

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Chapter 22 Non-Conforming Uses

22.010 - Purpose

The purpose of the regulation of non-conforming uses is to control, reduce, or eliminate conflicts arising from the presence in any district of uses or structures not conforming to district regulations. Where the degree of conflict is sufficiently great as to constitute an impairment of public welfare, peace, or safety, it is the intent of this Chapter to provide an equitable process for the removal of such uses or structures.

22.020 - Definitions

- A. **Non-conforming use.** A non-conforming use is one which was originally legal, but which does not presently conform to the provisions of the district in which it is situated. Any previously existing use for which district regulations now require a use permit shall be deemed to be non-conforming until such a permit is secured.
- B. **Non-conforming structure.** A non-conforming structure is one which was legal at the time of construction, but which does not presently conform to the provisions of the district in which it is situated. Any previously existing structure, including a sign or sign structure, for which district regulations now require a use permit, shall be deemed to be non-conforming until such a permit is secured.

22.030 - Regulation of Non-conforming Uses and Structures

Except as provided at Section 22.035, All non-conforming uses and structures ~~or~~ shall be subject to the following regulations:

- A. **Modifications to Non-Conforming Uses and Structures.** A non-conforming use or structure shall not be enlarged, extended, or moved to a different portion of the lot or parcel of land occupied by such use, except that a non-conforming structure may be reconstructed in such a way as to make it conforming, and residential and accessory structures located in appropriate residential districts which have non-conforming setbacks may be altered or added to, provided that such alterations and additions would not result in a greater non-conformity of setbacks and provided further that minimum setback of ten (10) feet are maintained for a principal structure's front and rear setbacks, three (3) feet for a principal structure's side setback, and three (3) feet side and rear setbacks for accessory structures, including telecommunications facilities (except for exempt facilities).
- B. **Modifications to Non-Conforming Structures and Accessory Dwelling Unit Conversions.** A non-conforming structure that will be converted to an accessory dwelling unit may be reconstructed to occupy the same location, building footprint, and height as the existing structure. A conversion or reconstruction for the purposes of creating a new accessory dwelling unit that is proposing expansion to a nonconforming structure, such as a second story, must provide setbacks of no less than four feet from the side and rear lot lines.
- C. **Change of Use.** No non-conforming use shall be changed to another non-conforming use without approval by the Planning Commission and then only to a use which, in the opinion of the Commission, is of the same or of a more restricted nature.
- D. **Discontinuation of a Non-Conforming Use of a Structure.** A non-conforming use of a structure shall not be re-established if such use has been discontinued for a period of twelve (12) months or more, or has been changed to, or replaced by, a conforming use. Intent to resume use of a non-conforming structure shall not confer the right to do so.
- E. **Discontinuation of a Non-Conforming Use of Land.** A non-conforming use of land, not involving a structure other than fences, signs, and buildings less than four hundred (400) square feet in area shall not be re-established if such use of land has been discontinued for a period of three (3) months or more, or has been changed to, or replaced by, a conforming use. Intent to resume a non-conforming use of land shall not confer the right to do so.
- F. **Damage to a Non-Conforming Structure.** A non-conforming structure which is damaged by fire, flood, or act of God to an extent exceeding fifty (50) percent of its value, as determined by a methodology based on comparable neighborhood values as approved by the Director, shall not be restored or reconstructed except in such a manner

and for such a use as will conform to the regulations for the district in which it is situated.

- G. **Maintenance and Repair.** Notwithstanding any of the foregoing regulations, nothing in this section shall be deemed to prevent normal maintenance and repair of any use or structure or the carrying out upon the issuance of a building permit or major structural alterations or demolitions necessary in the interest of public safety. In granting such a building permit, the Building Official shall state the precise reason why such alterations were deemed necessary.

22.035 - Regulation of Non-conforming Fueling Station/Gas Station Uses and Structures

- A. **Purpose.** To support implementation of General Plan Policy 4-P-10 through regulations that:
1. Provide for the continued operation of Fueling Station/Gasoline Station uses as legal non-conforming uses and describe when they may be deemed abandoned.
 2. Allow alterations to Fueling Station/Gasoline Stations when such changes provide greater protection of the environment, safeguard public health and safety, facilitate the use of zero emission vehicles, or enable other uses permitted within the respective zoning district.
 3. Prohibit Fueling Station/Gasoline Station operations from increasing the storage and dispensing capacity of gasoline and any other fossil fuel.
- B. **Applicability.** This section applies to:
1. All lawfully developed and operating Fueling Station/Gasoline Station uses in existence prior to [insert ordinance effective date; e.g., April 16, 2021].
 2. All Fueling Station/Gasoline Station uses not yet developed and/or operating but subject to an approved and unexpired land use permit.
- C. **Modifications to Fueling Stations/Gas Station Uses, Generally.** Except as provided below, Fueling Station/Gas Station uses and structures related thereto shall not be enlarged, extended, reconstructed or moved to a different portion of the lot or parcel of land occupied by such use. As determined by the Zoning Administrator, examples of features subject to this provision include, but are not limited to, those related to the sale, storage, conveyance, and dispensing of gasoline and any other fossil fuel (e.g., storage tanks, pumps, dispensers).
- D. **Modifications to Improve Soil, Groundwater and Stormwater Quality.** Fueling Station/Gas Station uses may be modified to conform to current stormwater quality control regulations or remediate contamination of the soil or groundwater.
- E. **Modifications to Improve Traffic Safety.** As determined by the City Engineer, the pedestrian and vehicular circulation features (e.g., curbing, sidewalks, traffic control devices) of a Fueling Station/Gas Station use may be modified to improve public safety.
- F. **Modifications to Enable Zero Emission Vehicles (Battery Charging Station).** Fueling Station/Gas Station uses may be modified to accommodate battery charging station(s) for zero emission vehicles. Pursuant to Government Code Section 65850.7, this Zoning Ordinance requires no permit for battery charging stations.
- G. **Modifications to Enable Zero Emission Vehicles (Hydrogen Fuel Cell Station).** Fueling Station/Gas Station uses may be altered to include facilities for the storage, conveyance and dispensing of hydrogen to zero emission vehicles.
- H. **Modifications for Commercial Uses Other Than Fossil Fuel Sales.** Fueling Station/Gas Station uses may be altered to accommodate commercial uses that are not related to fossil fuel sales and provided for in the respective zoning district.
- I. **Discontinuation of a Fueling Station/Gas Station Uses or Structures.** A Fueling Station/Gas Station use shall

not be re-established if such use has been discontinued for a continuous period of twelve (12) months or more, or has been changed to, or replaced by, a conforming use. If the use has discontinued for reasons of construction under a valid building permit, the Zoning Administrator may extend the 12-month timeframe when presented with documentation demonstrating construction has been pursued diligently and timely.

- J. Relationship to Section 22.030. All provisions at Section 22.030(C), (F) and (G) are incorporated here by reference and affirmed as applicable to this section.

22.040 - Non-Conformity by Reason of Non-Compliance with Performance Standards or Absence of a Conditional Use Permit

- A. Any use which is non-conforming at the time of the adoption of this Ordinance by reason of non-compliance with performance standards established in Chapter 21 shall adopt measures necessary to conform therewith within five (5) years of the adoption of this Ordinance.
- B. Any use which is non-conforming by reason of failure to secure a use permit shall be subject to the regulations of Section 22.030 until such time as a use permit is secured.

22.050 - Construction Approved Prior to Ordinance

A building, structure or part thereof which does not conform to the regulations for the district in which it is situated, but for which a building permit was issued prior to the enactment of this Ordinance may be completed providing work is prosecuted continuously and without delay. Such building, structure or part thereof shall be deemed to be a non-conforming use and shall thereafter be subject to the restrictions set forth herein.

Chapter 28

Glossary

28.010 - Purpose

The chapter establishes the definitions of terms and phrases that are technical or specialized or that may not reflect common usage. If a word is not defined in this chapter, or in another chapter of this Ordinance, the Director shall determine the correct definition.

28.020 – Definitions of Specialized Terms and Phrases

As used in this Ordinance, the following terms shall have the meaning ascribed to them in this Section, unless the context in which they are used clearly requires otherwise.

A. Definitions, "A."

Abut. Adjoin or border on.

Adult oriented business. As defined in Chapter 10.

Adult Day Program. Any community-based facility or program that provides care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of these individuals on less than a 24-hour basis.

Alcoholic Beverage Establishment. A commercial and non-commercial establishment wherein alcoholic beverages are sold, served, or given away for consumption on the premises, excluding full-service restaurants. Typical alcoholic beverage establishments include but are not limited to the following recognized types of establishments: bars, cocktail lounges, ballrooms, dance bars, piano bars, billiard or game parlors, bowling alleys and nightclubs.

Alley. A public or private way which affords only secondary access to abutting property.

Arborist. 1) A person currently certified by the Western Article of the International Society of Arboriculture as an expert on the care of trees; 2) a consulting arborist who satisfies the requirements of the American Society of Consulting Arborists; or 3) other qualified professionals who the Director determines have gained through experience the qualifications to identify, remove, or replace trees.

Artisan Shop. A retail store selling art glass, ceramics, jewelry, and other handcrafted items, where the facility includes an area for the crafting of the items being sold.

Artisan/Craft Product Manufacturing. Establishments manufacturing and/or assembling small products primarily by hand, including but not limited to jewelry, pottery, ceramics, small glass and metal art, and craft products. May also include small scale artisanal food and beverage product manufacturing.

Automated Teller Machine (ATM). Computerized, self-service machines used by banking customers for financial transactions, including deposits, withdrawals and fund transfers, without face-to-face contact with financial institution personnel. The machines may be located at or within banks, or in other locations.

Auto Parts Sales. Stores that sell new automobile parts and accessories. Establishments that provide installation services are instead included under "Vehicle Services - Repair and Maintenance - Minor." Does not include tire recapping establishments, which are found under "Vehicle Services" or businesses dealing exclusively in used parts, which are included under "Recycling - Scrap and Dismantling Yards."

Auto and Vehicle Sales and Rental. A retail or wholesale establishment selling and/or renting automobiles, trucks and vans, trailers and motorcycles (bicycle sales are included under "General Retail"). May also include repair shops and the sales of parts and accessories, incidental to vehicle dealerships. Does not include: the sale of auto parts/accessories separate from a vehicle dealership (see "Auto Parts Sales"); mobile home, recreational vehicle, or watercraft sales (see "Mobile Home, RV and Boat Sales"); tire recapping establishments (see "Vehicle Services"); businesses dealing exclusively in used parts, (see "Recycling - Scrap and Dismantling Yards"); or "Gas Stations," which are separately defined.

B. Definitions, "B."

Bank, Financial Services. Financial institutions including:

banks and trust companies	other investment companies
credit agencies	securities/commodity contract brokers and dealers
holding (but not primarily operating) companies	security and commodity exchanges
lending and thrift institutions	vehicle finance (equity) leasing agencies

See also, "Automated Teller Machine."

Bar/Tavern. A business where alcoholic beverages are sold for on-site consumption, which are not part of a larger restaurant. Includes bars, taverns, pubs, and similar establishments where any food service is subordinate to the sale of alcoholic beverages. May also include beer brewing as part of a microbrewery. Does not include adult oriented businesses (also see "Night Club").

Bed and Breakfast Inn (B&B). A residential structure with one household in permanent residence, with three or more bedrooms furnished for compensation for overnight lodging, where meals may be provided subject to applicable Health Department regulations. Does not include room rental, which is separately defined (see "Rooming, Lodging, Boarding House, or Short-Term Vacation Rental").

Bedroom. Any space in the conditioned area of a dwelling unit or accessory structure located along an exterior wall, but not including the following: hall; bathroom; kitchen; living room, dining room, family room, laundry room, closet/dressing room opening off of a bedroom. If a home office, library or similar room is proposed, it may be exempted from being considered a bedroom if there is no closet and at least one of the following is present: a) a minimum 4 foot opening, without doors, into another room; or b) a half wall (4 foot maximum height) between the room and another room. A detached building which contains only a half bath will not routinely be considered as having a bedroom unless it is specifically identified and permitted as a guest house.

Block. The properties abutting on one side of a street and lying between the two nearest intersecting or intercepting streets, or nearest intersecting or intercepting street and railroad right-of-way, unsubdivided land, or watercourse.

Building. See "structure"

Building Height. Measured as the vertical distance between the average finish grade and the midpoint between the eaves and ridge of a gambrel, hip or gable roof, or the highest point of a flat or shed roof, or the ridge of the roofline of a mansard roof. When either of the following occurs, a dormer shall also be considered a roof for the purposes of determining building height:

- the width of the roof of the dormer exceeds 49% of the width of the roof of the building; or
- the width of the dormer measured from building wall to building wall exceeds 49% of the width of the building measured from building wall to building wall.

All building elevations are required to comply with the height limit for the zoning district in which the property is located.

Building and Landscape Materials Sales-Indoor. See "General Retail"

Building and Landscape Materials Sales-Outdoor. See "Storage-Yard, Outdoor"

Business Support Service. An establishment within a building that provides services to other businesses. Examples of these services include:

blueprinting	film processing and photo finishing (retail)
computer related services (rental, repair)	protective services
copying and quick printing services	security systems service

C. Definitions, "C."

Catering. A business that prepares and delivers food for consumption on the premises of a client. Does not include mobile food vendors.

Child Care Center. A child day care facility (other than a family day care home) as defined in Government Code Section 65915, subdivision (h), paragraph (4) and successor statutes including, but not limited to, infant centers, preschools, extended day care facilities and school age child care centers that provides non-medical care and supervision for minor children for periods of less than 24 hours and is licensed by the California State Department of Social Services. Excludes "Child Day Care," below.

Child Day Care. Facilities that provide care, protection and supervision of children, in the care giver's home, for periods of less than 24 hours per day, while the parents or authorized representatives are away. These facilities include the following, all of which are required to be licensed by the State of California Department of Social Services.

1. **Large Family.** A home that provides family child care for up to 12 children, or for up to 14 children. These capacities include children under age 10 who live in the licensee's home and the assistant provider's children under age 10. A large family day care home is required to comply with the requirements of Section 7.060.
2. **Small Family.** A home that provides family child care for up to six children, or for up to eight children. These capacities include children under age 10 who live in the licensee's home.

Combining District. Special regulations to be invoked where appropriate or necessary in addition to basic district regulations.

Commercial Recreation - Indoor. Establishments providing indoor amusement and entertainment services for a fee or admission charge, including:

bowling alleys	electronic game arcades (video games, pinball, etc.)
coin-operated amusement arcades	ice skating and roller skating
dance halls, clubs and ballrooms	pool and billiard rooms as primary uses

This use does not include adult oriented businesses, which are separately defined. Four or more electronic games or coin-operated amusements in any establishment, or a premises where 50 percent or more of the floor area is occupied by amusement devices, are considered an electronic game arcade as described above; three or fewer machines are not considered a land use separate from the primary use of the site.

Commercial Recreation - Outdoor. Facilities for various outdoor recreational activities, where a fee is charged for use. Examples include:

amusement and theme parks	miniature golf courses
go-cart tracks	water slides
golf driving ranges	

May also include commercial facilities customarily associated with the above outdoor commercial recreational uses, including bars and restaurants, video game arcades, etc.

Community Meeting Facility. A multi-purpose meeting and/or recreational facility typically consisting of one or more meeting or multi-purpose rooms, which may also include kitchen and/or outdoor cooking or eating facilities, that area available for use by various groups for such activities as meetings, parties, receptions, dances, etc. Community meeting facilities include community center and the following.

1. **Club, Lodge, Private Meeting Hall.** Permanent, headquarters-type and meeting facilities for organizations operating on a membership basis for the promotion of the interests of the members, including facilities for:

business associations	political organizations
civic, social and fraternal organizations	professional membership organizations
labor unions and similar organizations	other membership organizations

2. **Religious Facility.** A facility operated by a religious organization to provide a place for worship, or the promotion of religious activities. This use includes: churches, mosques, synagogues, temples, etc., and their accessory uses on the same site, such as living quarters for staff, fund-raising sales, bazaars, dinners, parties, or other outdoor events on the same site. Other uses defined in the Implementing Zoning Ordinance and identified in Tables 4.1 through 4.5, which may be maintained by religious organizations, such as full-time educational institutions, hospitals, or recreational camps, shall be permitted as set forth in Tables 4.1 through 4.5 of the Implementing Zoning Ordinance.

Conference/Convention Facility. One or more structures accommodating multiple assembly, meeting, and/or exhibit rooms, and related support facilities (e.g., kitchens, offices, etc.).

Coverage. The percent of the total site area covered by structures, open or enclosed, excluding uncovered steps, patios and terraces.

Crop Production, Horticulture, Orchard, Vineyard. Commercial agricultural production field and orchard uses, including the production of the following, primarily in the soil on the site and not in containers, other than for initial propagation prior to planting in the soil on the site:

flowers and seeds	ornamental crops
tree nuts	field crops
trees and sod	melons
vegetables	grains
wine and table grapes	fruits

Also includes associated crop preparation services and harvesting activities: mechanical soil preparation; irrigation system construction; spraying. May also include the sale of products grown on site. Does not include greenhouses which are instead defined under "Plant Nursery" or containerized crop production, which is instead defined under "Plant Nursery."

D. Definitions, "D."

Demolition. The removal of 50% or more of the exterior walls of a building or structure or the relocation of a building from one parcel of land to another or the raising of an existing structure beyond what is required for a new foundation. The initial determination of demolition is made by the Community Development Director.

Development Project. Any project which would, if carried out, establish or permit to be established any new or changed use of any real property, building, structure or sign.

Driveway, Residential. A way that is typically paved and provides direct access from a public or private street to an individual dwelling unit or to the garage or parking area for the residential unit.

Dwelling, Accessory. An attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel as that on which the single or multifamily household dwelling is or will be situated and meeting the requirements of Section 7.030.

Dwelling, Attached. A building containing a single dwelling unit and having one or more walls in common with another such unit with each unit located on a separate lot.

Dwelling, Caretaker. A permanent residence that is secondary or accessory to the primary use of the property and used for housing a caretaker employed on the site of any non-residential use where needed for security purposes.

Dwelling, Detached. A building designed for and/or occupied exclusively by one household that has no walls in common with any other structure or dwelling unit.

Dwelling, Group. A group of two (2) or more detached dwellings located on one parcel of land in one (1) ownership and meeting the requirements of Section 7.040. No more than three (3) dwelling units shall be erected in a dwelling group. An accessory dwelling is not included as a dwelling for the purposes of a dwelling group.

Dwelling, Junior Accessory. A unit that is no more than 500 square feet in size and contained entirely within a single-family residence and meeting the requirements of Section 7.035. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

Dwelling, Multiple. A building designed or used exclusively as a residence including two or more separate dwelling units. This definition includes but is not limited to duplexes, triplexes, apartments, and condominiums under a common ownership.

Dwelling, Single Household. A freestanding building designed for and/or occupied by one household.

Dwelling, Unit. A room or group of internally connected rooms that have sleeping, cooking, eating, and sanitation facilities, but not more than one kitchen, which constitute an independent housekeeping unit, occupied by or intended for one household on a long-term basis.

E. Definitions, "E."

Electric Vehicle Supply Equipment. The hardware, including connectors, fixtures, devices, and other components required to charge an electric vehicle.

Emergency Shelter. Emergency shelter means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person.

F. Definitions, "F."

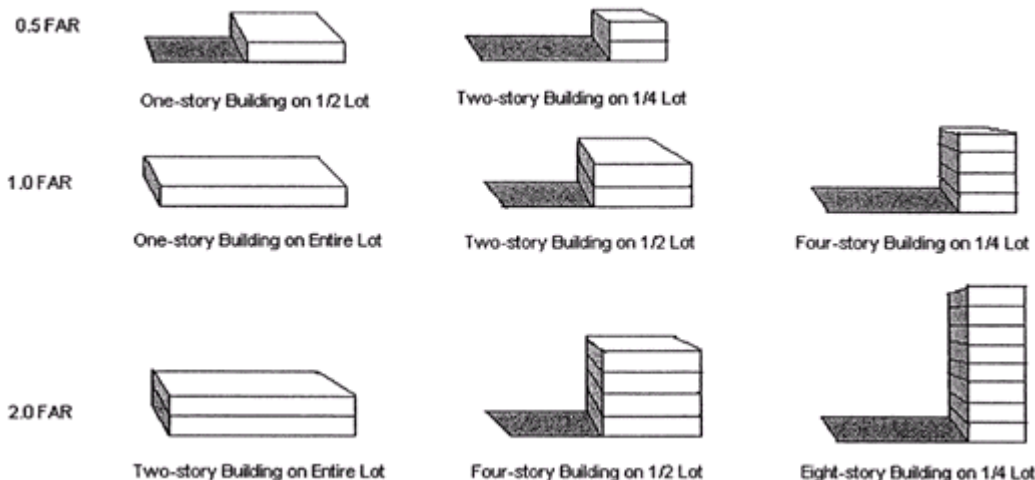
Farm Animal Keeping. Raising of livestock and poultry, dairying, or animal husbandry.

Fence. A device or portion thereof designed to separate or screen property areas and not to carry super-imposed load.

Fitness/ Health Facility. A fitness center, gymnasium, health and athletic club, which may include any of the following: sauna, spa or hot tub facilities; indoor tennis, handball, racquetball, archery and shooting ranges and other indoor sports activities. Does not include adult entertainment businesses.

Floor area, Gross. The entire area within the walls of a building, measured in a horizontal plane from the outside edge of exterior wall to exterior wall, in square feet.

Floor Area Ratio. The gross floor area of all buildings on a lot divided by the building site area (see exhibit below).



Fueling Station/Gas Station. A retail business selling gasoline and/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, and restaurant facilities.

Furniture/Fixtures Manufacturing, Cabinet Shop. Manufacturers producing: wood and metal household furniture and appliances; bedsprings and mattresses; all types of office furniture and public building furniture and partitions, shelving, lockers and store furniture; and miscellaneous drapery hardware, window blinds and shades. Includes furniture re-upholstering businesses, wood and cabinet shops, but not sawmills or planing mills, which are instead included under "Manufacturing - Heavy."

G. Definitions, "G."

Garage, or Carport. Parking space and shelter for automobiles or other vehicles, where the size of the parking space complies with the provisions of Section 11.070(l) (Parking Stall Size).

1. A garage is a completely enclosed attached or detached accessory structure with an operational door
2. A carport is an attached or detached accessory structure enclosed on no more than two sides.

A garage or carport complies with the requirements of this Zoning Code for "covered" parking spaces.

Garage Sale. A sale of articles belonging to one or more households, held for a period not to exceed three consecutive days, at a frequency not to exceed once every two months at any single location.

General Retail. Stores and shops selling many lines of merchandise. Examples of these stores and lines of merchandise include, but are not limited to:

antique stores	drug stores and pharmacies
art galleries, retail	furniture, furnishings, and appliances
artists' supplies	toys and games
jewelry	musical instruments, parts and accessories
auto parts sales	second hand stores
bicycles	specialty shops
books, magazines, and newspapers	sporting goods and equipment
building and landscape materials indoor	department stores
cameras and photographic supplies	wine shops
clothing, shoes, and accessories	convenience stores

Golf Course, Country Club. Golf courses, and accessory facilities and uses including: clubhouses with bar and restaurant, locker and shower facilities; driving ranges; "pro shops" for on-site sales of golfing equipment; and golf cart storage and sales facilities.

Grade, Finish. The ground surface immediately adjacent to the exterior base of a structure.

Grade, Natural or Existing. The contour of the ground surface before grading.

Groceries, Specialty Foods. A retail business where the majority of the floor area open to the public is occupied by food products packaged for preparation and consumption away from the store.

Guest House. A detached living quarters of permanent construction, without kitchen or cooking facilities, clearly subordinate and incidental to the main building on the same lot, and intended for use by occasional guests of the occupants of the main building.

H. Definitions, "H."

Home Occupation. A commercial activity conducted in a dwelling located in a Residential, Mixed Use, or Commercial zoning district, which is clearly incidental and secondary to the use of the dwelling for residential purposes and in accordance with the provisions of Section 7.050.

Hotel or Motel. A facility with guest rooms or suites, with or without kitchen facilities, rented to the general public for transient lodging. Hotels typically include a variety of services in addition to lodging; for example, restaurants, meeting facilities, personal services, etc. Also includes accessory guest facilities such as swimming pools, tennis courts, indoor athletic facilities, accessory retail uses, etc.

Household. A person or group of people who live together in a single dwelling unit, but not including the renting of rooms.

I. Definitions, "I."

No definitions beginning with "I"

J. Definitions, "J."

No definitions beginning with "J"

K. Definitions, "K."

Kennel, Animal Boarding. A commercial facility for the grooming, keeping, boarding or maintaining of four or more dogs (four months of age or older), or four dogs or cats for sale in pet shops or patients in animal hospitals. See also "Veterinary Clinic, Animal Hospital."

Kitchen. A room or space within a building used or intended to be used for cooking or preparation of food, which included any of the following: stove, oven, range top.

L. Definitions, "L."

Laboratory - Medical, Analytical, Testing. A facility for testing, analysis, and/or research. Examples of this use include medical labs, soils and materials testing labs, and forensic labs.

Laboratory – Cannabis. Testing laboratories that offer or perform testing of cannabis or cannabis products in accordance with Petaluma Municipal Code sections 10.15.020 and 10.15.040, and the current City of Petaluma Cannabis Permit Regulations.

Laundry, Dry Cleaning Plant. A service establishment engaged primarily in high volume laundry and garment services, including: carpet and upholstery cleaners; diaper services; dry cleaning and garment pressing; commercial laundries; linen supply. These facilities may include accessory customer pick-up facilities. These facilities do not include coin-operated laundries or dry cleaning pick-up stores without dry cleaning equipment; see "Personal Services."

Library, Museum, Art Gallery. A public or quasi-public facility, examples of which include: aquariums, arboretums, art galleries and exhibitions, botanical gardens, historic sites and exhibits, libraries, museums, planetariums, and zoos. May also include accessory retail uses such as a gift/book shop, restaurant, etc.

Lot or Parcel. A recorded lot or parcel of real property lawfully created as required by applicable Subdivision Map Act and City ordinance requirements, including this Zoning Ordinance. Types of lots include the following:

Corner Lot. A lot located at the intersection of two or more streets, where they intersect at an interior angle of not more than 135 degrees. If the intersection angle is more than 135 degrees, the lot is an interior lot.

Flag Lot. A lot having access from the building site to a public street by means of private right-of-way strip.

Interior Lot. A lot abutting only one street.

Reverse Corner Lot. A corner lot the side line of which is substantially a continuation of the front property line of the first lot to its rear.

Double Frontage Lot. An interior lot with frontage on two generally parallel streets.

Lot Area. Gross lot area is the total area included within the lot lines of a lot, exclusive of adjacent dedicated street rights of way. Net lot area is the gross area of the lot, exclusive of:

1. Easements for streets or driveways that are not for the exclusive use of the lot on which the easement is located;
2. The access strip required to serve a flag lot.

Lot, Depth. The average linear (or mean horizontal) distance between the front and rear lot line lines or between the front lot line and the intersection of the two side lot lines if there is no rear lot line.

Lot Frontage. The property line of a site abutting a street, other than the street side line of a corner lot.

Lot, Width. The horizontal distance between the side lot lines.

Lot Line or Property Line. Any recorded boundary of a lot. The types of lot lines are as follows:

Front Lot Line. On an interior lot, the property line separating the parcel from the street. The front line on a corner lot is the line with the shortest frontage. If the street fronting lot lines of a corner lot are equal in length, the front lot line shall be determined by the Director. On a double frontage lot, both lot lines are front lot lines and the lot is considered to have no rear lot line.

Interior Lot Line. Any lot line not abutting a street that is not a rear lot line.

Rear Lot Line. A property line that does not intersect the front lot line, which is most distant from and most closely parallel to the front lot line.

Side Lot Line. Any lot line that is not a front or a rear lot line.

Street Side Lot Line. On a corner lot, the lot line with the longest frontage.

M. Definitions, "M."

Maintenance/Repair Service - Client Site Services. Base facilities for various businesses that provide services on the premises of their clients. Includes gardening, janitorial, pest control, water and smoke damage recovery, and similar services; and maintenance/repair services for appliances, computers, electronics, elevators, equipment, HVAC, instrument, where the service is provided on the client site.

Maintenance/Repair Service - Equipment, Appliances. A business that provides repair and/or maintenance services for appliances, computers, electronics, and other types of non-vehicular related equipment that is brought to the facility by the client. These businesses do not operate on the same site as a retail establishment that sells the product being maintained or repaired. When these services operate from a retail establishment that sells the products being maintained or repaired, they are instead considered part of the retail use.

Manufactured/Mobile Home. A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under this part. California Health and Safety Code Section 18007.

Manufacturing – Cannabis. Businesses that manufacture and sell topical or edible cannabis products using cannabis infusions, infusion processes, or cannabis concentrates only business to business (non-retail) in accordance with Petaluma Municipal Code section 10.15.040 and the current City of Petaluma Commercial Cannabis Permit Regulations. Excludes manufacturing of cannabis products involving volatile solvents, and repackaging cannabis or cannabis products or re-labeling cannabis or cannabis product containers.

Manufacturing/Processing - Light. A facility accommodating manufacturing processes and establishments engaged in the assembly, fabrication, and conversion of already processed raw materials into products, where the operational characteristics of the manufacturing processes and the materials used are unlikely to cause significant impacts on surrounding land uses or the community. Examples of light manufacturing uses include, but are not limited to, the following:

clothing and fabric product manufacturing
electronics, equipment, and appliance manufacturing
food and beverage product manufacturing

metal products fabrication, machine and welding shops
paper product manufacturing

Manufacturing/Processing - Medium Intensity. A facility accommodating manufacturing processes that involve and/or produce building materials, fabricated metal products, machinery, and/or transportation equipment, where the intensity and/or scale of operations is greater than those classified under "Manufacturing - Light," but where impacts on surrounding land uses or the community can typically be mitigated to acceptable levels. Examples of medium intensity manufacturing uses include, but are not limited to, the following:

lumber and wood product manufacturing
machinery manufacturing
motor vehicles and transportation equipment

stone and cut stone product manufacturing
structural clay and pottery product manufacturing

Manufacturing/Processing - Heavy Intensity. A facility accommodating processes that involve and/or produce basic metals, building materials, chemicals, fabricated metals, paper products, machinery, textiles, and/or transportation equipment where the intensity and/or scale of operations may cause significant impacts on surrounding land uses or the community.

Meals Assembly. A facility that provides a location for clients to assemble meals from ingredients and take them offsite for cooking and consumption. Meals may also be assembled onsite for clients to pickup at the facility. No eating facilities are provided.

Media Production. Facilities for motion picture, television, video, sound, computer, and other communications media production.

Medical Service - Health Care Facility. A facility, place, or building that is maintained and operated to provide medical care. Includes nursing homes, intermediate care facilities, medical clinics, and home health agencies, all of which are licensed by the California State Department of Health Services, and defined in Health and Safety Code Section 1200 et seq.

Medical Service - Minor. A facility other than a hospital where medical, dental, mental health, surgical, and/or other personal health care services are provided on an outpatient basis. Includes medical offices (for example offices for chiropractors, dentists, medical doctors, optometrists, prescription opticians, psychologists/psychiatrists, etc.), outpatient facilities which may include surgery, urgent care facilities, dental laboratories, and medical laboratories. May include massage therapy and acupuncture when not part of a personal service or spa establishment.

Medical Service - Major. Hospitals and similar facilities engaged primarily in providing diagnostic services, and extensive medical treatment, including surgical and other hospital services. These establishments have an organized medical staff, inpatient beds, and equipment and facilities to provide complete health care. May include on-site accessory clinics and laboratories, accessory retail uses and emergency heliports (see the separate definition of "Accessory Retail Uses").

Mobile Home, RV, and Boat Sales. Retail establishments selling both mobile home dwelling units, and/or various vehicles and watercraft for recreational uses. Includes the sales of boats, campers and camper shells, jet skis, mobile homes, motor homes, and travel trailers.

Mortuary, Funeral Home. Funeral homes and parlors, where deceased are prepared for burial or cremation, funeral services may be conducted.

N. Definitions, "N."

Night Club. A facility serving alcoholic beverages for on-site consumption, and providing entertainment, examples of which include live music and/or dancing, comedy, etc. (also see "Bar/Tavern").

O. Definitions, "O."

Office. This Code distinguishes between the following types of offices. These do not include medical offices (see "Medical Service - Minor").

1. **Accessory.** An office facility incidental and accessory to another business or sales activity that is the primary use. These are permitted accessory to any other use allowed in all zones established by this code.
2. **Government.** An administrative, clerical, or public contact and/or service office of a local, state, or federal government agency. Includes post offices, but not bulk mailing distribution centers, which are under "Truck or Freight Terminal."
4. **High Employee.** An office-type facility characterized by high employee concentration, and occupied by businesses engaged in information processing. Examples of these uses include, but are not limited to:

airline, lodging chain, and rental car company reservation centers
 consumer credit reporting
 data processing services
 health management organization (HMO) offices where no medical services are provided
 insurance claim processing
 mail order and electronic commerce transaction processing
 telemarketing

5. **Professional/Administrative.** An office-type facility occupied by businesses that provide direct professional services and/or is engaged in the production of intellectual property. Examples of these uses include, but are not limited to:

accounting, auditing and bookkeeping services	financial management and investment counseling
advertising agencies	single or small group psychologists/psychiatrists/counselors
attorneys	management and public relations services
commercial art and design services	media production services
construction contractors (office facilities only)	design services including architecture, engineering,
photographers and photography studios	landscape architecture, urban planning
court reporting services	educational, scientific and research organizations

One Foot Lambert. Equals brightness equivalent to one lumen per square foot reflected from a surface. One lumen per square foot is equal to a square foot illuminated evenly by one foot candle at any point.

Outdoor Advertising Structure. Any device which is used or designed so that it may be used to direct attention to a business, profession, commodity, service, or entertainment, conducted, sold, or offered elsewhere than upon the lot where such sign is located.

P. Definitions, "P."

Park. City owned land whose primary purpose is recreation, includes, but is not limited to, playfields and courts, swimming pools, recreational facilities, community gardens, playgrounds, trails, and nature preserves.

Parking Facility, Public or Commercial. Includes both day use and long-term public and commercial garages, parking lots and structures, except when accessory to a primary use. (All primary uses are considered to include any customer or public use off-street parking required by the Zoning Code). Also include "park and ride" lots. Does not include dismantling yards.

Performance Standards. Regulations for the control of "dangerous or objectionable elements" as defined in Article XX.

Personal Services. Establishments providing non-medical services to individuals as a primary use. Examples of these uses include:

barber and beauty shops	massage (licensed, therapeutic, non-sexual)
clothing rental	pet grooming with no boarding
dry cleaning pick-up stores with limited equipment	shoe repair shops
home electronics and small appliance repair	tailors
laundromats (self service laundries)	tanning salons
locksmiths	

These uses may also include accessory retail sales of products related to the services provided.

Personal Services - Restricted. Personal services that may tend to have a potentially offensive effect upon surrounding areas and which may need to be dispersed to minimize their adverse impacts. Examples of these uses include:

check cashing stores	soup kitchens
fortune tellers	spas and hot tubs for hourly rental
palm and card readers	tattoo and body piercing services
psychics	

Petroleum Product Storage and Distribution. A facility for the bulk storage and wholesale distribution of gasoline, diesel fuel, and/or other fuels and petroleum products.

Plant Nursery. A commercial agricultural establishment engaged in the production of ornamental plants and other nursery products, grown under cover either in containers or in the soil on the site, or outdoors in containers. The outdoor production of ornamental plants in the soil on the site is instead included under "Crop Production, Horticulture, Orchard, Vineyard." Also includes establishments engaged in the sale of these products (e.g., wholesale and retail nurseries) and commercial-scale greenhouses. The sale of house plants or other nursery products entirely within a building is also included under "General Retail."

Printing and Publishing. A small scale establishment engaged in printing by letterpress, lithography, gravure, screen, offset, or electrostatic (xerographic) copying; and other establishments serving the printing trade such as bookbinding, typesetting, engraving, photoengraving and electrotyping. This use also includes establishments that publish newspapers, books and periodicals; establishments manufacturing business forms and binding devices. "Quick printing" services are included in the definition of "Business Support Services."

Public Safety Facility. A facility operated by a public agency including fire stations, other fire prevention and fire fighting facilities, police and sheriff substations and headquarters, including interim incarceration facilities.

Q. Definitions, "Q."

No definitions beginning with "Q"

R. Definitions, "R."

Recreational Vehicle. A motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational, emergency, or other occupancy, that meets all of the following criteria: (1) It contains less than 320 square feet of internal living room area, excluding built-in equipment, including, but not limited to, wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms. (2) It contains 400 square feet or less of gross area measured at maximum horizontal projections. (3) It is built on a single chassis. (4) It is either self-propelled, truck-mounted, or permanently towable on the highways without a permit. Also includes a "park trailer" as defined by California Health & Safety Code 18009.3. California Health & Safety Code, Section 18010.

Recycling Facility. This land use type includes a variety of facilities involved with the collection, sorting and processing of recyclable materials. Recyclable materials include reusable domestic containers and other materials which can be reconstituted, re-manufactured, or reused in an altered form, including glass, metals, paper and plastic. Recyclable material does not include refuse or hazardous materials.

Research and Development (R&D). A facility for scientific research, and the design, development and testing components in advance of product manufacturing, and the assembly of related products from parts produced off-site, where the manufacturing activity is secondary to the research and development activities.

Residential Facilities, Adult (ARF). Facilities of any capacity that provide 24-hour non-medical care for adults ages 18 through 59, who are unable to provide for their own daily needs. Adults may be physically handicapped, developmentally disabled, and/or mentally disabled.

Residential Care Facilities for the Chronically III (RCFCI). Facilities with a maximum licensed capacity of 25. Care and supervision is provided to adults who have Acquired Immune Deficiency Syndrome (AIDS) or the Human Immunodeficiency Virus (HIV).

Residential Care Facilities for the Elderly (RCFE). Provide care, supervision and assistance with activities of daily living, such as bathing and grooming. They may also provide incidental medical services under special care plans.

The facilities provide services to persons 60 years of age and over and persons under 60 with compatible needs. RCFEs may also be known as assisted living facilities, retirement homes and board and care homes. The facilities can range in size from six beds or less to over 100 beds. The residents in these facilities require varying levels of personal care and protective supervision. Because of the wide range of services offered by RCFEs, consumers should look closely at the programs of each facility to see if the services will meet their needs.

Restaurant, Café, Coffee Shop. A retail business selling ready-to-eat food and/or beverages for on- or off-premise consumption. These include eating establishments where customers are served from an ordering counter for either on- or off-premise consumption ("counter service"); establishments where customers are served food at their tables for on-premise consumption ("table service"), which may also provide food for take-out; and exclusively pedestrian-oriented facilities that serve from a walk-up ordering counter. This use does not include a mobile food vendor.

Retail Sale and Deliver – Cannabis. Businesses that sell cannabis and cannabis products using a delivery-only method at a maximum of two different locations in the City, with no sale of cannabis or cannabis products to customers, primary care givers or qualified patients permitted at the business location at any time and no signage at the business location or on the delivery vehicles indicating the presence of cannabis or cannabis products or that the seller sells cannabis or cannabis products in accordance with Petaluma Municipal Code sections 10.15.040 and 10.15.060, and the current City of Petaluma Commercial Cannabis Permit Regulations.

Retaining Wall. Any wall erected to hold back or support a bank of earth.

Rooming or Boarding, Accessory. A portion of a dwelling where lodging and boarding are provided for no more than 3 persons for a period of 30 days or longer.

Rooming, Lodging or Boarding House. A dwelling or part of a dwelling where lodging is furnished for compensation to three or more persons living independently from each other for a period of 30 days or longer. Meals may also be included.

S. Definitions, "S."

School. A private academic educational institution, including:

boarding school	high school
community college, college, or university	military academy
elementary, middle and junior high schools	

School – Specialized Education and Training. A private academic educational institution, providing specialized education/training. Examples include the following:

art school	establishments providing courses by mail
ballet and other dance school	language school
business, secretarial and vocational	music school
computers and electronics school	professional school (law, medicine, etc.)
drama school	seminaries/religious ministry training facility
driver education school	

Also includes facilities, institutions and conference centers that offer specialized programs in personal growth and development, such as fitness, environmental awareness, arts, communications, and management. Does not include pre-schools and child day care facilities (see "Child Day Care Facilities"). See also the definition of "Studios - Art, Dance, Martial Arts, Music, etc." for smaller-scale facilities offering specialized instruction.

Scrap and Dismantling Yard. Outdoor establishments primarily engaged in assembling, breaking up, sorting, and the temporary storage and distribution of recyclable or reusable scrap and waste materials, including auto wreckers engaged in dismantling automobiles for scrap, and the incidental wholesale or retail sales of parts from those vehicles. Includes light and heavy processing facilities for recycling (see the definitions above). Does not include: places where these activities are conducted entirely within buildings; secondhand stores; the sale of operative used cars; or landfills or other waste disposal sites.

Short-Term Vacation Rental. A dwelling, part of a dwelling, or dwelling as an accessory or secondary unit furnished for compensation for a period of less than 30 days. Meals may also be included. Does not include room rental for 30 days or more, which is separately defined (see "Rooming, Lodging, or Boarding House").

Setback. The required distance by which a structure, parking area, or other development feature must be separated from a property line, other structure, development feature (e.g. back of sidewalk, or curb) or street center line.

Setback, Front. The required area extending across the full width of a site measured from the front property line, street plan line, or access easement to the primary structure. The depth of the front setback is measured as the minimum horizontal distance between the front property line, street plan line, or access easement and a line parallel thereto with the required minimum distance determined by the development standards for the applicable zoning district.

Setback, Rear. The required area extending across the full width of a site measured from the rear lot line and a structure. The depth of a rear setback is measured as the minimum horizontal distance between the rear property line and a line parallel thereto with the required minimum distance determined by the development standards for the applicable zoning district.

Setback, Side. The required area extending from the front property line, street plan line, or access easement to the rear property line. The width of a side setback is the minimum horizontal distance between an interior side property line and a line parallel thereto with the required minimum distance determined by the development standards for the applicable zoning district.

Setback, Street Side. The required area extending from the front property line, street plan line, or access easement to the rear property line. The width of a street side setback is the minimum horizontal distance between the street side property line and a line parallel thereto with the required minimum distance determined by the development standards for the applicable zoning district for a corner or reverse corner lot.

Sports and Entertainment Assembly Facility. A large-scale indoor or outdoor facility accommodating spectator-oriented sports, concerts, and other entertainment activities. Examples of this land use include amphitheaters, race tracks, stadiums and coliseums. May also include commercial facilities customarily associated with the above uses, including bars and restaurants, gift shops, video game arcades, etc.

Storage- Warehouse, Indoor Storage. Facilities for the storage of commercial goods of any nature. Includes cold storage. Does not include storage or mini-storage facilities offered for rent or lease to the general public. (see also "Wholesaling and Distribution" and "Truck or Freight Terminal").

Storage- Outdoor Storage Yard. The open storage of various materials outside of a structure other than fencing, either as an accessory or principal use.

Street. A public or private right-of-way which provides a public means of access to abutting property. The term "street" shall include avenue, drive, circle, road, parkway, boulevard, highway, thoroughfare, or any other similar term, but not alley. The term shall include the total width of the dedicated right-of-way.

Structure. Anything constructed or erected which requires location on the ground or which is attached to something having location on the ground, excluding vehicles designed and used only for the transportation of people or goods, a swimming pool or spa, a fence, or a wall used as a fence.

Structure, Accessory. A building or structure normally subordinate, and the use of which is incidental, to the primary use of the site.

Structure, Accessory Detached. An accessory building or structure with a minimum separation from a primary structure or building of at least three feet. For purposes of measurement, roof eaves and overhangs, bays, balconies, and other projections shall be considered points of reference. For the purposes of this code, any structure not meeting the separation requirement is considered attached to the primary structure and is subject to the development standards for the primary structure.

Studio - Art, Dance, Martial Arts, Music, etc. Small scale facilities, typically accommodating one group of students at a time, in no more than one instructional space. Larger facilities are included under the definition of "Schools - Specialized education and training." Examples of these facilities include: individual and group instruction and training in the arts; production rehearsal; photography, and the processing of photographs produced only by users of the studio facilities; martial arts training studios; gymnastics, yoga and similar instruction; and aerobics and gymnastics studios with no other fitness facilities or equipment.

Supportive Housing. Housing with no limit on length of stay, that is occupied by the Target Population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive housing is a residential use subject only to those restrictions that apply to other residential uses of the same type in the same zone.

Swimming Pool. A pool, pond, land, or open tank intended for swimming or recreational bathing that contains water over 18 inches deep. "Swimming pool" includes in-ground and above ground pools, hot tubs and spas and portable spas and non-portable wading pools.

T. Definitions, "T."

Target Population. Persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include,

among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

Telecommunication Facility. A facility that transmits and/or receives electromagnetic signals. It includes antennas, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals, telecommunication towers or similar structures supporting said equipment, equipment buildings, parking area, and other accessory development. Telecommunications facilities are further classified by type (i.e., exempt, mini, minor and major) in Chapter 14.44 of the Petaluma Municipal Code. (Ord. 2039 N.C.S., 11/96)

Theater, cinema or performing arts. An indoor facility for public assembly and group entertainment, other than sporting events. Examples of these facilities include:

- civic theaters, and facilities for "live" theater and concerts
- movie theaters
- similar public assembly facilities

See also "Sports and Entertainment Assembly."

Theater, Movie. See Ordinance 2158 prohibiting movies outside of Theater Combining District until 8/4/23

Transitional Housing. Buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance. Transitional housing is a residential use subject to only those restrictions that apply to other residential uses of the same type in the same zone.

U. Definitions, "U."

Utility Facility. A permanent structure or facility serving as a junction point for transferring a utility services product from transmission lines to local distribution and service lines, whether for electricity, natural gas, or domestic water supply. These uses include any of the following facilities that are not exempted from land use permit requirements by Government Code Section 53091:

corporation and maintenance yards
electrical substations and switching stations
natural gas regulating and distribution facilities

public water system wells, treatment plants and storage
wastewater treatment plants, settling ponds, and disposal
fields

These uses do not include office or customer service centers, which are classified in "Offices"; or transmission, switching, distribution, or service facilities for telephone or other telecommunications services, which are instead classified in "Telecommunications Facilities."

Usable Open Space. Includes the aggregate area of side and rear yards, patios, and balconies and decks having a depth of not less than three (3) feet and area not less than 30 square feet, on a building site or building, which is available and accessible to the occupants of the building or building site for purposes of active and/or passive outdoor recreation. This area is exclusive of driveways, areas for off-street parking and services, and ground level areas with a width of less than five (5) feet or maximum dimension of under ten (10) feet. At least seventy-five (75%) percent of the usable open space shall have a slope of ten (10%) percent or less.

Use, Accessory. A use customarily incidental to, related and clearly subordinate to a primary use on the same parcel, which does not alter the primary use nor serve property other than the parcel where the primary use is located. See also "Primary Use."

Use, Conditional. A use of a site for which application for and approval of a Conditional Use Permit is required.

Use, Permitted. For the purpose of this ordinance, a permitted use in any district shall include any use listed as a *Permitted Principal Use* or *Accessory Use*.

Use, Primary. The main purpose for which a site is developed or occupied, including the activities that are conducted on the site a majority of the hours during which the activities occur.

Use, Temporary. A use of land that is designed operated and occupies a site for a limited period of time, typically less than 12 consecutive months.

V. Definitions, "V."

Vehicle Services. The repair, servicing, alteration, restoration, towing, painting, cleaning, or finishing of automobiles, trucks, recreational vehicles, boats and other vehicles as a primary use, including the incidental wholesale and retail sale of vehicle parts as an accessory use. This use includes the following categories.

1. **Major Repair/Body Work.** These establishments include towing, collision repair, other body work, and painting services; tire recapping.
2. **Minor Maintenance/Repair.** Minor facilities providing limited repair and maintenance services. Examples include: attended and self-service car washes; car stereo and alarm installers; detailing services; muffler and radiator shops; quick-lube services; tire and battery sales and installation (not including recapping).

Does not include automobile parking (see "Parking Facilities"), repair shops that are part of a vehicle dealership on the same site (see "Auto and Vehicle Sales and Rental," and "Mobile Home, RV, and Boat Sales and Rental"); gas stations, which are separately defined; or dismantling yards, which are included under "Recycling - Scrap and Dismantling Yards."

Vehicle Storage. A service facility for the long-term storage of operative cars, trucks, buses, recreational vehicles, and other motor vehicles, for clients. Does not include dismantling yards (classified in "Recycling - Scrap and Dismantling Yards").

Veterinary Clinic, Animal Hospital. Office and indoor medical treatment facilities used by veterinarians, including large and small animal veterinary clinics, and animal hospitals.

Vision Triangle. The triangular area formed by the intersection of the extension of the curb lines and a line connecting them at points thirty-five (35) feet from the intersection of the extended curb lines.

W. Definitions, "W."

Wholesaling and Distribution. Establishments engaged in selling merchandise to retailers; to contractors, industrial, commercial, institutional, farm, or professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. May also include distribution of products direct to customers from online sales. Examples of these include, but are not limited to:

agents, merchandise or commodity brokers, and commission merchants
assemblers, buyers and associations engaged in the cooperative marketing of farm products
merchant wholesalers
stores primarily selling electrical, plumbing, heating and air conditioning supplies and equipment
ecommerce facilities

X. Definitions, "X."

No definitions beginning with "X"

Y. Definitions, "Y."

Yard. An open space on the same site as a structure, unoccupied and unobstructed from the ground upward.

Z. Definitions, "Z."

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.

Zero Emission Vehicles (Battery Charging Station). 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.

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.

Zoning. The act of regulating the use of land and the size of and location of buildings on the land, such regulations are designed to assure the health, safety and general welfare of a community.

Zoning District. Any of the residential, commercial, public, or overlay districts established by Article XX of this Zoning Code (Zoning Districts, Allowable Land Uses and Permit Requirements), within which certain land uses are allowed or prohibited, and certain site planning and development standards are established (e.g., setbacks, height limits, site coverage requirements, etc.).

Zoning Map. The Zoning Map or Maps of the City of Petaluma, California together with all amendments subsequently adopted.

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PETALUMA
AMENDING 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 ordinance describes is a measure to alleviate the condition which led to the adoption of the moratorium; and

WHEREAS, Section 25.010 of the City of Petaluma Implementing Zoning Ordinance, Ordinance No. 2300 N.C.S. (IZO) 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 (“IZO”) unless the Planning Commission and City Council find the amendments to be in conformity with the City’s General Plan and consistent with the public necessity, convenience, and general welfare in accordance with Section 25.050(B) of the IZO; and

WHEREAS, in accordance with Sections 25.010 and 25.050(B) of the IZO, the proposed amendments to the SmartCode as set forth below in this ordinance are in general conformity with the City’s General Plan in accordance with the following:

- As amended, General Plan Policy 4-P-10 states, “Prohibit new fossil fuel gas stations and transition existing stations to serve Zero Emission Vehicles,” and the IZO amendments pursuant to this ordinance prohibiting new fossil fuel gas stations and establishing non-conforming use regulations directly implements this policy; and
- General Plan Policy 4-P-8 states, “Support, where feasible, the development of alternative fuel stations,” and the SmartCode amendments pursuant to this ordinance 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; and

WHEREAS, in accordance with Section 25.050(B) of the IZO, the SmartCode amendments pursuant to this ordinance are consistent with the public necessity, convenience, and welfare, in accordance with the following:

- Pursuant to Resolution No. 2019-055 Declaring a Climate Emergency the City Council has, among other things, directed giving “precedence to climate mitigation and adaptation when evaluating policies” and committed to 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; and

- More recently, on January 11, 2021, the City Council adopted Resolution No. 2021-007 N.C.S. adopting a Climate Emergency Framework which underscores the need for urgent action and accelerated the City's carbon neutrality goal to 2030. The amendments to the IZO pursuant to this ordinance prohibiting of fossil fuel gas stations and regulations regarding potential future changes to such uses constitute a public necessity and promote the general welfare by preventing the future expansion of a fuel type resulting in greenhouse emissions from the transportation sector) and, in doing so, support the Council's goal of carbon neutrality; and
- The prohibition of fossil fuel gas stations prevents future sources of environmental pollution through, for example, the transmission of fossil fuels into the soil, groundwater and surface waters, and prevents future sources of air pollution harmful to public health; and
- The provisions of this ordinance facilitating the use of Zero Emission Vehicles support the use of transportation technologies without adverse environmental effects from greenhouse gas emissions, and soil, water and air pollution.

WHEREAS, the Zoning Text Amendments would codify a prohibition on new, not already approved gas stations, 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 26, 2021 the Planning Commission held a duly noticed public hearing in accordance with Section 25.050 of the IZO to consider the SmartCode amendments and reviewed the environmental analysis prepared for the project in accordance with the California Environmental Quality Act (CEQA); and

WHEREAS, on January 26, 2021 and after all interested parties had the opportunity to be heard, the Planning Commission adopted Resolution No. 2021-02 recommending approval of the amendments without modification, in accordance with IZO Section 25.050; and

WHEREAS, on February 12, 2021, public notice of the February 22, 2021 City Council meeting to consider the 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 February 22, 2021, the City Council reviewed the environmental analysis prepared for the project in accordance with the CEQA, and received and considered all written and oral public comments on environmental effects of the Amendment which were submitted up to and at the time of the public hearing; and

WHEREAS, in accordance with CEQA, this ordinance is not a project subject to CEQA review in accordance with Sections 15378 and 1501(b)(3) of the CEQA Guidelines because it has no potential for resulting in physical change in the environment, directly or ultimately, and it can be seen with certainty that there is no possibility that this ordinance will have a significant

effect on the environment in that this ordinance prevents environmental impacts resulting from new gas station uses; and

WHEREAS, for purposes of Section 65850.7 of the Government Code, enacted pursuant to AB-1236 in October, 2015, applications to install electric vehicle charging stations are generally ministerial projects exempt from CEQA review in accordance with Section 21080 of the Public Resources Code, because AB-1236 requires cities to administratively approve applications to install electric vehicle charging stations through issuance of a building permit or similar non-discretionary permit, absent substantial evidence in the record that a proposed installation would have a specific, adverse impact upon public health or safety, and that there is no feasible method to satisfactorily mitigate or avoid the adverse impact; and

WHEREAS, in the alternative, if this ordinance constitutes a CEQA project, it is nonetheless exempt from CEQA review in accordance with Section 15301 of the CEQA Guidelines because this ordinance will permit minor alteration of existing private structures and mechanical equipment at existing and approved gas and fueling stations to accommodate fueling of zero emission vehicles and involve negligible or no expansion of existing uses; and

WHEREAS, if this ordinance constitutes a CEQA project, it is also exempt from CEQA review in accordance with Section 15303 of the CEQA Guidelines because this ordinance will permit construction and location of limited numbers of new, small facilities or structures, the installation of small new equipment and facilities in small structures, and the conversion of existing small structures to accommodate fueling of zero emission vehicles where only minor modifications are made in the exterior of the structure; and

WHEREAS, if this ordinance constitutes a CEQA project, it is also exempt from CEQA review in accordance with Section 15304 because this ordinance will permit minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees, including minor trenching and backfilling where the surface is restored to accommodate fueling of zero emission vehicles; and

WHEREAS, if this ordinance constitutes a CEQA project, it is also exempt from CEQA review in accordance with Sections 15307 and 15308 this ordinance constitutes action taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource and protection of the environment where the regulatory process involves procedures for protection of the environment by accommodating fueling of zero emission vehicles; and

NOW THEREFORE BE IT ORDAINED by the Council of the City of Petaluma as follows:

Section 1. Recitals Made Findings. The above recitals are hereby declared to be true and correct and are incorporated into this ordinance as findings of the City Council.

Section 2. California Environmental Quality Act. This ordinance complies with the requirements of the California Environmental Quality Act (CEQA) in accordance with the following:

A. Actions Relating to Gas Station Prohibition

This ordinance prohibiting new, not-already-approved gas station uses is not a project within the meaning of CEQA Guidelines Section 15378, because this ordinance has no potential for resulting in physical change in the environment, directly or ultimately. This ordinance prevents changes to the environment related to new, not-already-approved gas station use applications. Moreover, this ordinance is, 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. This ordinance will prohibit new, not-already-approved gas stations uses and, in turn, prevent physical changes to the environment, and therefore it can be seen with certainty that there is no possibility that this ordinance will have a significant effect on the environment.

B. Actions Relating to New, Non-Conformity Regulations for Gas Stations

This ordinance applies to sixteen already-developed properties and one new gas station use to be developed and which has already separately demonstrated compliance with CEQA. This ordinance prohibits the enlargement, extension, reconstruction or relocation of gas station uses and defines 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 new non-conformity regulations in this ordinance for gas station uses and that prohibit enlargement, extension, reconstruction or relocation of gas station uses are categorically exempt from CEQA under CEQA Guidelines Section 15301 which 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 new non-conformity regulations in this ordinance for gas stations uses that allow modifications to improve soil, groundwater and stormwater quality and traffic safety, are categorically exempt from CEQA in accordance with the following:

- CEQA Guidelines Section 15301 which 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 which 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 which 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 which 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.

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

The provisions of this ordinance pertaining to battery charging standards for Zero Emission Vehicles are not a project within the meaning of CEQA Guidelines Section 15378, because, pursuant to Government Code Section 65850.7, 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, the provisions of this ordinance pertaining to standards for ZEV charging standards are not a “project” within the meaning of CEQA.

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

This ordinance 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 separately demonstrated compliance with CEQA. Presently, there are no retail hydrogen stations in the City of Petaluma.

Using 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, and in particular, Pages 13 to 18, and Pages 49 to 53 of the Guidebook, 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.

Therefore, the provisions of this ordinance pertaining to hydrogen fuel cell station standards for Zero Emission Vehicles are categorically exempt from CEQA in accordance with the following:

- CEQA Guidelines Section 15301, which 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, which 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, which 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).

Section 3. Zoning Text Amendments.

A. The following amendments to the SmartCode are hereby adopted in accordance with the findings pursuant to Sections 25.010 and 25.050 of the City’s IZO that are contained in this ordinance:

1. Section 3 (Building Function Standards), Section 3.10.030 (Permit Requirements for Allowable Uses) shall be revised as follows:
 - a) For the Gas Station land use, the table shall indicate “-“; meaning the use is not allowed in any zoning district.
 - b) 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.”

- c) 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.”
2. Section 9 (Glossary), Section 9.10.020 (Definitions of Specialized Terms and Phrases) shall be revised as follows (~~striketrough~~ = deletion; underline = addition):
- a) “Electric Vehicle Supply Equipment. The hardware, including connectors, fixtures, devices, and other components required to charge an electric vehicle.”
- b) “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.”
- c) “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.”
- d) “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.”
- e) “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.”

Section 4. Severability. If any provision of the ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held

unconstitutional, invalid, or unenforceable.

Section 5. Effective Date. This ordinance shall become effective thirty (30) days after the date of its adoption by the Petaluma City Council.

Section 6. Publication. The City Clerk is hereby directed to publish or post this Ordinance or a synopsis for the period and in the manner provided by the City Charter and any other applicable law.

<p>EFFECTIVE DATE OF ORDINANCE</p>

<p>May 6, 2019</p>

ORDINANCE NO. 2681 N.C.S.

Introduced by

Seconded by

Gabe Kearney

Kathy Miller

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PETALUMA IMPOSING A MORATORIUM ON THE APPROVAL OF APPLICATIONS FOR NEW GAS STATION USES IN THE CITY OF PETALUMA THAT ARE NOT COMPLETE AS OF THE EFFECTIVE DATE OF THE ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 AND OTHER APPLICABLE LAW

WHEREAS, Article XI, Section 5 of the California Constitution provides that it shall be competent in any city charter to provide that the city governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to the general laws; and

WHEREAS, Section 54 of Article VIII of the Petaluma Charter provides that the City, by and through its council and other officials shall have and may exercise all powers necessary or appropriate to the municipal corporation and the general welfare of its inhabitants, which are not prohibited by the constitution and which it would be competent for the charter to set forth particularly or specifically, and the specification of any particular powers shall not be held to be exclusive or any limitation on the general grant of powers; and

WHEREAS, California Government Code Section 65858, subdivision (a) provides: that city legislative bodies may, to protect public safety, health and welfare, adopt as an urgency measure an interim ordinance prohibiting any uses that may conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body is considering or studying or intends to study within a reasonable time; that adoption of such urgency measures requires a four-fifths vote of the legislative body; that such measures shall be of no effect 45 days from the date of adoption, and may be extended a maximum to two times and have a maximum total duration of two years; and

WHEREAS, California Government Code Section 65858, subdivision (c) provides that legislative bodies may not adopt or extend such interim ordinances unless they contain findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional entitlements would result in that threat to public health, safety, or welfare; and

WHEREAS, California Government Code Section 65858, subdivision (c) further provides that such interim ordinances that have the effect of denying approvals needed for the development of projects with a significant component of multifamily housing (as defined in California Government Code Section 65858, subdivisions (g) and (h)) may not be extended except upon written findings adopted by the legislative body, supporting by substantial evidence on the record, that:

- 1 (1) the continued approval of the development of multifamily housing projects would
2 have a significant, quantifiable, direct, and unavoidable impact, based on
3 objective, identified written public health or safety standards, policies, or conditions
4 as they existed on the date that the ordinance is adopted by the legislative body,
5
6 (2) the interim ordinance is necessary to mitigate or avoid such impact, and
7
8 (3) there is no feasible alternative to satisfactorily mitigate or avoid such impact as well
9 or better, with a less burdensome or restrictive effect, than the adoption of the
10 proposed interim ordinance; and
11

12 **WHEREAS**, California Government Code Section 65858, subdivision (d) provides that ten days
13 prior to the expiration of an interim ordinance or any extension, the legislative body shall issue a
14 written report describing the measures taken to alleviate the condition which led to the adoption of
15 the ordinance; and
16

17 **WHEREAS**, residents in the neighborhood in proximity to the proposed Safeway Fuel Station
18 project at 335 South McDowell Boulevard at the corner of South McDowell Boulevard and Maria
19 Drive have expressed opposition to the project based on concerns related to air quality, health risks,
20 safety, and circulation and traffic impacts;
21

22 **WHEREAS**, teachers, administrators, parents, and students and the adjacent McDowell
23 Elementary School have expressed opposition to the project based on concerns involving potential
24 impacts associated with air quality, health risk, safety, and circulation impacts; and
25

26 **WHEREAS**, public comments received in opposition to the project express a common
27 concern with the incompatibility of the proposed gas station with the surrounding land uses and
28 sensitive receptors, including residential, parks, and schools; and
29

30 **WHEREAS**, the property located at South McDowell Boulevard and Maria Drive is currently
31 zoned C-2 and new gas station uses are a permitted use in the Zone C-2, subject to approval of Site
32 Plan and Architectural Review (SPAR); and
33

34 **WHEREAS**, SPAR approval pursuant to Section 24.010 of the City's Implementing Zoning
35 Ordinance (IZO), Ordinance No. 2300 N.C.S. adopted July 2, 2008, involves consideration of SPAR
36 factors such as appropriate use of materials, architectural style, siting of structures on property, size,
37 location and design of signs, and bulk and height of proposed structures, landscaping to approved
38 City standards, and ingress, egress and internal circulation; and
39

40 **WHEREAS**, currently in the City new gas station uses are permitted in the C1, C2, and D4
41 zoning districts subject to SPAR, and are permitted in the BP, MU1A, MU1B, and T5 zones subject to
42 SPAR and issuance of a Conditional Use Permit; and
43

44 **WHEREAS**, on December 17 and 18, 2018, respectively, the cases of *Georgetown*
45 *Preservation Society v. County of El Dorado* and *McCorkle Eastside Neighborhood Group v. City of*
46 *St. Helena* were published; and
47

48 **WHEREAS**, although the court in *Georgetown* held that evidence of aesthetic impacts of the
49 proposed development in that case was sufficient to trigger the need for an Environmental Impact
50 Report, the court in *McCorkle* held that environmental review in that case was limited to the scope
51 of St. Helena's design review authority, and, specifically, its authority under its zoning regulations to
52 mitigate project environmental impacts; and
53

1 **WHEREAS**, based on the *McCorkle* ruling, legal counsel for Safeway argued that the City
2 Council could not order an Environmental Impact Report based on information in the record
3 concerning project emissions and health risk impacts that are outside of the scope of the City's
4 discretionary approval under its SPAR regulations, and
5

6 **WHEREAS**, on the advice of the City Attorney and following the *McCorkle* ruling, the City
7 Council denied that appeal regarding the Planning Commission's approval of the Safeway Fuel
8 Station project, upholding the Planning Commission approval, despite concerns regarding potential
9 health and other impacts of the project; and
10

11 **WHEREAS**, prior to the *McCorkle* decision, it had been the City's consistent practice to treat
12 applications for SPAR approval as subject to the exercise of discretion of the approving body, up to
13 and including the authority of the approving body to disapprove the project on SPAR grounds, and
14 to conduct full CEQA review, up to and including the ordering of an Environmental Impact Report, if
15 warranted; and
16

17 **WHEREAS**, the *McCorkle* case limits environmental review of development applications to
18 environmental impacts the approving body has authority to mitigate; and
19

20 **WHEREAS**, the California Supreme Court has denied petitions to depublish or overturn the
21 *McCorkle* ruling, which remains in effect and binding on the City and its ability to conduct
22 environmental review regarding projects such as applications for new gas stations that may be
23 subject to only design review in specified zones; and
24

25 **WHEREAS**, the City's SPAR regulations do not address emissions or other project health risks
26 unrelated to aesthetics, siting and internal circulation; and
27

28 **WHEREAS**, City Planning staff has been contacted by a potential applicant for a new gas
29 station use located at the corner of Industrial Drive and Petaluma Boulevard North, near sensitive
30 receptors including a school, and where new gas stations uses are permitted as of right and subject
31 only to SPAR review, posing a threat to the public health, safety and welfare, from environmental
32 and health impacts that the City may be unable to avoid or mitigate following the *McCorkle*
33 decision; and
34

35 **WHEREAS**, there is no information in the record supporting that this interim ordinance
36 regarding new gas station applications in the City of Petaluma that are not complete as of the
37 effective date of the ordinance may have the effect of denying approvals needed for the
38 development of projects with a significant component of multifamily housing as defined in the
39 California Government Code Section 65858, subdivisions (g) and (h); and
40

41 **WHEREAS**, pursuant to Section 15001 of the California Environmental Quality Act (CEQA)
42 Guidelines, this ordinance is exempt from CEQA based on the following:
43

- 44 (1) This ordinance is not a project within the meaning of Section 15378 of the CEQA
45 Guidelines, because it has no potential for resulting in physical change in the
46 environment, directly or ultimately; it prevents changes in the environment related to
47 new gas station use applications pending consideration of possible amendments to the
48 City's Zoning Code or other land use regulations;
49
- 50 (2) This ordinance is categorically exempt from CEQA under Section 15308 of the CEQA
51 Guidelines as a regulatory action taken by the City pursuant to its policy power and in
52 accordance with Government Code Section 65858 to assure maintenance and
53 protection of the environment pending the evaluation and possible adoption of

1 contemplated local legislation, regulation and policies, which local legislation, if
2 adopted, will be subject to CEQA requirements;
3

- 4 (3) This ordinance is not subject to CEQA under the general rule that CEQA applies only to
5 projects which have the potential for causing a significant effect on the environment,
6 and for the reasons set forth in subparagraphs (1) and (2) above, it can be seen with
7 certainty that there is no possibility that this ordinance will have a significant effect on the
8 environment;
9

10 **NOW THEREFORE BE IT ORDAINED** by the Council of the City of Petaluma as follows:

11
12 **Section 1. Recitals Made Findings.** The above recitals are hereby declared to be true and
13 correct and findings of the City Council of the City of Petaluma.
14

15 **Section 2. Moratorium Imposed.** A moratorium is hereby imposed on the approval of
16 applications for new gas station uses in the City of Petaluma that are not complete as of the
17 effective date of this ordinance in accordance with the City's powers under Article XI, Section 5 of
18 the California Constitution, Article VII, Section 54 of the City Charter and California Government
19 Code Section 65858 and other applicable law, as follows:
20

21 A. Scope

22 Applications for land use or development entitlements for new gas station uses in the
23 City of Petaluma not complete as of the effective date of this ordinance may not be
24 approved during the moratorium period.
25

26 B. Statutory Findings and Purpose

27 This ordinance is declared to be an interim ordinance as defined under California
28 Government Code Section 65858. This ordinance is deemed necessary for the
29 following reasons:
30

- 31 1. The purpose of this ordinance is to protect the public safety, health, and welfare
32 from a current and immediate threat posed by the issuance of land use or
33 development entitlements for new gas station uses that could result in negative
34 health, safety or other impacts on adjacent or nearby existing uses or
35 neighborhoods with which new gas station uses may not be compatible, absent
36 adequate local regulation addressing compatibility of new gas station uses with
37 adjacent or nearby uses or neighborhoods.
38
- 39 2. New gas station uses have been and/or may be proposed for construction in the
40 City, and unless a moratorium is imposed on the issuance of land use or
41 development entitlements for new gas station uses in the City, such development
42 may result in negative health, safety or other impacts on adjacent or nearby
43 existing uses or neighborhoods with which new gas station uses may not be
44 compatible, absent adequate local regulation addressing compatibility of new
45 gas station uses with adjacent or nearby existing uses or neighborhoods. This is
46 particularly true regarding City zoning districts where currently new gas stations
47 are permitted uses (C1, C2, and D4 zones) and approval of applications for such
48 proposed new uses is subject only to site plan and architectural review, which
49 review does not take into account such consideration as project emissions and
50 other health impacts unrelated to aesthetics, siting and internal circulation.
51
- 52 3. It is, therefore, necessary to impose a moratorium on issuance of land use or
53 development entitlements for new gas station uses in the City that are not
54 complete as of the effective date of this ordinance to provide time to evaluate

and adopt legislation, guidelines and/or policies as required to address negative health, safety or other impacts of proposed new gas station uses on, adjacent to or nearby existing uses or neighborhoods.

C. Applicability

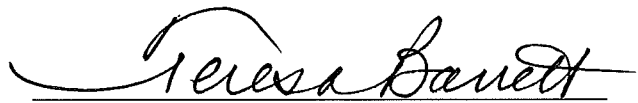
This ordinance applies to approval of applications for land use or development entitlements for new gas station uses in the City that are not complete as of the effective date of this ordinance. This ordinance has no effect on the processing of applications for land use or development entitlements for new gas station uses in the City, except that such applications may not be approved during the moratorium period. Subject to the moratorium on approval of applications for land use or development entitlements for new gas station uses, applications for such entitlements will continue to be processed during the moratorium period in accordance with applicable law.

Section 3. Severability. If any provision of the ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section 4. Effective Date and Duration. This ordinance shall become effective immediately upon passage and adoption if passed and adopted by at least four-fifths vote of the City Council and shall be in effect for 45 days there from unless extended by the City in accordance with Government Code Section 65858.

INTRODUCED, ordered posted, and **ADOPTED** this 6th day of May 2019, by the following vote:

Ayes:	Mayor Barrett, Fischer, Healy, Kearney, King, Vice Mayor McDonnell, Miller
Noes:	None
Abstain:	None
Absent:	None


Teresa Barrett, Mayor

ATTEST:

APPROVED AS TO FORM:



Samantha Pascoe, Deputy City Clerk


Lisa Tennenbaum, City Attorney



Agenda Item #4.B

DATE: **May 6, 2019**

TO: Honorable Mayor and Members of the City Council through City Manager 

FROM: Eric Danly, City Attorney
Heather Hines, Planning Manager

SUBJECT: Adoption of an Urgency Ordinance Imposing a Moratorium on Approval of Applications for New Gas Station Uses in the City of Petaluma That Are Not Already Complete as of the Effective Date of the Ordinance Pursuant to California Government Code Section 65858 and Other Applicable Laws

RECOMMENDATION

It is recommended that the City Council adopt an urgency ordinance imposing a moratorium on the approval of applications for new gas station uses in the City of Petaluma that are not already complete as of the effective date of the ordinance pursuant to California Government Code Section 65858 and other applicable law.

BACKGROUND

On April 1, 2019, the City Council denied the appeal brought against Planning Commission's approval under the California Environmental Quality Act and the City's Site Plan and Architectural Review requirements of the Safeway Fuel Station project located at 335 South McDowell Boulevard in Petaluma. The Council action upheld the Planning Commission's approval of the project. In response to the unprecedented community concern about the possible location of new gas station uses near sensitive receptors like schools and residences, and in view of the recent holding in *McCorkle Eastside Neighborhood Group v. City of St. Helena* limiting approving bodies' ability to review projects' environmental impacts to their authority to mitigate project impacts, the City Council requested that staff prepare for Council consideration and possible adoption an urgency ordinance pursuant to Section 65858 of the California Government Code that would prohibit the approval of applications for new gas station uses in the City. Accordingly, attached is an urgency ordinance prepared pursuant to the authority in Government Code section 65858 that would prohibit approval of new gas station applications in the City that are not already complete as of the effective date of the ordinance.

The attached ordinance would not affect the Safeway Fuel Station Project. However, adoption of the ordinance would bar approval of new gas station applications that are not yet complete while the City Council considers potential new regulatory options regarding new gas station applications. Adoption of new regulatory requirements for new gas station applications, such as requiring conditional use permits for such applications, would expand the ability of City approving bodies to conduct environmental review and exercise discretionary approval regarding

new gas station uses. Such new regulations could permit the approving bodies to order the preparation of an Environmental Impact Report (EIR) regarding future gas station applications, and to disapprove projects that do not satisfy the City's regulations, whether due to emissions or other health impacts, traffic, or other considerations within the City's discretion. A 6/7 vote of the City Council is required to adopt the attached ordinance as an urgency item for an initial period of 45 days. In accordance with Government Code Section 65858, the ordinance may be extended for up to an additional ten months and 15 days following a noticed public hearing within the next 45 days. Prior to the expiration of the initial extension, the ordinance may be extended a final time for up to an additional 12 months, for a total potential duration of two years.

Government Code Section 65858 requires that prior to adoption of an interim ordinance, the City Council must find that there is a current and immediate threat to the public health, safety, or welfare and that adoption of an interim ordinance would protect the public safety, health, or welfare. The attached ordinance includes findings of public health, safety and welfare risk resulting based on the effect of the *McCorkle* decision on the City's ability to conduct full environmental review of applications for new gas station uses and based on potential applications for new gas station uses near sensitive receptors. Ten days prior to the expiration of the initial interim ordinance or any extension, the City Council is required to issue a written report describing the measures taken to alleviate the condition that lead to the adoption of the interim ordinance. Following adoption of an interim ordinance under Section 65858, subsequent interim ordinances affecting the same property are prohibited unless the subsequent ordinance is adopted to protect the public safety, health, and welfare from an event, occurrence or set of circumstances different from those that led to the adoption of the prior interim ordinance. In other words, once an interim ordinance expires, a new interim ordinance cannot be enacted regarding the same health, safety and welfare concerns affecting the same property.

DISCUSSION

Currently, fuel station/gas stations are a permitted use in the C1 and C2 zoning districts in the City. Gas stations are a conditional use in the BP, MU1A, and MU1B zones. In 2013, during the adoption process for the updated SmartCode, the Council adopted modifications to the SmartCode to allow gas stations as a conditional use in the T5 zone within the boundaries of the Petaluma Specific Plan. Gas stations are a permitted use in the D4 district as outlined in the SmartCode.

The Implementing Zoning Ordinance (IZO) does not currently contain any specific use criteria for gas station uses in Petaluma. The definition of a Fueling Station/Gas Station included in Section 27 of the IZO is "A retail business selling gasoline and/or other motor vehicle fuels, and related products. A gas station may also include a convenience store, vehicle services, and restaurant facilities." The definition adopted in Section 9 of the SmartCode is "A retail business selling gasoline or other motor vehicle fuels, and related products. A gas station may also include a convenience store, vehicle services, restaurant facility and/or trailer rental where authorized by the Conditional Use Permit for the gas station."

At the request of the City Council, staff has brought forward the attached temporary urgency ordinance under California Government Code Section 65858 that would prohibit the approval of any new gas station applications in the City not already complete as of the effective date of the ordinance for a period of 45 days. The interim ordinance could be extended beyond the initial 45-day period for a total duration of up to two years. Such an ordinance would preserve the status quo of existing gas stations in the City and provide time for the City to study the potential impacts that new gas station uses may have on nearby neighborhood and sensitive receptors, options for regulating gas station uses in the City, and the practical and legal implications of the various regulatory options.

The City Council's adoption of the urgency ordinance would allow for a period of consideration and discussion regarding options for potential new legislation regarding new gas station uses during which new gas station applications would be processed but could not be approved. Following expiration of the interim ordinance, new gas station applications could be approved, subject to any new regulatory requirements that have taken effect during the moratorium period. Depending upon the specific impacts that the City Council may wish to address, legislative options may include:

- Modification to the IZO and/or SmartCode to prohibit new gas stations uses in all zones;
- Modification to the IZO to make new gas station uses subject to a CUP in all zones where they are currently permitted as of right;
- Modification to the use tables in the IZO and/or the City's zoning map changing the zones in which gas stations are permitted;
- Adoption of specific use criteria for new gas station uses (similar to the approach taken for Bed and Breakfast Inns and Short-Term Vacation Rentals);
- Adoption of specific use criteria for new gas stations uses when in proximity to sensitive receptors such as residential neighborhoods, schools, parks, etc.;
- Adoption limitations on the size (number of pumps/dispensers or annual fuel throughput) of new gas station uses; and/or
- Adoption of expanded definitions of gas station uses addressing large gas stations and small gas stations (number or pumps/dispensers or annual fuel throughput), and identification of the appropriate entitlement process (e.g., whether a CUP or use criteria should apply) to address project specific impacts.

Based on direction given by the Council at the May 6, 2019 meeting, staff will research appropriate legislative options and associated legal and practical issues for the Council's consideration. It is unlikely that the necessary research and analysis would be completed within the initial 45-day moratorium period and would likely necessitate an extension of the urgency ordinance. However, staff would provide the Council with a status update concurrent with any future extension request. As noted above, Section 65858 of the Government Code requires that staff prepare for Council issuance at least 10 days prior to expiration of the interim ordinance a report on the measures taken to alleviate the conditions that led to adoption of the interim ordinance.

If the Council enacts an interim ordinance temporarily prohibiting approval of new gas station applications not already complete as of the effective date of the ordinance, the law requires that

staff continue to process any pending gas station applications or applications received during the moratorium period. Interim ordinances under Section 65858 only temporarily suspends project approvals subject to a moratorium, but not project processing. If the Council adopts an interim ordinance on new gas station applications, such proposed new uses would not be brought before the decision-making body until such time as the interim ordinance is repealed (presumably upon new regulation of new gas station uses taking effect), or has expired.

PUBLIC OUTREACH

Adoption of an interim urgency ordinance is not subject to the procedures and public noticing otherwise required for adoption of a zoning ordinance. This item had been distributed along with the rest of the May 6 City Council Agenda and posted on the City's website in accordance with the requirements of the Brown Act and the City's established practice. Any future extension of the interim ordinance will require public noticing pursuant to Government Code Section 65090, which requires published notification in the City's official newspaper at least ten days prior to the hearing.

FINANCIAL IMPACTS

Staff costs associated with preparation of this urgency ordinance are covered under the City's contract with M-Group under base level services and by the staff budget for the City Attorney's Office and does not have any additional cost impacts to the General Fund.

ATTACHMENTS

Attachment 1 Draft Urgency Ordinance

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PETALUMA
IMPOSING A MORATORIUM ON THE APPROVAL OF APPLICATIONS FOR NEW GAS
STATION USES IN THE CITY OF PETALUMA THAT ARE NOT COMPLETE AS OF THE
EFFECTIVE DATE OF THE ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT
CODE SECTION 65858 AND OTHER APPLICABLE LAW**

WHEREAS, Article XI, Section 5 of the California Constitution provides that it shall be competent in any city charter to provide that the city governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to the general laws; and

WHEREAS, Section 54 of Article VIII of the Petaluma Charter provides that the City, by and through its council and other officials shall have and may exercise all powers necessary or appropriate to the municipal corporation and the general welfare of its inhabitants, which are not prohibited by the constitution and which it would be competent for the charter to set forth particularly or specifically, and the specification of any particular powers shall not be held to be exclusive or any limitation on the general grant of powers; and

WHEREAS, California Government Code Section 65858, subdivision (a) provides: that city legislative bodies may, to protect public safety, health and welfare, adopt as an urgency measure an interim ordinance prohibiting any uses that may conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body is considering or studying or intends to study within a reasonable time; that adoption of such urgency measures requires a four-fifths vote of the legislative body; that such measures shall be of no effect 45 days from the date of adoption, and may be extended a maximum to two times and have a maximum total duration of two years; and

WHEREAS, California Government Code Section 65858, subdivision (c) provides that legislative bodies may not adopt or extend such interim ordinances unless they contain findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional entitlements would result in that threat to public health, safety, or welfare; and

WHEREAS, California Government Code Section 65858, subdivision (c) further provides that such interim ordinances that have the effect of denying approvals needed for the development of projects with a significant component of multifamily housing (as defined in California Government Code Section 65858, subdivisions (g) and (h)) may not be extended except upon written findings adopted by the legislative body, supporting by substantial evidence on the record, that:

- (1) the continued approval of the development of multifamily housing projects would have a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date that the ordinance is adopted by the legislative body,
- (2) the interim ordinance is necessary to mitigate or avoid such impact, and
- (3) there is no feasible alternative to satisfactorily mitigate or avoid such impact as well or better, with a less burdensome or restrictive effect, than the adoption of the proposed interim ordinance; and

WHEREAS, California Government Code Section 65858, subdivision (d) provides that ten days prior to the expiration of an interim ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance; and

WHEREAS, residents in the neighborhood in proximity to the proposed Safeway Fuel Station project at 335 South McDowell Boulevard at the corner of South McDowell Boulevard and Maria Drive have expressed opposition to the project based on concerns related to air quality, health risks, safety, and circulation and traffic impacts;

WHEREAS, teachers, administrators, parents, and students and the adjacent McDowell Elementary School have expressed opposition to the project based on concerns involving potential impacts associated with air quality, health risk, safety, and circulation impacts; and

WHEREAS, public comments received in opposition to the project express a common concern with the incompatibility of the proposed gas station with the surrounding land uses and sensitive receptors, including residential, parks, and schools; and

WHEREAS, the property located at South McDowell Boulevard and Maria Drive is currently zoned C-2 and new gas station uses are a permitted use in the Zone C-2, subject to approval of Site Plan and Architectural Review (SPAR); and

WHEREAS, SPAR approval pursuant to Section 24.010 of the City's Implementing Zoning Ordinance (IZO), Ordinance No. 2300 N.C.S. adopted July 2, 2008, involves consideration of SPAR factors such as appropriate use of materials, architectural style, siting of structures on property, size, location and design of signs, and bulk and height of proposed structures, landscaping to approved City standards, and ingress, egress and internal circulation; and

WHEREAS, currently in the City new gas station uses are permitted in the C1, C2, and D4 zoning districts subject to SPAR, and are permitted in the BP, MU1A, MU1B, and T5 zones subject to SPAR and issuance of a Conditional Use Permit; and

WHEREAS, on December 17 and 18, 2018, respectively, the cases of *Georgetown Preservation Society v. County of El Dorado* and *McCorkle Eastside Neighborhood Group v. City of St. Helena* were published; and

WHEREAS, although the court in *Georgetown* held that evidence of aesthetic impacts of the proposed development in that case was sufficient to trigger the need for an Environmental Impact Report, the court in *McCorkle* held that environmental review in that case was limited to the scope of St. Helena's design review authority, and, specifically, its authority under its zoning regulations to mitigate project environmental impacts; and

WHEREAS, based on the *McCorkle* ruling, legal counsel for Safeway argued that the City Council could not order an Environmental Impact Report based on information in the record concerning project emissions and health risk impacts that are outside of the scope of the City's discretionary approval under its SPAR regulations, and

WHEREAS, on the advice of the City Attorney and following the *McCorkle* ruling, the City Council denied that appeal regarding the Planning Commission's approval of the Safeway Fuel Station project, upholding the Planning Commission approval, despite concerns regarding potential health and other impacts of the project; and

WHEREAS, prior to the *McCorkle* decision, it had been the City's consistent practice to treat applications for SPAR approval as subject to the exercise of discretion of the approving body, up to and including the authority of the approving body to disapprove the project on SPAR grounds, and to conduct full CEQA review, up to and including the ordering of an Environmental Impact Report, if warranted; and

WHEREAS, the *McCorkle* case limits environmental review of development applications to environmental impacts the approving body has authority to mitigate; and

WHEREAS, the California Supreme Court has denied petitions to depublish or overturn the *McCorkle* ruling, which remains in effect and binding on the City and its ability to conduct environmental review regarding projects such as applications for new gas stations that may be subject to only design review in specified zones; and

WHEREAS, the City's SPAR regulations do not address emissions or other project health risks unrelated to aesthetics, siting and internal circulation; and

WHEREAS, City Planning staff has been contacted by a potential applicant for a new gas station use located at the corner of Industrial Drive and Petaluma Boulevard North, near sensitive receptors including a school, and where new gas stations uses are permitted as of right and subject only to SPAR review, posing a threat to the public health, safety and welfare, from environmental and health impacts that the City may be unable to avoid or mitigate following the *McCorkle* decision; and

WHEREAS, there is no information in the record supporting that this interim ordinance regarding new gas station applications in the City of Petaluma that are not complete as of the effective date of the ordinance may have the effect of denying approvals needed for the development of projects with a significant component of multifamily housing as defined in the California Government Code Section 65858, subdivisions (g) and (h); and

WHEREAS, pursuant to Section 15001 of the California Environmental Quality Act (CEQA) Guidelines, this ordinance is exempt from CEQA based on the following:

- (1) This ordinance is not a project within the meaning of Section 15378 of the CEQA Guidelines, 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 pending consideration of possible amendments to the City's Zoning Code or other land use regulations;
- (2) This ordinance is categorically exempt from CEQA under Section 15308 of the CEQA Guidelines as a regulatory action taken by the City pursuant to its policy power and in accordance with Government Code Section 65858 to assure maintenance and protection of the environment pending the evaluation and possible adoption of contemplated local legislation, regulation and policies, which local legislation, if adopted, will be subject to CEQA requirements;
- (3) This ordinance is 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, and for the reasons set forth in subparagraphs (1) and (2) above, it can be seen with certainty that there is no possibility that this ordinance will have a significant effect on the environment;

NOW THEREFORE BE IT ORDAINED by the Council of the City of Petaluma as follows:

Section 1. Recitals Made Findings. The above recitals are hereby declared to be true and correct and findings of the City Council of the City of Petaluma.

Section 2. Moratorium Imposed. A moratorium is hereby imposed on the approval of applications for new gas station uses in the City of Petaluma that are not complete as of the effective date of this ordinance in accordance with the City's powers under Article XI, Section 5 of the California Constitution, Article VII, Section 54 of the City Charter and California Government Code Section 65858 and other applicable law, as follows:

- A. Scope
Applications for land use or development entitlements for new gas station uses in the City of Petaluma not complete as of the effective date of this ordinance may not be approved during the moratorium period.

- B. Statutory Findings and Purpose
This ordinance is declared to be an interim ordinance as defined under California Government Code Section 65858. This ordinance is deemed necessary for the following reasons:
 - 1. The purpose of this ordinance is to protect the public safety, health, and welfare from a current and immediate threat posed by the issuance of land use or development entitlements for new gas station uses that could result in negative health, safety or other impacts on adjacent or nearby existing uses or neighborhoods with which new gas station uses may not be compatible, absent adequate local regulation addressing compatibility of new gas station uses with adjacent or nearby uses or neighborhoods.
 - 2. New gas station uses have been and/or may be proposed for construction in the City, and unless a moratorium is imposed on the issuance of land use or development entitlements for new gas station uses in the City, such development may result in negative health, safety or other impacts on adjacent or nearby existing uses or neighborhoods with which new gas station uses may not be compatible, absent adequate local regulation addressing compatibility of new gas station uses with adjacent or nearby existing uses or neighborhoods. This is particularly true regarding City zoning districts where currently new gas stations are permitted uses (C1, C2, and D4 zones) and approval of applications for such proposed new uses is subject only to site plan and architectural review, which review does not take into account such consideration as project emissions and other health impacts unrelated to aesthetics, siting and internal circulation.
 - 3. It is, therefore, necessary to impose a moratorium on issuance of land use or development entitlements for new gas station uses in the City that are not complete as of the effective date of this ordinance to provide time to evaluate and adopt legislation, guidelines and/or policies as required to address negative health, safety or other impacts of proposed new gas station uses on, adjacent to or nearby existing uses or neighborhoods.

C. Applicability

This ordinance applies to approval of applications for land use or development entitlements for new gas station uses in the City that are not complete as of the effective date of this ordinance. This ordinance has no effect on the processing of applications for land use or development entitlements for new gas station uses in the City, except that such applications may not be approved during the moratorium period. Subject to the moratorium on approval of applications for land use or development entitlements for new gas station uses, applications for such entitlements will continue to be processed during the moratorium period in accordance with applicable law.

Section 3. Severability. If any provision of the ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section 4. Effective Date and Duration. This ordinance shall become effective immediately upon passage and adoption if passed and adopted by at least four-fifths vote of the City Council and shall be in effect for 45 days there from unless extended by the City in accordance with Government Code Section 65858.

<p>EFFECTIVE DATE OF ORDINANCE</p>

<p>June 3, 2019</p>

ORDINANCE NO. 2688 N.C.S.

Introduced by

Seconded by

Miller

Fischer

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PETALUMA EXTENDING THE TIMELINE OF URGENCY ORDINANCE 2681 IMPOSING A MORATORIUM ON THE APPROVAL OF APPLICATIONS FOR NEW GAS STATION USES IN THE CITY OF PETALUMA THAT ARE NOT COMPLETE AS OF THE EFFECTIVE DATE OF THE ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 AND OTHER APPLICABLE LAW

WHEREAS, Article XI, Section 5 of the California Constitution provides that it shall be competent in any city charter to provide that the city governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to the general laws; and

WHEREAS, Section 54 of Article VIII of the Petaluma Charter provides that the City, by and through its council and other officials shall have and may exercise all powers necessary or appropriate to the municipal corporation and the general welfare of its inhabitants, which are not prohibited by the constitution and which it would be competent for the charter to set forth particularly or specifically, and the specification of any particular powers shall not be held to be exclusive or any limitation on the general grant of powers; and

WHEREAS, California Government Code Section 65858, subdivision (a) provides: that city legislative bodies may, to protect public safety, health and welfare, adopt as an urgency measure an interim ordinance prohibiting any uses that may conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body is considering or studying or intends to study within a reasonable time; that adoption of such urgency measures requires a four-fifths vote of the legislative body; that such measures shall be of no effect 45 days from the date of adoption, and may be extended a maximum to two times and have a maximum total duration of two years; and

WHEREAS, California Government Code Section 65858, subdivision (c) provides that legislative bodies may not adopt or extend such interim ordinances unless they contain findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional entitlements would result in that threat to public health, safety, or welfare; and

WHEREAS, California Government Code Section 65858, subdivision (c) further provides that such interim ordinances that have the effect of denying approvals needed for the development of projects with a significant component of multifamily housing (as defined in California Government Code Section 65858, subdivisions (g) and (h)) may not be extended except upon written findings adopted by the legislative body, supporting by substantial evidence on the record, that:

- (1) the continued approval of the development of multifamily housing projects would have a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date that the ordinance is adopted by the legislative body,
- (2) the interim ordinance is necessary to mitigate or avoid such impact, and
- (3) there is no feasible alternative to satisfactorily mitigate or avoid such impact as well or better, with a less burdensome or restrictive effect, than the adoption of the proposed interim ordinance; and

WHEREAS, California Government Code Section 65858, subdivision (d) provides that ten days prior to the expiration of an interim ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance; and

WHEREAS, residents in the neighborhood in proximity to the proposed Safeway Fuel Station project at 335 South McDowell Boulevard at the corner of South McDowell Boulevard and Maria Drive have expressed opposition to the project based on concerns related to air quality, health risks, safety, and circulation and traffic impacts;

WHEREAS, teachers, administrators, parents, and students and the adjacent McDowell Elementary School have expressed opposition to the project based on concerns involving potential impacts associated with air quality, health risk, safety, and circulation impacts; and

WHEREAS, public comments received in opposition to the project express a common concern with the incompatibility of the proposed gas station with the surrounding land uses and sensitive receptors, including residential, parks, and schools; and

WHEREAS, the property located at South McDowell Boulevard and Maria Drive is currently zoned C-2 and new gas station uses are a permitted use in the Zone C-2, subject to approval of Site Plan and Architectural Review (SPAR); and

WHEREAS, SPAR approval pursuant to Section 24.010 of the City's Implementing Zoning Ordinance (IZO), Ordinance No. 2300 N.C.S. adopted July 2, 2008, involves consideration of SPAR factors such as appropriate use of materials, architectural style, siting of structures on property, size, location and design of signs, and bulk and height of proposed structures, landscaping to approved City standards, and ingress, egress and internal circulation; and

WHEREAS, currently in the City new gas station uses are permitted in the C1, C2, and D4 zoning districts subject to SPAR, and are permitted in the BP, MU1A, MU1B, and T5 zones subject to SPAR and issuance of a Conditional Use Permit; and

WHEREAS, on December 17 and 18, 2018, respectively, the cases of *Georgetown Preservation Society v. County of El Dorado* and *McCorkle Eastside Neighborhood Group v. City of St. Helena* were published; and

WHEREAS, although the court in *Georgetown* held that evidence of aesthetic impacts of the proposed development in that case was sufficient to trigger the need for an Environmental Impact Report, the court in *McCorkle* held that environmental review in that case was limited to the scope of St. Helena's design review authority, and, specifically, its authority under its zoning regulations to mitigate project environmental impacts; and

1 **WHEREAS**, based on the *McCorkle* ruling, legal counsel for Safeway argued that the City
2 Council could not order an Environmental Impact Report based on information in the record
3 concerning project emissions and health risk impacts that are outside of the scope of the City's
4 discretionary approval under its SPAR regulations, and
5

6 **WHEREAS**, on the advice of the City Attorney and following the *McCorkle* ruling, the City
7 Council denied that appeal regarding the Planning Commission's approval of the Safeway Fuel
8 Station project, upholding the Planning Commission approval, despite concerns regarding potential
9 health and other impacts of the project; and
10

11 **WHEREAS**, prior to the *McCorkle* decision, it had been the City's consistent practice to treat
12 applications for SPAR approval as subject to the exercise of discretion of the approving body, up to
13 and including the authority of the approving body to disapprove the project on SPAR grounds, and
14 to conduct full CEQA review, up to and including the ordering of an Environmental Impact Report, if
15 warranted; and
16

17 **WHEREAS**, the *McCorkle* case limits environmental review of development applications to
18 environmental impacts the approving body has authority to mitigate; and
19

20 **WHEREAS**, the California Supreme Court has denied petitions to depublish or overturn the
21 *McCorkle* ruling, which remains in effect and binding on the City and its ability to conduct
22 environmental review regarding projects such as applications for new gas stations that may be
23 subject to only design review in specified zones; and
24

25 **WHEREAS**, the City's SPAR regulations do not address emissions or other project health risks
26 unrelated to aesthetics, siting and internal circulation; and
27

28 **WHEREAS**, City Planning staff has been contacted by a potential applicant for a new gas
29 station use located at the corner of Industrial Drive and Petaluma Boulevard North, near sensitive
30 receptors including a school, and where new gas stations uses are permitted as of right and subject
31 only to SPAR review, posing a threat to the public health, safety and welfare, from environmental
32 and health impacts that the City may be unable to avoid or mitigate following the *McCorkle*
33 decision; and
34

35 **WHEREAS**, there is no information in the record supporting that this interim ordinance
36 regarding new gas station applications in the City of Petaluma that are not complete as of the
37 effective date of the ordinance may have the effect of denying approvals needed for the
38 development of projects with a significant component of multifamily housing as defined in the
39 California Government Code Section 65858, subdivisions (g) and (h); and
40

41 **WHEREAS**, pursuant to Section 15001 of the California Environmental Quality Act (CEQA)
42 Guidelines, the urgency ordinance was determined exempt from CEQA based on the following:
43

- 44 (1) This ordinance is not a project within the meaning of Section 15378 of the CEQA
45 Guidelines, because it has no potential for resulting in physical change in the
46 environment, directly or ultimately; it prevents changes in the environment related to
47 new gas station use applications pending consideration of possible amendments to the
48 City's Zoning Code or other land use regulations;
49
- 50 (2) This ordinance is categorically exempt from CEQA under Section 15308 of the CEQA
51 Guidelines as a regulatory action taken by the City pursuant to its policy power and in
52 accordance with Government Code Section 65858 to assure maintenance and
53 protection of the environment pending the evaluation and possible adoption of

1 contemplated local legislation, regulation and policies, which local legislation, if
2 adopted, will be subject to CEQA requirements;
3

- 4 (3) This ordinance is not subject to CEQA under the general rule that CEQA applies only to
5 projects which have the potential for causing a significant effect on the environment,
6 and for the reasons set forth in subparagraphs (1) and (2) above, it can be seen with
7 certainty that there is no possibility that this ordinance will have a significant effect on the
8 environment;
9

10 **WHEREAS**, on May 6, 2019 the City Council adopted Urgency Ordinance 2681 imposing a
11 moratorium on new gas station uses that are not complete as of the effective date of the
12 ordinance; and
13

14 **WHEREAS**, consistent with California Government Code Section 65858 the urgency ordinance
15 is effective for 45 days unless extended by the City in accordance with Government Code Section
16 65858; and
17

18 **WHEREAS**, Government Code Section 65858, subsection (a), provides for extension of an
19 urgency ordinance for a period not to exceed 10 months and 15 days with approval by the City
20 and noticing of a public hearing consistent with Government Code Section 65090; and
21

22 **WHEREAS**, consistent with Government Code Section 65090, notification of the June 3, 2019
23 hearing was published in the *Argus-Courier* on May 23, 2019.
24

25
26 **NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Petaluma as follows:
27

28 **Section 1. Recitals Made Findings.** The above recitals are hereby declared to be true and
29 correct and findings of the City Council of the City of Petaluma.
30

31 **Section 2. Time Extension.** This ordinance hereby extends the initial 45-day effective date of
32 Ordinance 2681 for an additional 10 months and 15 days in accordance with California
33 Government Code Section 65858 and other applicable law.
34

35 **Section 3. Moratorium Imposed.** The moratorium imposed by the adoption of Ordinance 2681
36 hereby remains in effect and prohibits the approval of applications for new gas station uses in the
37 City of Petaluma that are not complete as of the initial effective date of Ordinance 2681 in
38 accordance with the City's powers under Article XI, Section 5 of the California Constitution, Article
39 VII, Section 54 of the City Charter and California Government Code Section 65858 and other
40 applicable law, as follows:
41

42 A. Scope
43 Applications for land use or development entitlements for new gas station uses in the
44 City of Petaluma not complete as of the effective date of this ordinance may not be
45 approved during the moratorium period.
46

47 B. Statutory Findings and Purpose
48 Ordinance 2681 is an interim ordinance as defined under California Government
49 Code Section 65858. The Ordinance was deemed necessary for the following
50 reasons:
51

- 52 1. The purpose of this ordinance is to protect the public safety, health, and welfare
53 from a current and immediate threat posed by the issuance of land use or
54 development entitlements for new gas station uses that could result in negative

1 health, safety or other impacts on adjacent or nearby existing uses or
2 neighborhoods with which new gas station uses may not be compatible, absent
3 adequate local regulation addressing compatibility of new gas station uses with
4 adjacent or nearby uses or neighborhoods.
5

- 6 2. New gas station uses have been and/or may be proposed for construction in the
7 City, and unless a moratorium is imposed on the issuance of land use or
8 development entitlements for new gas station uses in the City, such development
9 may result in negative health, safety or other impacts on adjacent or nearby
10 existing uses or neighborhoods with which new gas station uses may not be
11 compatible, absent adequate local regulation addressing compatibility of new
12 gas station uses with adjacent or nearby existing uses or neighborhoods. This is
13 particularly true regarding City zoning districts where currently new gas stations
14 are permitted uses (C1, C2, and D4 zones) and approval of applications for such
15 proposed new uses is subject only to site plan and architectural review, which
16 review does not take into account such consideration as project emissions and
17 other health impacts unrelated to aesthetics, siting and internal circulation.
18
- 19 3. The imposition of Ordinance 2681 as a moratorium on issuance of land use or
20 development entitlements for new gas station uses in the City that are not
21 complete as of the effective date in order to provide time to evaluate and adopt
22 legislation, guidelines and/or policies as required to address negative health,
23 safety or other impacts of proposed new gas station uses on, adjacent to or
24 nearby existing uses or neighborhoods.
25

26 C. Applicability

27 Ordinance 2681 applies to approval of applications for land use or development
28 entitlements for new gas station uses in the City that are not complete as of the
29 effective date of this ordinance. The ordinance has no effect on the processing of
30 applications for land use or development entitlements for new gas station uses in the
31 City, except that such applications may not be approved during the moratorium
32 period. Subject to the moratorium on approval of applications for land use or
33 development entitlements for new gas station uses, applications for such entitlements
34 will continue to be processed during the moratorium period in accordance with
35 applicable law.
36


37 **Section 4. Severability.** If any provision of the ordinance or the application thereof to any
38 person or circumstance is held invalid, the remainder of the ordinance, including the application of
39 such part or provision to other persons or circumstances shall not be affected thereby and shall
40 continue in full force and effect. To this end, provisions of this ordinance are severable. The City
41 Council hereby declares that it would have passed each section, subsection, subdivision,
42 paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more
43 sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held
44 unconstitutional, invalid, or unenforceable.
45

46 **Section 5. Effective Date and Duration.** This ordinance shall become effective immediately
47 upon passage and adoption if passed and adopted by at least four-fifths vote of the City Council
48 and shall be in effect for 10 months and 15 days there from unless extended by the City in
49 accordance with Government Code Section 65858.
50

51 **INTRODUCED**, ordered posted, and **ADOPTED** this 3rd day of June 2019, by the following vote:

52 Ayes: Mayor Barrett, Fischer, Healy, King, Vice Mayor McDonnell, Miller
53


Noes: None
Abstain: None
Absent: Kearney


Teresa Barrett, Mayor

ATTEST:


APPROVED AS TO FORM:


Samantha Pascoe, Acting City Clerk


Eric Danly, City Attorney



DATE: June 3, 2019

TO: Honorable Mayor and Members of the City Council through City Manager 

FROM: Eric Danly, City Attorney
Heather Hines, Planning Manager

SUBJECT: Adoption of an Ordinance Extending the Timeline of Urgency Ordinance #2681 Which Imposed a Moratorium on Approval of Applications for New Gas Station Uses in the City of Petaluma That are Not Already Complete as of the Effective Date of the Ordinance Pursuant to California Government Code Section 65858 and Other Applicable Laws, and Approval of a Resolution Issuing a Written Report Describing the Measures Taken to Date to Alleviate the Condition Which Led to the Adoption of the Urgency Ordinance.

RECOMMENDATION

It is recommended that the City Council adopt the following:

- An Ordinance extending the timeline of Urgency Ordinance 2681 which imposed a moratorium on the approval of applications for new gas station uses in the City of Petaluma that are not already complete as of the effective date of the ordinance pursuant to California Government Code Section 65858 and other applicable law; and
- A Resolution issuing a written report describing the measures taken to date to alleviate the condition which led to the adoption of the urgency ordinance.

BACKGROUND

On April 1, 2019, the City Council denied the appeal brought against the Planning Commission's approval under the California Environmental Quality Act and the City's Site Plan and Architectural Review requirements of the Safeway Fuel Station project located at 335 South McDowell Boulevard in Petaluma. The Council action upheld the Planning Commission's approval of the project. In response to community concern about the possible location of new gas station uses near sensitive receptors like schools and residences, and in view of the recent holding in *McCorkle Eastside Neighborhood Group v. City of St. Helena* limiting approving bodies' ability to review projects' environmental impacts to their authority to mitigate project impacts, the City Council requested that staff prepare for Council consideration and possible adoption an urgency ordinance pursuant to Section 65858 of the California Government Code that would prohibit the approval of applications for new gas station uses in the City.

On May 6, 2019 the City Council adopted Ordinance 2681 imposing a moratorium on the approval of new gas station/fueling station applications that are not already complete as of the effective date of the ordinance. The urgency ordinance adopted by the City Council was prepared in compliance with Government Code Section 65858 and included findings that there is a current and immediate threat to the public health, safety, or welfare and that adoption of the interim ordinance would protect the public safety, health, or welfare. Ordinance #2681 includes findings of public health, safety and welfare risk resulting based on the effect of the *McCorkle* decision on the City's ability to conduct full environmental review of applications for new gas station uses and based on potential applications for new gas station uses near sensitive receptors.

Ordinance 2681 does not affect the Safeway Fuel Station Project. However, the ordinance does bar approval of new gas station applications that are not yet complete while the City Council considers potential new regulatory options regarding new gas station applications. Adoption of new regulatory requirements for new gas station applications, such as requiring conditional use permits for such applications, would expand the ability of City approving bodies to conduct environmental review and exercise discretionary approval regarding new gas station uses. Such new regulations could permit the approving bodies to order the preparation of an Environmental Impact Report (EIR) regarding future gas station applications, and to disapprove projects that do not satisfy the City's regulations, whether due to emissions or other health impacts, traffic, or other considerations within the City's discretion.

Ordinance 2681 was approved by a unanimous vote of the City Council and is effective for an initial period of 45 days from the date of adoption. In accordance with Government Code Section 65858, the attached ordinance (Attachment 1) would extend Ordinance 2681 for an additional ten months and 15 days. Also, in accordance with Government Code Section 65858 consideration of the ordinance to extend the moratorium was noticed as a public hearing consistent with all applicable state and local regulations. An additional extension of up to 12 months may be approved by the City Council prior to the expiration of this initial extension, for a total potential duration of two years.

Also before the City Council for consideration is a resolution issuing a written report describing the measures that the City has taken to alleviate the condition which led to the adoption of the urgency ordinance (Attachment 2). This Resolution and associated written report (Attachment 2, Exhibit 1) satisfy the requirement of Section 65858 which states that "ten days prior to the expiration of the initial interim ordinance or any extension, the City Council is required to issue a written report describing the measures taken to alleviate the condition that lead to the adoption of the interim ordinance."

Following adoption of an interim ordinance under Section 65858, subsequent interim ordinances affecting the same property are prohibited unless the subsequent ordinance is adopted to protect the public safety, health, and welfare from an event, occurrence or set of circumstances different from those that led to the adoption of the prior interim ordinance. In other words, once an interim ordinance expires, a new interim ordinance cannot be enacted regarding the same health, safety and welfare concerns affecting the same property.

DISCUSSION

Currently, fuel station/gas stations are a permitted use in the C1 and C2 zoning districts in the City. Gas stations are a conditional use in the BP, MU1A, and MU1B zones. In 2013, during the adoption process for the updated SmartCode, the Council adopted modifications to the SmartCode to allow gas stations as a conditional use in the T5 zone within the boundaries of the Petaluma Specific Plan. Gas stations are a permitted use in the D4 district as outlined in the SmartCode.

The Implementing Zoning Ordinance (IZO) does not currently contain any specific use criteria for gas station uses in Petaluma. The definition of a Fueling Station/Gas Station included in Section 27 of the IZO is “A retail business selling gasoline and/or other motor vehicle fuels, and related products. A gas station may also include a convenience store, vehicle services, and restaurant facilities.” The definition adopted in Section 9 of the SmartCode is “A retail business selling gasoline or other motor vehicle fuels, and related products. A gas station may also include a convenience store, vehicle services, restaurant facility and/or trailer rental where authorized by the Conditional Use Permit for the gas station.”

The Urgency Ordinance adopted by the City Council on May 6, 2019, prohibits the approval of any new gas station/fuel station applications in the City not already complete as of the effective date of the ordinance. The ordinance currently before the Council for consideration would extend the effective date of Urgency Ordinance 2681 for an additional 10 months and 15 days. This extension would preserve the status quo of existing gas stations in the City and provide time for the City to study the potential impacts that new gas station uses may have on nearby neighborhood and sensitive receptors, options for regulating gas station uses in the City, and the practical and legal implications of the various regulatory options.

The City Council’s adoption of an extension of the urgency ordinance would allow for continued consideration and discussion regarding options for potential new legislation regarding new gas station uses during which new gas station applications would be processed but could not be approved. Following expiration of the interim ordinance, new gas station applications could be approved, subject to any new regulatory requirements that have taken effect during the moratorium period.

As outlined in the written report (Attachment 2, Exhibit 1), the City has undertaken several measures to date to alleviate the concerns regarding new gas station uses in the City as included in Urgency Ordinance 2681. In addition to the adoption of an urgency ordinance, the City Council has initiated discussion about potential legislative options, including the following:

- Modification to the IZO and/or SmartCode to prohibit new gas stations uses in all zones;
- Modification to the IZO to make new gas station uses subject to a CUP in all zones where they are currently permitted as of right;
- Modification to the use tables in the IZO and/or the City’s zoning map changing the zones in which gas stations are permitted;
- Adoption of specific use criteria for new gas station uses (similar to the approach taken for Bed and Breakfast Inns and Short-Term Vacation Rentals);

- Adoption of specific use criteria for new gas station uses when in proximity to sensitive receptors such as residential neighborhoods, schools, parks, etc.;
- Adoption limitations on the size (number of pumps/dispensers or annual fuel throughput) of new gas station uses; and/or
- Adoption of expanded definitions of gas station uses addressing large gas stations and small gas stations (number or pumps/dispensers or annual fuel throughput), and identification of the appropriate entitlement process (e.g., whether a CUP or use criteria should apply) to address project specific impacts.

The interim ordinance adopted by the Council on May 6 and extended by the attached ordinance temporarily prohibits approval of new gas station applications not already complete as of the effective date of the ordinance. However, the law requires that staff continue to process any pending gas station applications or applications received during the moratorium period. Interim ordinances under Section 65858 only temporarily suspends project approvals subject to a moratorium, but not project processing. For the duration of the interim ordinance on new gas station applications, any proposed new uses will not be brought before the decision-making body until such time as the interim ordinance is repealed (presumably upon new regulation of new gas station uses taking effect) or has expired.

PUBLIC OUTREACH

Adoption of a time extension of an interim urgency ordinance is subject to public noticing pursuant to Government Code Section 65090, which requires published notification in the City's official newspaper at least ten days prior to the hearing. Notification of the June 3, 2019 public hearing was published in the Argus Courier on May 23, 2019. This item had also been distributed along with the rest of the June 3 City Council Agenda and posted on the City's website in accordance with the requirements of the Brown Act and the City's established practice.

FINANCIAL IMPACTS

Staff costs associated with preparation of this urgency ordinance are covered under the City's contract with M-Group under base level services and by the staff budget for the City Attorney's Office and does not have any additional cost impacts to the General Fund.

ATTACHMENTS

Attachment 1	Draft Ordinance extending the effective date of Urgency Ordinance #2681
Attachment 2	Draft Resolution Issuing Written Report
Exhibit 1	Written Report
Attachment 3	Urgency Ordinance 2681

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PETALUMA EXTENDING
THE TIMELINE OF URGENCY ORDINANCE 2681 IMPOSING A MORATORIUM ON THE
APPROVAL OF APPLICATIONS FOR NEW GAS STATION USES IN THE CITY OF
PETALUMA THAT ARE NOT COMPLETE AS OF THE EFFECTIVE DATE OF THE
ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 AND
OTHER APPLICABLE LAW**

WHEREAS, Article XI, Section 5 of the California Constitution provides that it shall be competent in any city charter to provide that the city governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to the general laws; and

WHEREAS, Section 54 of Article VIII of the Petaluma Charter provides that the City, by and through its council and other officials shall have and may exercise all powers necessary or appropriate to the municipal corporation and the general welfare of its inhabitants, which are not prohibited by the constitution and which it would be competent for the charter to set forth particularly or specifically, and the specification of any particular powers shall not be held to be exclusive or any limitation on the general grant of powers; and

WHEREAS, California Government Code Section 65858, subdivision (a) provides: that city legislative bodies may, to protect public safety, health and welfare, adopt as an urgency measure an interim ordinance prohibiting any uses that may conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body is considering or studying or intends to study within a reasonable time; that adoption of such urgency measures requires a four-fifths vote of the legislative body; that such measures shall be of no effect 45 days from the date of adoption, and may be extended a maximum to two times and have a maximum total duration of two years; and

WHEREAS, California Government Code Section 65858, subdivision (c) provides that legislative bodies may not adopt or extend such interim ordinances unless they contain findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional entitlements would result in that threat to public health, safety, or welfare; and

WHEREAS, California Government Code Section 65858, subdivision (c) further provides that such interim ordinances that have the effect of denying approvals needed for the development of projects with a significant component of multifamily housing (as defined in California Government Code Section 65858, subdivisions (g) and (h)) may not be extended except upon written findings adopted by the legislative body, supporting by substantial evidence on the record, that:

- (1) the continued approval of the development of multifamily housing projects would have a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date that the ordinance is adopted by the legislative body,
- (2) the interim ordinance is necessary to mitigate or avoid such impact, and
- (3) there is no feasible alternative to satisfactorily mitigate or avoid such impact as well or better, with a less burdensome or restrictive effect, than the adoption of the proposed interim ordinance; and

WHEREAS, California Government Code Section 65858, subdivision (d) provides that ten days prior to the expiration of an interim ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance; and

WHEREAS, residents in the neighborhood in proximity to the proposed Safeway Fuel Station project at 335 South McDowell Boulevard at the corner of South McDowell Boulevard and Maria Drive have expressed opposition to the project based on concerns related to air quality, health risks, safety, and circulation and traffic impacts;

WHEREAS, teachers, administrators, parents, and students and the adjacent McDowell Elementary School have expressed opposition to the project based on concerns involving potential impacts associated with air quality, health risk, safety, and circulation impacts; and

WHEREAS, public comments received in opposition to the project express a common concern with the incompatibility of the proposed gas station with the surrounding land uses and sensitive receptors, including residential, parks, and schools; and

WHEREAS, the property located at South McDowell Boulevard and Maria Drive is currently zoned C-2 and new gas station uses are a permitted use in the Zone C-2, subject to approval of Site Plan and Architectural Review (SPAR); and

WHEREAS, SPAR approval pursuant to Section 24.010 of the City's Implementing Zoning Ordinance (IZO), Ordinance No. 2300 N.C.S. adopted July 2, 2008, involves consideration of SPAR factors such as appropriate use of materials, architectural style, siting of structures on property, size, location and design of signs, and bulk and height of proposed structures, landscaping to approved City standards, and ingress, egress and internal circulation; and

WHEREAS, currently in the City new gas station uses are permitted in the C1, C2, and D4 zoning districts subject to SPAR, and are permitted in the BP, MU1A, MU1B, and T5 zones subject to SPAR and issuance of a Conditional Use Permit; and

WHEREAS, on December 17 and 18, 2018, respectively, the cases of *Georgetown Preservation Society v. County of El Dorado* and *McCorkle Eastside Neighborhood Group v. City of St. Helena* were published; and

WHEREAS, although the court in *Georgetown* held that evidence of aesthetic impacts of the proposed development in that case was sufficient to trigger the need for an Environmental Impact Report, the court in *McCorkle* held that environmental review in that case was limited to the scope of St. Helena's design review authority, and, specifically, its authority under its zoning regulations to mitigate project environmental impacts; and

WHEREAS, based on the *McCorkle* ruling, legal counsel for Safeway argued that the City Council could not order an Environmental Impact Report based on information in the record concerning project emissions and health risk impacts that are outside of the scope of the City's discretionary approval under its SPAR regulations, and

WHEREAS, on the advice of the City Attorney and following the *McCorkle* ruling, the City Council denied that appeal regarding the Planning Commission's approval of the Safeway Fuel Station project, upholding the Planning Commission approval, despite concerns regarding potential health and other impacts of the project; and

WHEREAS, prior to the *McCorkle* decision, it had been the City's consistent practice to treat applications for SPAR approval as subject to the exercise of discretion of the approving body, up to and including the authority of the approving body to disapprove the project on SPAR grounds, and to conduct full CEQA review, up to and including the ordering of an Environmental Impact Report, if warranted; and

WHEREAS, the *McCorkle* case limits environmental review of development applications to environmental impacts the approving body has authority to mitigate; and

WHEREAS, the California Supreme Court has denied petitions to depublish or overturn the *McCorkle* ruling, which remains in effect and binding on the City and its ability to conduct environmental review regarding projects such as applications for new gas stations that may be subject to only design review in specified zones; and

WHEREAS, the City's SPAR regulations do not address emissions or other project health risks unrelated to aesthetics, siting and internal circulation; and

WHEREAS, City Planning staff has been contacted by a potential applicant for a new gas station use located at the corner of Industrial Drive and Petaluma Boulevard North, near sensitive receptors including a school, and where new gas stations uses are permitted as of right and subject only to SPAR review, posing a threat to the public health, safety and welfare, from environmental and health impacts that the City may be unable to avoid or mitigate following the *McCorkle* decision; and

WHEREAS, there is no information in the record supporting that this interim ordinance regarding new gas station applications in the City of Petaluma that are not complete as of the effective date of the ordinance may have the effect of denying approvals needed for the development of projects with a significant component of multifamily housing as defined in the California Government Code Section 65858, subdivisions (g) and (h); and

WHEREAS, pursuant to Section 15001 of the California Environmental Quality Act (CEQA) Guidelines, the urgency ordinance was determined exempt from CEQA based on the following:

- (1) This ordinance is not a project within the meaning of Section 15378 of the CEQA Guidelines, 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 pending consideration of possible amendments to the City's Zoning Code or other land use regulations;
- (2) This ordinance is categorically exempt from CEQA under Section 15308 of the CEQA Guidelines as a regulatory action taken by the City pursuant to its policy power and in accordance with Government Code Section 65858 to assure maintenance and protection of the environment pending the evaluation and possible adoption of contemplated local legislation, regulation and policies, which local legislation, if adopted, will be subject to CEQA requirements;
- (3) This ordinance is 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, and for the reasons set forth in subparagraphs (1) and (2) above, it can be seen with certainty that there is no possibility that this ordinance will have a significant effect on the environment;

WHEREAS, on May 6, 2019 the City Council adopted Urgency Ordinance 2681 imposing a moratorium on new gas station uses that are not complete as of the effective date of the ordinance; and

WHEREAS, consistent with California Government Code Section 65858 the urgency ordinance is effective for 45 days unless extended by the City in accordance with Government Code Section 65858; and

WHEREAS, Government Code Section 65858, subsection (a), provides for extension of an urgency ordinance for a period not to exceed 10 months and 15 days with approval by the City and noticing of a public hearing consistent with Government Code Section 65090; and

WHEREAS, consistent with Government Code Section 65090, notification of the June 3, 2019 hearing was published in the Argus Courier on May 23, 2019.

NOW THEREFORE BE IT ORDAINED by the Council of the City of Petaluma as follows:

Section 1. Recitals Made Findings. The above recitals are hereby declared to be true and correct and findings of the City Council of the City of Petaluma.

Section 2. Time Extension. This ordinance hereby extends the initial 45-day effective date of Ordinance 2681 for an additional 10 months and 15 days in accordance with California Government Code Section 65858 and other applicable law.

Section 3. Moratorium Imposed. The moratorium imposed by the adoption of Ordinance 2681 hereby remains in effect and prohibits the approval of applications for new gas station uses in the City of Petaluma that are not complete as of the initial effective date of Ordinance 2681 in accordance with the City's powers under Article XI, Section 5 of the California Constitution, Article VII, Section 54 of the City Charter and California Government Code Section 65858 and other applicable law, as follows:

- A. Scope
Applications for land use or development entitlements for new gas station uses in the City of Petaluma not complete as of the effective date of this ordinance may not be approved during the moratorium period.
- B. Statutory Findings and Purpose
Ordinance 2681 is an interim ordinance as defined under California Government Code Section 65858. The Ordinance was deemed necessary for the following reasons:
 - 1. The purpose of this ordinance is to protect the public safety, health, and welfare from a current and immediate threat posed by the issuance of land use or development entitlements for new gas station uses that could result in negative health, safety or other impacts on adjacent or nearby existing uses or neighborhoods with which new gas station uses may not be compatible, absent adequate local regulation addressing compatibility of new gas station uses with adjacent or nearby uses or neighborhoods.
 - 2. New gas station uses have been and/or may be proposed for construction in the City, and unless a moratorium is imposed on the issuance of land use or development entitlements for new gas station uses in the City, such development may result in negative health, safety or other impacts on adjacent or nearby existing uses or

neighborhoods with which new gas station uses may not be compatible, absent adequate local regulation addressing compatibility of new gas station uses with adjacent or nearby existing uses or neighborhoods. This is particularly true regarding City zoning districts where currently new gas stations are permitted uses (C1, C2, and D4 zones) and approval of applications for such proposed new uses is subject only to site plan and architectural review, which review does not take into account such consideration as project emissions and other health impacts unrelated to aesthetics, siting and internal circulation.

3. The imposition of Ordinance 2681 as a moratorium on issuance of land use or development entitlements for new gas station uses in the City that are not complete as of the effective date in order to provide time to evaluate and adopt legislation, guidelines and/or policies as required to address negative health, safety or other impacts of proposed new gas station uses on, adjacent to or nearby existing uses or neighborhoods.

C. Applicability

Ordinance 2681 applies to approval of applications for land use or development entitlements for new gas station uses in the City that are not complete as of the effective date of this ordinance. The ordinance has no effect on the processing of applications for land use or development entitlements for new gas station uses in the City, except that such applications may not be approved during the moratorium period. Subject to the moratorium on approval of applications for land use or development entitlements for new gas station uses, applications for such entitlements will continue to be processed during the moratorium period in accordance with applicable law.

Section 4. Severability. If any provision of the ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section 5. Effective Date and Duration. This ordinance shall become effective immediately upon passage and adoption if passed and adopted by at least four-fifths vote of the City Council and shall be in effect for 10 months and 15 days there from unless extended by the City in accordance with Government Code Section 65858.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PETALUMA ISSUING A WRITTEN REPORT DESCRIBING THE MEASURES TAKEN TO ALLEVIATE THE CONDITIONS WHICH LED TO THE ADOPTION OF URGENCY ORDINANCE 2681 WHICH IMPOSED A MORATORIUM ON THE APPROVAL OF APPLICATIONS FOR NEW GAS STATION USES IN THE CITY OF PETALUMA THAT ARE NOT COMPLETE AS OF THE EFFECTIVE DATE OF THE ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 AND OTHER APPLICABLE LAW

WHEREAS, Article XI, Section 5 of the California Constitution provides that it shall be competent in any city charter to provide that the city governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to the general laws; and

WHEREAS, Section 54 of Article VIII of the Petaluma Charter provides that the City, by and through its council and other officials shall have and may exercise all powers necessary or appropriate to the municipal corporation and the general welfare of its inhabitants, which are not prohibited by the constitution and which it would be competent for the charter to set forth particularly or specifically, and the specification of any particular powers shall not be held to be exclusive or any limitation on the general grant of powers; and

WHEREAS, California Government Code Section 65858, subdivision (a) provides: that city legislative bodies may, to protect public safety, health and welfare, adopt as an urgency measure an interim ordinance prohibiting any uses that may conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body is considering or studying or intends to study within a reasonable time; that adoption of such urgency measures requires a four-fifths vote of the legislative body; that such measures shall be of no effect 45 days from the date of adoption, and may be extended a maximum to two times and have a maximum total duration of two years; and

WHEREAS, California Government Code Section 65858, subdivision (c) provides that legislative bodies may not adopt or extend such interim ordinances unless they contain findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional entitlements would result in that threat to public health, safety, or welfare; and

WHEREAS, on May 6, 2019 the City Council adopted Urgency Ordinance 2681 imposing a moratorium on new gas station uses that are not complete as of the effective date of the ordinance; and

WHEREAS, on May 6, 2019 the City Council deemed the adoption of Urgency Ordinance 2681 necessary to protect the public safety, health, and welfare from the threat posed by the issuance of land use or development entitlements for new gas station uses that could result in negative health, safety or other impacts on adjacent or nearby existing uses or neighborhoods with which new gas station uses may not be compatible, absent adequate local regulation addressing compatibility of new gas station uses with adjacent or nearby uses or neighborhoods.

WHEREAS, on May 6, 2019 the City Council deemed the adoption of Urgency Ordinance 2681 necessary to protect the public health, safety, and welfare due to new gas station uses have been and/or may be proposed for construction in the City, and unless a moratorium is imposed on the issuance of land use or development entitlements for new gas station uses in the City, such development may result in

negative health, safety or other impacts on adjacent or nearby existing uses or neighborhoods with which new gas station uses may not be compatible, absent adequate local regulation addressing compatibility of new gas station uses with adjacent or nearby existing uses or neighborhoods. This is particularly true regarding City zoning districts where currently new gas stations are permitted uses (C1, C2, and D4 zones) and approval of applications for such proposed new uses is subject only to site plan and architectural review, which review does not take into account such consideration as project emissions and other health impacts unrelated to aesthetics, siting and internal circulation.

WHEREAS, on May 6, 2019 the City Council deemed the adoption of Urgency Ordinance 2681 necessary in order to provide time to evaluate and adopt legislation, guidelines and/or policies as required to address negative health, safety or other impacts of proposed new gas station uses on, adjacent to or nearby existing uses or neighborhoods.

WHEREAS, consistent with California Government Code Section 65858 the urgency ordinance is effective for 45 days unless extended by the City in accordance with Government Code Section 65858; and

WHEREAS, on June 3, 2019 the City Council adopted an extension of urgency ordinance 2681 for a period not to exceed an additional 10 months and 15 days consistent with noticing requirements outlined in Government Code Section 65090; and

WHEREAS, California Government Code Section 65858, subdivision (d) provides that ten days prior to the expiration of an interim ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance; and

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL AS FOLLOWS:

1. The foregoing recitals are true and correct and incorporated herein by reference.
2. Based on the review of the entire record herein, including the June 3, 2019 City Council staff report, all supporting, referenced, and incorporated documents, and all comments received, the City Council issues the written report included at Exhibit 1 describing the measures that the City has taken to alleviate the condition which led to the initial adoption of Urgency Ordinance 2681.

On April 1, 2019, the City Council denied the appeal brought against the Planning Commission's approval under the California Environmental Quality Act and the City's Site Plan and Architectural Review requirements of the Safeway Fuel Station project located at 335 South McDowell Boulevard in Petaluma. The Council action upheld the Planning Commission's approval of the project. In response to the unprecedented community concern about the possible location of new gas station uses near sensitive receptors like schools and residences, and in view of the recent holding in *McCorkle Eastside Neighborhood Group v. City of St. Helena* limiting approving bodies' ability to review projects' environmental impacts to their authority to mitigate project impacts, the City Council requested that staff prepare for Council consideration and possible adoption an urgency ordinance pursuant to Section 65858 of the California Government Code that would prohibit the approval of applications for new gas station uses in the City.

On May 6, 2019 the City Council adopted Ordinance 2681 imposing a moratorium on the approval of new gas station/fueling station applications that are not already complete as of the effective date of the ordinance. The urgency ordinance adopted by the City Council was prepared in compliance with Government Code Section 65858 and included findings that there is a current and immediate threat to the public health, safety, or welfare and that adoption of the interim ordinance would protect the public safety, health, or welfare. Ordinance 2681 includes findings of public health, safety and welfare risk resulting based on the effect of the *McCorkle* decision on the City's ability to conduct full environmental review of applications for new gas station uses and based on potential applications for new gas station uses near sensitive receptors.

In addition to approving Urgency Ordinance 2681, the City Council provided general direction at their meeting on May 6, 2019 to explore potential legislative options to alleviate the condition which led to the initial concern and adoption of the moratorium. These potential legislative options included:

- Modification to the IZO and/or SmartCode to prohibit new gas stations uses in all zones;
- Modification to the IZO to make new gas station uses subject to a CUP in all zones where they are currently permitted as of right;
- Modification to the use tables in the IZO and/or the City's zoning map changing the zones in which gas stations are permitted;
- Adoption of specific use criteria for new gas station uses (similar to the approach taken for Bed and Breakfast Inns and Short-Term Vacation Rentals);
- Adoption of specific use criteria for new gas stations uses when in proximity to sensitive receptors such as residential neighborhoods, schools, parks, etc.;
- Adoption limitations on the size (number of pumps/dispensers or annual fuel throughput) of new gas station uses; and/or
- Adoption of expanded definitions of gas station uses addressing large gas stations and small gas stations (number or pumps/dispensers or annual fuel throughput), and identification of the appropriate entitlement process (e.g., whether a CUP or use criteria should apply) to address project specific impacts.

To provide adequate time for the City to explore these and other potential options, the City Council adopted an extension of urgency ordinance 2681 for an additional 10 months and 15 days.

<p>EFFECTIVE DATE OF ORDINANCE</p>

<p>May 6, 2019</p>

ORDINANCE NO. 2681 N.C.S.

Introduced by

Seconded by

Gabe Kearney

Kathy Miller

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PETALUMA IMPOSING A MORATORIUM ON THE APPROVAL OF APPLICATIONS FOR NEW GAS STATION USES IN THE CITY OF PETALUMA THAT ARE NOT COMPLETE AS OF THE EFFECTIVE DATE OF THE ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 AND OTHER APPLICABLE LAW

WHEREAS, Article XI, Section 5 of the California Constitution provides that it shall be competent in any city charter to provide that the city governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to the general laws; and

WHEREAS, Section 54 of Article VIII of the Petaluma Charter provides that the City, by and through its council and other officials shall have and may exercise all powers necessary or appropriate to the municipal corporation and the general welfare of its inhabitants, which are not prohibited by the constitution and which it would be competent for the charter to set forth particularly or specifically, and the specification of any particular powers shall not be held to be exclusive or any limitation on the general grant of powers; and

WHEREAS, California Government Code Section 65858, subdivision (a) provides: that city legislative bodies may, to protect public safety, health and welfare, adopt as an urgency measure an interim ordinance prohibiting any uses that may conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body is considering or studying or intends to study within a reasonable time; that adoption of such urgency measures requires a four-fifths vote of the legislative body; that such measures shall be of no effect 45 days from the date of adoption, and may be extended a maximum to two times and have a maximum total duration of two years; and

WHEREAS, California Government Code Section 65858, subdivision (c) provides that legislative bodies may not adopt or extend such interim ordinances unless they contain findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional entitlements would result in that threat to public health, safety, or welfare; and

WHEREAS, California Government Code Section 65858, subdivision (c) further provides that such interim ordinances that have the effect of denying approvals needed for the development of projects with a significant component of multifamily housing (as defined in California Government Code Section 65858, subdivisions (g) and (h)) may not be extended except upon written findings adopted by the legislative body, supporting by substantial evidence on the record, that:

- (1) the continued approval of the development of multifamily housing projects would have a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date that the ordinance is adopted by the legislative body,
- (2) the interim ordinance is necessary to mitigate or avoid such impact, and
- (3) there is no feasible alternative to satisfactorily mitigate or avoid such impact as well or better, with a less burdensome or restrictive effect, than the adoption of the proposed interim ordinance; and

WHEREAS, California Government Code Section 65858, subdivision (d) provides that ten days prior to the expiration of an interim ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance; and

WHEREAS, residents in the neighborhood in proximity to the proposed Safeway Fuel Station project at 335 South McDowell Boulevard at the corner of South McDowell Boulevard and Maria Drive have expressed opposition to the project based on concerns related to air quality, health risks, safety, and circulation and traffic impacts;

WHEREAS, teachers, administrators, parents, and students and the adjacent McDowell Elementary School have expressed opposition to the project based on concerns involving potential impacts associated with air quality, health risk, safety, and circulation impacts; and

WHEREAS, public comments received in opposition to the project express a common concern with the incompatibility of the proposed gas station with the surrounding land uses and sensitive receptors, including residential, parks, and schools; and

WHEREAS, the property located at South McDowell Boulevard and Maria Drive is currently zoned C-2 and new gas station uses are a permitted use in the Zone C-2, subject to approval of Site Plan and Architectural Review (SPAR); and

WHEREAS, SPAR approval pursuant to Section 24.010 of the City's Implementing Zoning Ordinance (IZO), Ordinance No. 2300 N.C.S. adopted July 2, 2008, involves consideration of SPAR factors such as appropriate use of materials, architectural style, siting of structures on property, size, location and design of signs, and bulk and height of proposed structures, landscaping to approved City standards, and ingress, egress and internal circulation; and

WHEREAS, currently in the City new gas station uses are permitted in the C1, C2, and D4 zoning districts subject to SPAR, and are permitted in the BP, MU1A, MU1B, and T5 zones subject to SPAR and issuance of a Conditional Use Permit; and

WHEREAS, on December 17 and 18, 2018, respectively, the cases of *Georgetown Preservation Society v. County of El Dorado* and *McCorkle Eastside Neighborhood Group v. City of St. Helena* were published; and

WHEREAS, although the court in *Georgetown* held that evidence of aesthetic impacts of the proposed development in that case was sufficient to trigger the need for an Environmental Impact Report, the court in *McCorkle* held that environmental review in that case was limited to the scope of St. Helena's design review authority, and, specifically, its authority under its zoning regulations to mitigate project environmental impacts; and

1 **WHEREAS**, based on the *McCorkle* ruling, legal counsel for Safeway argued that the City
2 Council could not order an Environmental Impact Report based on information in the record
3 concerning project emissions and health risk impacts that are outside of the scope of the City's
4 discretionary approval under its SPAR regulations, and
5

6 **WHEREAS**, on the advice of the City Attorney and following the *McCorkle* ruling, the City
7 Council denied that appeal regarding the Planning Commission's approval of the Safeway Fuel
8 Station project, upholding the Planning Commission approval, despite concerns regarding potential
9 health and other impacts of the project; and
10

11 **WHEREAS**, prior to the *McCorkle* decision, it had been the City's consistent practice to treat
12 applications for SPAR approval as subject to the exercise of discretion of the approving body, up to
13 and including the authority of the approving body to disapprove the project on SPAR grounds, and
14 to conduct full CEQA review, up to and including the ordering of an Environmental Impact Report, if
15 warranted; and
16

17 **WHEREAS**, the *McCorkle* case limits environmental review of development applications to
18 environmental impacts the approving body has authority to mitigate; and
19

20 **WHEREAS**, the California Supreme Court has denied petitions to depublish or overturn the
21 *McCorkle* ruling, which remains in effect and binding on the City and its ability to conduct
22 environmental review regarding projects such as applications for new gas stations that may be
23 subject to only design review in specified zones; and
24

25 **WHEREAS**, the City's SPAR regulations do not address emissions or other project health risks
26 unrelated to aesthetics, siting and internal circulation; and
27

28 **WHEREAS**, City Planning staff has been contacted by a potential applicant for a new gas
29 station use located at the corner of Industrial Drive and Petaluma Boulevard North, near sensitive
30 receptors including a school, and where new gas stations uses are permitted as of right and subject
31 only to SPAR review, posing a threat to the public health, safety and welfare, from environmental
32 and health impacts that the City may be unable to avoid or mitigate following the *McCorkle*
33 decision; and
34

35 **WHEREAS**, there is no information in the record supporting that this interim ordinance
36 regarding new gas station applications in the City of Petaluma that are not complete as of the
37 effective date of the ordinance may have the effect of denying approvals needed for the
38 development of projects with a significant component of multifamily housing as defined in the
39 California Government Code Section 65858, subdivisions (g) and (h); and
40

41 **WHEREAS**, pursuant to Section 15001 of the California Environmental Quality Act (CEQA)
42 Guidelines, this ordinance is exempt from CEQA based on the following:
43

- 44 (1) This ordinance is not a project within the meaning of Section 15378 of the CEQA
45 Guidelines, because it has no potential for resulting in physical change in the
46 environment, directly or ultimately; it prevents changes in the environment related to
47 new gas station use applications pending consideration of possible amendments to the
48 City's Zoning Code or other land use regulations;
49
- 50 (2) This ordinance is categorically exempt from CEQA under Section 15308 of the CEQA
51 Guidelines as a regulatory action taken by the City pursuant to its policy power and in
52 accordance with Government Code Section 65858 to assure maintenance and
53 protection of the environment pending the evaluation and possible adoption of

1 contemplated local legislation, regulation and policies, which local legislation, if
2 adopted, will be subject to CEQA requirements;
3

- 4 (3) This ordinance is not subject to CEQA under the general rule that CEQA applies only to
5 projects which have the potential for causing a significant effect on the environment,
6 and for the reasons set forth in subparagraphs (1) and (2) above, it can be seen with
7 certainty that there is no possibility that this ordinance will have a significant effect on the
8 environment;
9

10 **NOW THEREFORE BE IT ORDAINED** by the Council of the City of Petaluma as follows:
11

12 **Section 1. Recitals Made Findings.** The above recitals are hereby declared to be true and
13 correct and findings of the City Council of the City of Petaluma.
14

15 **Section 2. Moratorium Imposed.** A moratorium is hereby imposed on the approval of
16 applications for new gas station uses in the City of Petaluma that are not complete as of the
17 effective date of this ordinance in accordance with the City's powers under Article XI, Section 5 of
18 the California Constitution, Article VII, Section 54 of the City Charter and California Government
19 Code Section 65858 and other applicable law, as follows:
20

21 A. Scope

22 Applications for land use or development entitlements for new gas station uses in the
23 City of Petaluma not complete as of the effective date of this ordinance may not be
24 approved during the moratorium period.
25

26 B. Statutory Findings and Purpose

27 This ordinance is declared to be an interim ordinance as defined under California
28 Government Code Section 65858. This ordinance is deemed necessary for the
29 following reasons:
30

- 31 1. The purpose of this ordinance is to protect the public safety, health, and welfare
32 from a current and immediate threat posed by the issuance of land use or
33 development entitlements for new gas station uses that could result in negative
34 health, safety or other impacts on adjacent or nearby existing uses or
35 neighborhoods with which new gas station uses may not be compatible, absent
36 adequate local regulation addressing compatibility of new gas station uses with
37 adjacent or nearby uses or neighborhoods.
38
- 39 2. New gas station uses have been and/or may be proposed for construction in the
40 City, and unless a moratorium is imposed on the issuance of land use or
41 development entitlements for new gas station uses in the City, such development
42 may result in negative health, safety or other impacts on adjacent or nearby
43 existing uses or neighborhoods with which new gas station uses may not be
44 compatible, absent adequate local regulation addressing compatibility of new
45 gas station uses with adjacent or nearby existing uses or neighborhoods. This is
46 particularly true regarding City zoning districts where currently new gas stations
47 are permitted uses (C1, C2, and D4 zones) and approval of applications for such
48 proposed new uses is subject only to site plan and architectural review, which
49 review does not take into account such consideration as project emissions and
50 other health impacts unrelated to aesthetics, siting and internal circulation.
51
- 52 3. It is, therefore, necessary to impose a moratorium on issuance of land use or
53 development entitlements for new gas station uses in the City that are not
54 complete as of the effective date of this ordinance to provide time to evaluate

and adopt legislation, guidelines and/or policies as required to address negative health, safety or other impacts of proposed new gas station uses on, adjacent to or nearby existing uses or neighborhoods.

C. Applicability

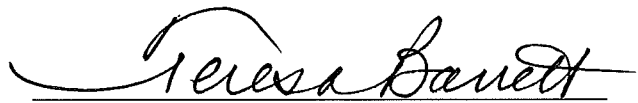
This ordinance applies to approval of applications for land use or development entitlements for new gas station uses in the City that are not complete as of the effective date of this ordinance. This ordinance has no effect on the processing of applications for land use or development entitlements for new gas station uses in the City, except that such applications may not be approved during the moratorium period. Subject to the moratorium on approval of applications for land use or development entitlements for new gas station uses, applications for such entitlements will continue to be processed during the moratorium period in accordance with applicable law.

Section 3. Severability. If any provision of the ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section 4. Effective Date and Duration. This ordinance shall become effective immediately upon passage and adoption if passed and adopted by at least four-fifths vote of the City Council and shall be in effect for 45 days there from unless extended by the City in accordance with Government Code Section 65858.

INTRODUCED, ordered posted, and **ADOPTED** this 6th day of May 2019, by the following vote:

Ayes:	Mayor Barrett, Fischer, Healy, Kearney, King, Vice Mayor McDonnell, Miller
Noes:	None
Abstain:	None
Absent:	None


Teresa Barrett, Mayor

ATTEST:

APPROVED AS TO FORM:


Samantha Pascoe, Deputy City Clerk


Lisa Tennenbaum, City Attorney

<p>EFFECTIVE DATE OF ORDINANCE</p>

<p>March 16, 2020</p>

ORDINANCE NO. 2724 N.C.S.

Introduced by

Seconded by

Kathy Miller

D'Lynda Fischer

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PETALUMA EXTENDING A
MORATORIUM ON THE APPROVAL OF APPLICATIONS FOR NEW GAS STATION USES IN THE CITY OF
PETALUMA THAT WERE NOT COMPLETE AS OF MARCH 6, 2019 PURSUANT TO CALIFORNIA
GOVERNMENT CODE SECTION 65858 AND OTHER APPLICABLE LAW**

WHEREAS, Article XI, Section 5 of the California Constitution provides that it shall be competent in any city charter to provide that the city governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to the general laws; and

WHEREAS, Section 54 of Article VIII of the Petaluma Charter provides that the City, by and through its council and other officials shall have and may exercise all powers necessary or appropriate to the municipal corporation and the general welfare of its inhabitants, which are not prohibited by the constitution and which it would be competent for the charter to set forth particularly or specifically, and the specification of any particular powers shall not be held to be exclusive or any limitation on the general grant of powers; and

WHEREAS, California Government Code Section 65858, subdivision (a) provides: that city legislative bodies may, to protect public safety, health and welfare, adopt as an urgency measure an interim ordinance prohibiting any uses that may conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body is considering or studying or intends to study within a reasonable time; that adoption of such urgency measures requires a four-fifths vote of the legislative body; that such measures shall be of no effect 45 days from the date of adoption, and may be extended a maximum to two times and have a maximum total duration of two years; and

WHEREAS, California Government Code Section 65858, subdivision (c) provides that legislative bodies may not adopt or extend such interim ordinances unless they contain findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional entitlements would result in that threat to public health, safety, or welfare; and

WHEREAS, California Government Code Section 65858, subdivision (c) further provides that such interim ordinances that have the effect of denying approvals needed for the development of projects with a significant component of multifamily housing (as defined in California Government Code Section 65858, subdivisions (g) and (h)) may not be extended except upon written findings adopted by the legislative body, supporting by substantial evidence on the record, that:

- 1 (1) the continued approval of the development of multifamily housing projects would
2 have a significant, quantifiable, direct, and unavoidable impact, based on
3 objective, identified written public health or safety standards, policies, or conditions
4 as they existed on the date that the ordinance is adopted by the legislative body,
5
6 (2) the interim ordinance is necessary to mitigate or avoid such impact, and
7
8 (3) there is no feasible alternative to satisfactorily mitigate or avoid such impact as well
9 or better, with a less burdensome or restrictive effect, than the adoption of the
10 proposed interim ordinance; and
11

12 **WHEREAS**, California Government Code Section 65858, subdivision (d) provides that ten days
13 prior to the expiration of an interim ordinance or any extension, the legislative body shall issue a
14 written report describing the measures taken to alleviate the condition which led to the adoption of
15 the ordinance; and
16

17 **WHEREAS**, residents in the neighborhood in proximity to the proposed Safeway Fuel Station
18 project at 335 South McDowell Boulevard at the corner of South McDowell Boulevard and Maria
19 Drive have expressed opposition to the project based on concerns related to air quality, health risks,
20 safety, and circulation and traffic impacts;
21

22 **WHEREAS**, teachers, administrators, parents, and students and the adjacent McDowell
23 Elementary School have expressed opposition to the project based on concerns involving potential
24 impacts associated with air quality, health risk, safety, and circulation impacts; and
25

26 **WHEREAS**, public comments received in opposition to the project express a common
27 concern with the incompatibility of the proposed gas station with the surrounding land uses and
28 sensitive receptors, including residential, parks, and schools; and
29

30 **WHEREAS**, the property located at South McDowell Boulevard and Maria Drive is currently
31 zoned C-2 and new gas station uses are a permitted use in the Zone C-2, subject to approval of Site
32 Plan and Architectural Review (SPAR); and
33

34 **WHEREAS**, SPAR approval pursuant to Section 24.010 of the City's Implementing Zoning
35 Ordinance (IZO), Ordinance No. 2300 N.C.S. adopted July 2, 2008, involves consideration of SPAR
36 factors such as appropriate use of materials, architectural style, siting of structures on property, size,
37 location and design of signs, and bulk and height of proposed structures, landscaping to approved
38 City standards, and ingress, egress and internal circulation; and
39

40 **WHEREAS**, currently in the City new gas station uses are permitted in the C1, C2, and D4
41 zoning districts subject to SPAR, and are permitted in the BP, MU1A, MU1B, and T5 zones subject to
42 SPAR and issuance of a Conditional Use Permit; and
43

44 **WHEREAS**, on December 17 and 18, 2018, respectively, the cases of *Georgetown*
45 *Preservation Society v. County of El Dorado* and *McCorkle Eastside Neighborhood Group v. City of*
46 *St. Helena* were published; and
47

48 **WHEREAS**, although the court in *Georgetown* held that evidence of aesthetic impacts of the
49 proposed development in that case was sufficient to trigger the need for an Environmental Impact
50 Report, the court in *McCorkle* held that environmental review in that case was limited to the scope
51 of St. Helena's design review authority, and, specifically, its authority under its zoning regulations to
52 mitigate project environmental impacts; and
53

1 **WHEREAS**, based on the *McCorkle* ruling, legal counsel for Safeway argued that the City
2 Council could not order an Environmental Impact Report based on information in the record
3 concerning project emissions and health risk impacts that are outside of the scope of the City's
4 discretionary approval under its SPAR regulations, and
5

6 **WHEREAS**, on the advice of the City Attorney and following the *McCorkle* ruling, the City
7 Council denied that appeal regarding the Planning Commission's approval of the Safeway Fuel
8 Station project, upholding the Planning Commission approval, despite concerns regarding potential
9 health and other impacts of the project; and
10

11 **WHEREAS**, prior to the *McCorkle* decision, it had been the City's consistent practice to treat
12 applications for SPAR approval as subject to the exercise of discretion of the approving body, up to
13 and including the authority of the approving body to disapprove the project on SPAR grounds, and
14 to conduct full CEQA review, up to and including the ordering of an Environmental Impact Report, if
15 warranted; and
16

17 **WHEREAS**, the *McCorkle* case limits environmental review of development applications to
18 environmental impacts the approving body has authority to mitigate; and
19

20 **WHEREAS**, the California Supreme Court has denied petitions to de-publish or overturn the
21 *McCorkle* ruling, which remains in effect and binding on the City and its ability to conduct
22 environmental review regarding projects such as applications for new gas stations that may be
23 subject to only design review in specified zones; and
24

25 **WHEREAS**, the City's SPAR regulations do not address emissions or other project health risks
26 unrelated to aesthetics, siting and internal circulation; and
27

28 **WHEREAS**, City Planning staff has been contacted by a potential applicant for a new gas
29 station use located at the corner of Industrial Drive and Petaluma Boulevard North, near sensitive
30 receptors including a school, and where new gas stations uses are permitted as of right and subject
31 only to SPAR review, posing a threat to the public health, safety and welfare, from environmental
32 and health impacts that the City may be unable to avoid or mitigate following the *McCorkle*
33 decision; and
34

35 **WHEREAS**, there is no information in the record supporting that an interim ordinance
36 regarding new gas station applications in the City of Petaluma that are not complete as of May 6,
37 2019 may have the effect of denying approvals needed for the development of projects with a
38 significant component of multifamily housing as defined in the California Government Code Section
39 65858, subdivisions (g) and (h); and
40

41 **WHEREAS**, pursuant to Section 15001 of the California Environmental Quality Act (CEQA)
42 Guidelines, the urgency ordinance was determined exempt from CEQA based on the following:
43

- 44 (1) This ordinance is not a project within the meaning of Section 15378 of the CEQA
45 Guidelines, because it has no potential for resulting in physical change in the
46 environment, directly or ultimately; it prevents changes in the environment related to
47 new gas station use applications pending consideration of possible amendments to the
48 City's Zoning Code or other land use regulations;
49
- 50 (2) This ordinance is categorically exempt from CEQA under Section 15308 of the CEQA
51 Guidelines as a regulatory action taken by the City pursuant to its policy power and in
52 accordance with Government Code Section 65858 to assure maintenance and
53 protection of the environment pending the evaluation and possible adoption of

1 contemplated local legislation, regulation and policies, which local legislation, if
2 adopted, will be subject to CEQA requirements;
3

- 4 (3) This ordinance is not subject to CEQA under the general rule that CEQA applies only to
5 projects which have the potential for causing a significant effect on the environment,
6 and for the reasons set forth in subparagraphs (1) and (2) above, it can be seen with
7 certainty that there is no possibility that this ordinance will have a significant effect on the
8 environment;
9

10 **WHEREAS**, on May 6, 2019 the City Council adopted Urgency Ordinance 2681 imposing a
11 moratorium on approval of applications for new gas station uses that are not complete as of the
12 effective date of the ordinance; and
13

14 **WHEREAS**, consistent with California Government Code Section 65858 interim ordinances are
15 effective for 45 days unless extended by the City in accordance with Government Code Section
16 65858; and
17

18 **WHEREAS**, the City Council adopted Ordinance 2688 on June 3, 2019, extending the
19 moratorium on approval of applications for new gas station uses that are not complete as of May 6,
20 2019, established by Urgency Ordinance 2681, for a period of 10 months, 15 days.
21

22 **WHEREAS**, Government Code Section 65858, subsection (a), provides for a second extension
23 of an urgency ordinance for a period of one year with approval by the City and noticing of a public
24 hearing consistent with Government Code Section 65090; and
25

26 **WHEREAS**, consistent with Government Code Section 65090, notification of a March 16, 2020
27 public hearing on a potential final extension of the moratorium on approval of applications for new
28 gas station uses was published in the Argus Courier on March 5, 2020.
29

30
31 **NOW THEREFORE BE IT ORDAINED** by the Council of the City of Petaluma as follows:
32

33 **Section 1. Recitals Made Findings.** The above recitals are hereby declared to be true and
34 correct and findings of the City Council of the City of Petaluma.
35

36 **Section 2. Time Extension.** This ordinance hereby extends the moratorium imposed on approval
37 of applications for new gas station uses not complete as of May 6, 2019 pursuant to Ordinance 2681,
38 and extended for an addition ten months and fifteen days pursuant to Ordinance 2688 on June 3,
39 2019, for an additional period of one year in accordance with California Government Code Section
40 65858 and other applicable law.
41

42 **Section 3. Moratorium Extended.** The moratorium initially imposed by the adoption of
43 Ordinance 2681 and extended pursuant to Ordinance 2688 shall remain in effect for an additional
44 year expiring on March 16, 2021 and prohibit the approval of applications for new gas station uses in
45 the City of Petaluma that were not complete as of May 6, 2019, the initial effective date of
46 Ordinance 2681, in accordance with the City's powers under Article XI, Section 5 of the California
47 Constitution, Article VII, Section 54 of the City Charter and California Government Code Section
48 65858 and other applicable law, as follows:
49

- 50 A. Scope
51 Applications for land use or development entitlements for new gas station uses in the
52 City of Petaluma not complete as of May 6, 2019 may not be approved during the
53 moratorium period.
54

1 B. Statutory Findings and Purpose

2 This ordinance is an interim ordinance as defined in California Government Code
3 Section 65858. This ordinance is deemed necessary to protect the health, safety and
4 welfare of Petaluma residents and visitors for the following reasons:
5

- 6 1. The purpose of this ordinance is to protect the public safety, health, and welfare
7 from a current and immediate threat posed by the issuance of land use or
8 development entitlements for new gas station uses that could result in negative
9 health, safety or other impacts on adjacent or nearby existing uses or
10 neighborhoods with which new gas station uses may not be compatible, absent
11 adequate local regulation addressing compatibility of new gas station uses with
12 adjacent or nearby uses or neighborhoods.
13
14 2. New gas station uses have been and/or may be proposed for construction in the
15 City, and unless a moratorium is imposed on the issuance of land use or
16 development entitlements for new gas station uses in the City, such development
17 may result in negative health, safety or other impacts on adjacent or nearby
18 existing uses or neighborhoods with which new gas station uses may not be
19 compatible, absent adequate local regulation addressing compatibility of new
20 gas station uses with adjacent or nearby existing uses or neighborhoods. This is
21 particularly true regarding City zoning districts where currently new gas stations
22 are permitted uses (C1, C2, and D4 zones) and approval of applications for such
23 proposed new uses is subject only to site plan and architectural review, which
24 review does not take into account such consideration as project emissions and
25 other health impacts unrelated to aesthetics, siting and internal circulation.
26
27 3. The extension of a moratorium on issuance of land use or development
28 entitlements for applications for new gas station uses in the City that were not
29 complete as of May 6, 2019 in order to provide time to evaluate and adopt
30 legislation, guidelines and/or policies is required to address negative health,
31 safety or other impacts of proposed new gas station uses on, adjacent to or
32 nearby existing uses or neighborhoods.
33

34 C. Applicability

35 The moratorium extended pursuant to this ordinance applies to approval of
36 applications for land use or development entitlements for new gas station uses in the
37 City that were not complete as of May 6, 2019. The ordinance has no effect on the
38 processing of applications for land use or development entitlements for new gas
39 station uses in the City, except that such applications may not be approved during
40 the moratorium period. Subject to the moratorium on approval of applications for
41 land use or development entitlements for new gas station uses, applications for such
42 entitlements will continue to be processed during the moratorium period in
43 accordance with applicable law.
44

45 **Section 4. Severability.** If any provision of the ordinance or the application thereof to any
46 person or circumstance is held invalid, the remainder of the ordinance, including the application of
47 such part or provision to other persons or circumstances shall not be affected thereby and shall
48 continue in full force and effect. To this end, provisions of this ordinance are severable. The City
49 Council hereby declares that it would have passed each section, subsection, subdivision,
50 paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more
51 sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held
52 unconstitutional, invalid, or unenforceable.
53

1 **Section 5. Effective Date and Duration.** This ordinance shall become effective on April 18, 2020
2 following passage and adoption if passed and adopted by at least four-fifths vote of the City
3 Council and shall be in effect for one year therefrom, expiring on March 16, 2021 in accordance
4 with Government Code Section 65858.
5

6 **INTRODUCED** and ordered posted, and **ADOPTED** this 16th day of March 2020, by the following vote:
7
8

9 Ayes: Mayor Barrett, Vice Mayor Fischer, Healy, Kearney, King, McDonnell, Miller

10 Noes: None

11 Abstain: None


12 Absent: None
13
14
15

16 
17 _____
18 Teresa Barrett, Mayor
19

20 ATTEST:

APPROVED AS TO FORM:

21
22 
23 _____
24 Claire Cooper, CMC, City Clerk
25
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Eric Danly, City Attorney



Agenda Item #6.A

DATE: **March 16, 2020**

TO: Honorable Mayor and Members of the City Council through City Manager 

FROM: Heather Hines, Planning Manager
Eric Danly, City Attorney

SUBJECT: Adoption of an Urgency Ordinance Extending a Moratorium on Approval of Applications for New Gas Station Uses in the City of Petaluma That Are Not Already Complete as May 6, 2019 pursuant to California Government Code Section 65858 and Other Applicable Laws, and Approval of a Resolution Issuing a Written Report Describing the Measures Taken Alleviate the Condition which Led to the Adoption of the Interim Ordinance.

RECOMMENDATION

It is recommended that the City Council take the following actions:

- Adopt an Urgency Ordinance Extending a Moratorium on Approval of Applications for New Gas Station Uses in the City of Petaluma That Are Not Already Complete as May 6, 2019 pursuant to California Government Code Section 65858 and Other Applicable Laws.
- Adopt a Resolution Issuing a Written Report Describing the Measures Taken Alleviate the Condition which Led to the Adoption of the Interim Ordinance.

BACKGROUND

On April 1, 2019, the City Council denied the appeal brought against the Planning Commission's approval under the California Environmental Quality Act and the City's Site Plan and Architectural Review requirements of the Safeway Fuel Station project located at 335 South McDowell Boulevard in Petaluma. The Council action upheld the Planning Commission's approval of the project. In response to community concern about the possible location of new gas station uses near sensitive receptors like schools and residences, and in view of the holding in *McCorkle Eastside Neighborhood Group v. City of St. Helena* limiting approving bodies' ability to review projects' environmental impacts to their authority to mitigate project impacts, the City Council requested that staff prepare for Council consideration and possible adoption an urgency ordinance pursuant to Section 65858 of the California Government Code that would prohibit the approval of applications for new gas station uses in the City.

On May 6, 2019, the City Council adopted Ordinance 2681 imposing a moratorium on the approval of new gas station/fueling station applications not already complete as of the effective date of the ordinance. The urgency ordinance adopted by the City Council was prepared in compliance with Government Code Section 65858 and included findings supporting a current and immediate threat to the public health, safety, or welfare and that adoption of the interim ordinance would protect the public safety, health, or welfare. Ordinance 2681 includes findings of public health, safety and welfare risk resulting from the effect of the *McCorkle* decision on the City's ability to conduct full environmental review and to provide for mitigation of environmental impacts resulting from new gas station uses in response to pending applications for new gas station uses near sensitive receptors in the City.

Ordinance 2681 does not affect the Safeway Fuel Station Project. However, the ordinance does bar approval of new gas station applications that were not yet complete on May 6, 2019 to permit the City Council to consider potential new regulatory options regarding new gas station applications. Adoption of new regulatory requirements for new gas station applications, such as requiring conditional use permits for such applications, would expand the ability of City approving bodies to conduct environmental review and exercise discretionary approval regarding new gas station uses. Such new regulations could permit the approving bodies to order the preparation of an Environmental Impact Report (EIR) regarding future gas station applications, and to disapprove projects that do not satisfy the City's regulations, whether due to emissions or other health impacts, traffic, or other considerations within the City's discretion. The purpose of such new regulations would be to enable City decision making bodies to protect against detrimental environmental impacts of new gas station uses, including detrimental health and safety impacts.

Ordinance 2681 was approved by a unanimous vote of the City Council and was effective for an initial period of 45 days from the date of adoption. Subsequent to the approval of Ordinance 2681, the City Council approved Ordinance 2688 by a unanimous vote to extend the original 45-day moratorium for period of 10 months, 15 days in accordance with Government Code Section 65858. Without adoption of an additional extension Ordinance 2688 and the moratorium on approval of applications for new gas station uses will expire on April 18, 2020. In accordance with Government Code Section 65858, the attached urgency ordinance (Attachment 1) would provide for a second extension of the gas station moratorium for an additional period of one year, extending the moratorium to March 16, 2021. The one-year extension before the City Council is the final extension that may be approved per Government Code Section 65858

In accordance with Government Code Section 65858, consideration of the ordinance to extend the moratorium was noticed as a public hearing consistent with the requirements of Government Code Section 65090 and the City's policies and regulations regarding noticing of hearings on land use matters.

Also before the City Council for consideration is a resolution issuing a written report describing the measures that the City has taken to alleviate the condition which led to the adoption of the interim ordinance (Attachment 2). The Resolution and associated written report (Attachment 2, Exhibit 1) satisfy the requirement of Section 65858, subdivision (d), which states that "ten days prior to the expiration of the initial interim ordinance or any extension, the City Council is

required to issue a written report describing the measures taken to alleviate the condition that lead to the adoption of the interim ordinance.”

Following adoption of interim ordinances under Section 65858, subsequent interim ordinances affecting the same property are prohibited unless the subsequent ordinance is adopted to protect the public safety, health, and welfare from an event, occurrence or set of circumstances different from those that led to the adoption of the prior interim ordinance. In other words, once an interim ordinance expires, a new interim ordinance cannot be enacted regarding the same health, safety and welfare concerns affecting the same property.

DISCUSSION

Currently, fuel station/gas stations are a permitted use in the C1 and C2 zoning districts in the City. Gas stations are a conditional use in the BP, MU1A, and MU1B zones. In 2013, during the adoption process for the updated SmartCode, the Council adopted modifications to the SmartCode to allow gas stations as a conditional use in the T5 zone within the boundaries of the Petaluma Specific Plan. Gas stations are a permitted use in the D4 district as outlined in the SmartCode.

The Implementing Zoning Ordinance (IZO) does not currently contain any specific use criteria for gas station uses in Petaluma. The definition of a Fueling Station/Gas Station included in Section 27 of the IZO is “A retail business selling gasoline and/or other motor vehicle fuels, and related products. A gas station may also include a convenience store, vehicle services, and restaurant facilities.” The definition adopted in Section 9 of the SmartCode is “A retail business selling gasoline or other motor vehicle fuels, and related products. A gas station may also include a convenience store, vehicle services, restaurant facility and/or trailer rental where authorized by the Conditional Use Permit for the gas station.”

The interim ordinance adopted by the City Council on May 6, 2019, prohibits the approval of any new gas station/fuel station applications in the City not already complete as of the effective date of the ordinance. The ordinance currently before the Council for consideration would extend the effective date of the moratorium on approval of applications for new gas station uses for an additional period of one year, to March 16, 2021. The extension would preserve the status quo of existing gas stations in the City and provide additional time for the City to study the potential impacts that new gas station uses may have on nearby neighborhoods and sensitive receptors, options for regulating gas station uses in the City, and the practical and legal implications of the various regulatory options. The additional one-year time extension will provide adequate staff review time since staff hours have largely been devoted to other priority tasks including a number of high-profile development projects in 2019 and early 2020.

The City Council’s extension of the moratorium would allow for continued consideration and discussion regarding options for potential new legislation regarding new gas station uses during which new gas station applications would be processed but could not be approved. Following expiration of the interim ordinance, new gas station applications could be approved, subject to any new regulatory requirements that have taken effect during the moratorium period.

As outlined in the written report (Attachment 2, Exhibit 1), the City has undertaken several measures to date to alleviate the concerns regarding new gas station uses in the City addressed in Ordinances 2681 and 2688. In addition to the adoption of interim ordinances, the City Council has initiated discussion about potential legislative options, including the following:

- Modification to the IZO and/or SmartCode to prohibit new gas stations uses in all zones;
- Modification to the IZO to make new gas station uses subject to a CUP in all zones where they are currently permitted as of right;
- Modification to the use tables in the IZO and/or the City's zoning map changing the zones in which gas stations are permitted;
- Adoption of specific use criteria for new gas station uses (similar to the approach taken for Bed and Breakfast Inns and Short-Term Vacation Rentals);
- Adoption of specific use criteria for new gas stations uses when in proximity to sensitive receptors such as residential neighborhoods, schools, parks, etc.;
- Adoption of limitations on the size (number of pumps/dispensers or annual fuel throughput) of new gas station uses; and/or
- Adoption of expanded definitions of gas station uses addressing large gas stations and small gas stations (number or pumps/dispensers or annual fuel throughput), and identification of the appropriate entitlement process (e.g., whether a CUP or use criteria should apply) to address project specific impacts.

Ordinance 2688 adopted by the Council on May 6, 2019, extended the moratorium on approval of new gas station uses for a period of 10 months, 15 days. Council adoption of the attached ordinance would further extend the moratorium for a period of one year, temporarily prohibiting approval of new gas station applications not already complete as of May 6, 2019. However, the law requires that staff continue to process any pending gas station applications during the moratorium period. Interim ordinances under Section 65858 only temporarily suspend project approvals subject to a moratorium, but not project processing. For the duration of the moratorium on approval of new gas station applications, any proposed new uses will not be brought before the decision-making body until such time as the interim ordinance is repealed (presumably upon new regulation of new gas station uses taking effect) or has expired.

PUBLIC OUTREACH

Extension of an interim urgency ordinance is subject to public noticing pursuant to Government Code Section 65090, which requires published notification in the City's official newspaper at least ten days prior to the hearing. Notification of the March 16, 2020 public hearing was published in the Argus Courier on March 5, 2020. This item had also been distributed along with the rest of the March 16th City Council Agenda and posted on the City's website in accordance with the requirements of the Brown Act and the City's established practice.

FINANCIAL IMPACTS

Staff costs associated with preparation of this urgency ordinance are covered under the City's contract with M-Group under base level services and by the staff budget for the City Attorney's Office and does not have any additional cost impacts to the General Fund.

ATTACHMENTS

Attachment 1	Draft Urgency Ordinance extending the moratorium on approval of new gas station uses for 1 year
Attachment 2	Draft Resolution Issuing Written Report
Exhibit 1	Written Report
Attachment 3	Urgency Ordinance 2681
Attachment 4	First Urgency Ordinance Extension – Ordinance 2688

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PETALUMA
EXTENDING A MORATORIUM ON THE APPROVAL OF APPLICATIONS FOR NEW GAS
STATION USES IN THE CITY OF PETALUMA THAT WERE NOT COMPLETE AS OF
MARCH 6, 2019 PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 AND
OTHER APPLICABLE LAW**

WHEREAS, Article XI, Section 5 of the California Constitution provides that it shall be competent in any city charter to provide that the city governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to the general laws; and

WHEREAS, Section 54 of Article VIII of the Petaluma Charter provides that the City, by and through its council and other officials shall have and may exercise all powers necessary or appropriate to the municipal corporation and the general welfare of its inhabitants, which are not prohibited by the constitution and which it would be competent for the charter to set forth particularly or specifically, and the specification of any particular powers shall not be held to be exclusive or any limitation on the general grant of powers; and

WHEREAS, California Government Code Section 65858, subdivision (a) provides: that city legislative bodies may, to protect public safety, health and welfare, adopt as an urgency measure an interim ordinance prohibiting any uses that may conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body is considering or studying or intends to study within a reasonable time; that adoption of such urgency measures requires a four-fifths vote of the legislative body; that such measures shall be of no effect 45 days from the date of adoption, and may be extended a maximum to two times and have a maximum total duration of two years; and

WHEREAS, California Government Code Section 65858, subdivision (c) provides that legislative bodies may not adopt or extend such interim ordinances unless they contain findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional entitlements would result in that threat to public health, safety, or welfare; and

WHEREAS, California Government Code Section 65858, subdivision (c) further provides that such interim ordinances that have the effect of denying approvals needed for the development of projects with a significant component of multifamily housing (as defined in California Government Code Section 65858, subdivisions (g) and (h)) may not be extended except upon written findings adopted by the legislative body, supporting by substantial evidence on the record, that:

- (1) the continued approval of the development of multifamily housing projects would have a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date that the ordinance is adopted by the legislative body,
- (2) the interim ordinance is necessary to mitigate or avoid such impact, and
- (3) there is no feasible alternative to satisfactorily mitigate or avoid such impact as well or better, with a less burdensome or restrictive effect, than the adoption of the proposed interim ordinance; and

WHEREAS, California Government Code Section 65858, subdivision (d) provides that ten days prior to the expiration of an interim ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance; and

WHEREAS, residents in the neighborhood in proximity to the proposed Safeway Fuel Station project at 335 South McDowell Boulevard at the corner of South McDowell Boulevard and Maria Drive have expressed opposition to the project based on concerns related to air quality, health risks, safety, and circulation and traffic impacts;

WHEREAS, teachers, administrators, parents, and students and the adjacent McDowell Elementary School have expressed opposition to the project based on concerns involving potential impacts associated with air quality, health risk, safety, and circulation impacts; and

WHEREAS, public comments received in opposition to the project express a common concern with the incompatibility of the proposed gas station with the surrounding land uses and sensitive receptors, including residential, parks, and schools; and

WHEREAS, the property located at South McDowell Boulevard and Maria Drive is currently zoned C-2 and new gas station uses are a permitted use in the Zone C-2, subject to approval of Site Plan and Architectural Review (SPAR); and

WHEREAS, SPAR approval pursuant to Section 24.010 of the City's Implementing Zoning Ordinance (IZO), Ordinance No. 2300 N.C.S. adopted July 2, 2008, involves consideration of SPAR factors such as appropriate use of materials, architectural style, siting of structures on property, size, location and design of signs, and bulk and height of proposed structures, landscaping to approved City standards, and ingress, egress and internal circulation; and

WHEREAS, currently in the City new gas station uses are permitted in the C1, C2, and D4 zoning districts subject to SPAR, and are permitted in the BP, MU1A, MU1B, and T5 zones subject to SPAR and issuance of a Conditional Use Permit; and

WHEREAS, on December 17 and 18, 2018, respectively, the cases of *Georgetown Preservation Society v. County of El Dorado* and *McCorkle Eastside Neighborhood Group v. City of St. Helena* were published; and

WHEREAS, although the court in *Georgetown* held that evidence of aesthetic impacts of the proposed development in that case was sufficient to trigger the need for an Environmental Impact Report, the court in *McCorkle* held that environmental review in that case was limited to the scope of St. Helena's design review authority, and, specifically, its authority under its zoning regulations to mitigate project environmental impacts; and

WHEREAS, based on the *McCorkle* ruling, legal counsel for Safeway argued that the City Council could not order an Environmental Impact Report based on information in the record concerning project emissions and health risk impacts that are outside of the scope of the City's discretionary approval under its SPAR regulations, and

WHEREAS, on the advice of the City Attorney and following the *McCorkle* ruling, the City Council denied that appeal regarding the Planning Commission's approval of the Safeway Fuel Station project, upholding the Planning Commission approval, despite concerns regarding potential health and other impacts of the project; and

WHEREAS, prior to the *McCorkle* decision, it had been the City's consistent practice to treat applications for SPAR approval as subject to the exercise of discretion of the approving body, up to and including the authority of the approving body to disapprove the project on SPAR grounds, and to conduct full CEQA review, up to and including the ordering of an Environmental Impact Report, if warranted; and

WHEREAS, the *McCorkle* case limits environmental review of development applications to environmental impacts the approving body has authority to mitigate; and

WHEREAS, the California Supreme Court has denied petitions to depublish or overturn the *McCorkle* ruling, which remains in effect and binding on the City and its ability to conduct environmental review regarding projects such as applications for new gas stations that may be subject to only design review in specified zones; and

WHEREAS, the City's SPAR regulations do not address emissions or other project health risks unrelated to aesthetics, siting and internal circulation; and

WHEREAS, City Planning staff has been contacted by a potential applicant for a new gas station use located at the corner of Industrial Drive and Petaluma Boulevard North, near sensitive receptors including a school, and where new gas stations uses are permitted as of right and subject only to SPAR review, posing a threat to the public health, safety and welfare, from environmental and health impacts that the City may be unable to avoid or mitigate following the *McCorkle* decision; and

WHEREAS, there is no information in the record supporting that an interim ordinance regarding new gas station applications in the City of Petaluma that are not complete as of May 6, 2019 may have the effect of denying approvals needed for the development of projects with a significant component of multifamily housing as defined in the California Government Code Section 65858, subdivisions (g) and (h); and

WHEREAS, pursuant to Section 15001 of the California Environmental Quality Act (CEQA) Guidelines, the urgency ordinance was determined exempt from CEQA based on the following:

- (1) This ordinance is not a project within the meaning of Section 15378 of the CEQA Guidelines, 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 pending consideration of possible amendments to the City's Zoning Code or other land use regulations;
- (2) This ordinance is categorically exempt from CEQA under Section 15308 of the CEQA Guidelines as a regulatory action taken by the City pursuant to its policy power and in accordance with Government Code Section 65858 to assure maintenance and protection of the environment pending the evaluation and possible adoption of contemplated local legislation, regulation and policies, which local legislation, if adopted, will be subject to CEQA requirements;
- (3) This ordinance is 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, and for the reasons set forth in subparagraphs (1) and (2) above, it can be seen with certainty that there is no possibility that this ordinance will have a significant effect on the environment;

WHEREAS, on May 6, 2019 the City Council adopted Urgency Ordinance 2681 imposing a moratorium on approval of applications for new gas station uses that are not complete as of the effective date of the ordinance; and

WHEREAS, consistent with California Government Code Section 65858 interim ordinances are effective for 45 days unless extended by the City in accordance with Government Code Section 65858; and

WHEREAS, the City Council adopted Ordinance 2688 on June 3, 2019, extending the moratorium on approval of applications for new gas station uses that are not complete as of May 6, 2019, established by Urgency Ordinance 2681, for a period of 10 months, 15 days.

WHEREAS, Government Code Section 65858, subsection (a), provides for a second extension of an urgency ordinance for a period of one year with approval by the City and noticing of a public hearing consistent with Government Code Section 65090; and

WHEREAS, consistent with Government Code Section 65090, notification of a March 16, 2020 public hearing on a potential final extension of the moratorium on approval of applications for new gas station uses was published in the Argus Courier on March 5, 2020.

NOW THEREFORE BE IT ORDAINED by the Council of the City of Petaluma as follows:

Section 1. Recitals Made Findings. The above recitals are hereby declared to be true and correct and findings of the City Council of the City of Petaluma.

Section 2. Time Extension. This ordinance hereby extends the moratorium imposed on approval of applications for new gas station uses not complete as of May 6, 2019 pursuant to Ordinance 2681, and extended for an addition ten months and fifteen days pursuant to Ordinance 2688 on June 3, 2019, for an additional period of one year in accordance with California Government Code Section 65858 and other applicable law.

Section 3. Moratorium Extended. The moratorium initially imposed by the adoption of Ordinance 2681 and extended pursuant to Ordinance 2688 shall remain in effect for an additional year expiring on March 16, 2021 and prohibit the approval of applications for new gas station uses in the City of Petaluma that were not complete as of May 6, 2019, the initial effective date of Ordinance 2681, in accordance with the City's powers under Article XI, Section 5 of the California Constitution, Article VII, Section 54 of the City Charter and California Government Code Section 65858 and other applicable law, as follows:

- A. Scope
Applications for land use or development entitlements for new gas station uses in the City of Petaluma not complete as of May 6, 2019 may not be approved during the moratorium period.
- B. Statutory Findings and Purpose
This ordinance is an interim ordinance as defined in California Government Code Section 65858. This ordinance is deemed necessary to protect the health, safety and welfare of Petaluma residents and visitors for the following reasons:

1. The purpose of this ordinance is to protect the public safety, health, and welfare from a current and immediate threat posed by the issuance of land use or development entitlements for new gas station uses that could result in negative health, safety or other impacts on adjacent or nearby existing uses or neighborhoods with which new gas station uses may not be compatible, absent adequate local regulation addressing compatibility of new gas station uses with adjacent or nearby uses or neighborhoods.
2. New gas station uses have been and/or may be proposed for construction in the City, and unless a moratorium is imposed on the issuance of land use or development entitlements for new gas station uses in the City, such development may result in negative health, safety or other impacts on adjacent or nearby existing uses or neighborhoods with which new gas station uses may not be compatible, absent adequate local regulation addressing compatibility of new gas station uses with adjacent or nearby existing uses or neighborhoods. This is particularly true regarding City zoning districts where currently new gas stations are permitted uses (C1, C2, and D4 zones) and approval of applications for such proposed new uses is subject only to site plan and architectural review, which review does not take into account such consideration as project emissions and other health impacts unrelated to aesthetics, siting and internal circulation.
3. The extension of a moratorium on issuance of land use or development entitlements for applications for new gas station uses in the City that were not complete as of May 6, 2019 in order to provide time to evaluate and adopt legislation, guidelines and/or policies is required to address negative health, safety or other impacts of proposed new gas station uses on, adjacent to or nearby existing uses or neighborhoods.

C. Applicability

The moratorium extended pursuant to this ordinance applies to approval of applications for land use or development entitlements for new gas station uses in the City that were not complete as of May 6, 2019. The ordinance has no effect on the processing of applications for land use or development entitlements for new gas station uses in the City, except that such applications may not be approved during the moratorium period. Subject to the moratorium on approval of applications for land use or development entitlements for new gas station uses, applications for such entitlements will continue to be processed during the moratorium period in accordance with applicable law.

Section 4. Severability. If any provision of the ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section 5. Effective Date and Duration. This ordinance shall become effective on April 18, 2020 following passage and adoption if passed and adopted by at least four-fifths vote of the City Council and shall be in effect for one year therefrom, expiring on March 16, 2021 in accordance with Government Code Section 65858.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PETALUMA ISSUING A WRITTEN REPORT DESCRIBING THE MEASURES TAKEN TO ALLEVIATE THE CONDITIONS WHICH LED TO THE ADOPTION OF URGENCY ORDINANCE 2681 WHICH IMPOSED A MORATORIUM ON THE APPROVAL OF APPLICATIONS FOR NEW GAS STATION USES IN THE CITY OF PETALUMA THAT ARE NOT COMPLETE AS OF THE EFFECTIVE DATE OF THE ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 AND OTHER APPLICABLE LAW

WHEREAS, Article XI, Section 5 of the California Constitution provides that it shall be competent in any city charter to provide that the city governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to the general laws; and

WHEREAS, Section 54 of Article VIII of the Petaluma Charter provides that the City, by and through its council and other officials shall have and may exercise all powers necessary or appropriate to the municipal corporation and the general welfare of its inhabitants, which are not prohibited by the constitution and which it would be competent for the charter to set forth particularly or specifically, and the specification of any particular powers shall not be held to be exclusive or any limitation on the general grant of powers; and

WHEREAS, California Government Code Section 65858, subdivision (a) provides: that city legislative bodies may, to protect public safety, health and welfare, adopt as an urgency measure an interim ordinance prohibiting any uses that may conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body is considering or studying or intends to study within a reasonable time; that adoption of such urgency measures requires a four-fifths vote of the legislative body; that such measures shall be of no effect 45 days from the date of adoption, and may be extended a maximum to two times and have a maximum total duration of two years; and

WHEREAS, California Government Code Section 65858, subdivision (c) provides that legislative bodies may not adopt or extend such interim ordinances unless they contain findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional entitlements would result in that threat to public health, safety, or welfare; and

WHEREAS, on May 6, 2019 the City Council adopted Urgency Ordinance 2681 imposing a moratorium on new gas station uses that are not complete as of the effective date of the ordinance; and

WHEREAS, on May 6, 2019 the City Council deemed the adoption of Urgency Ordinance 2681 necessary to protect the public safety, health, and welfare from the threat posed by the issuance of land use or development entitlements for new gas station uses that could result in negative health, safety or other impacts on adjacent or nearby existing uses or neighborhoods with which new gas station uses may not be compatible, absent adequate local regulation addressing compatibility of new gas station uses with adjacent or nearby uses or neighborhoods.

WHEREAS, on May 6, 2019 the City Council deemed the adoption of Urgency Ordinance 2681 necessary to protect the public health, safety, and welfare due to new gas station uses have been and/or may be proposed for construction in the City, and unless a moratorium is imposed on the issuance of land use or development entitlements for new gas station uses in the City, such development may result in

negative health, safety or other impacts on adjacent or nearby existing uses or neighborhoods with which new gas station uses may not be compatible, absent adequate local regulation addressing compatibility of new gas station uses with adjacent or nearby existing uses or neighborhoods. This is particularly true regarding City zoning districts where currently new gas stations are permitted uses (C1, C2, and D4 zones) and approval of applications for such proposed new uses is subject only to site plan and architectural review, which review does not take into account such consideration as project emissions and other health impacts unrelated to aesthetics, siting and internal circulation.

WHEREAS, on May 6, 2019 the City Council deemed the adoption of Urgency Ordinance 2681 necessary in order to provide time to evaluate and adopt legislation, guidelines and/or policies as required to address negative health, safety or other impacts of proposed new gas station uses on, adjacent to or nearby existing uses or neighborhoods.

WHEREAS, consistent with California Government Code Section 65858 the urgency ordinance is effective for 45 days unless extended by the City in accordance with Government Code Section 65858; and

WHEREAS, on June 3, 2019, the City Council adopted an extension of urgency ordinance 2681 for a period not to exceed an additional 10 months and 15 days in accordance with Government Code Section 65858;

WHEREAS, on March 16, 2020, the City Council adopted a second extension of urgency ordinance 2681 for a period not to exceed an additional period of one year in accordance with Government Code Section 65858 consistent with noticing requirements outlined in Government Code Section 65090; and

WHEREAS, California Government Code Section 65858, subdivision (d) provides that ten days prior to the expiration of an interim ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance; and

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL AS FOLLOWS:

1. The foregoing recitals are true and correct and incorporated herein by reference.
2. Based on the review of the entire record herein, including the March 16, 2020 City Council staff report, all supporting, referenced, and incorporated documents, and all comments received, the City Council issues the written report included at Exhibit 1 describing the measures that the City has taken to alleviate the condition which led to the initial adoption of Urgency Ordinance 2681.

On April 1, 2019, the City Council denied the appeal brought against the Planning Commission’s approval under the California Environmental Quality Act and the City’s Site Plan and Architectural Review requirements of the Safeway Fuel Station project located at 335 South McDowell Boulevard in Petaluma. The Council action upheld the Planning Commission’s approval of the project. In response to the unprecedented community concern about the possible location of new gas station uses near sensitive receptors like schools and residences, and in view of the recent holding in *McCorkle Eastside Neighborhood Group v. City of St. Helena* limiting approving bodies’ ability to review projects’ environmental impacts to their authority to mitigate project impacts, the City Council requested that staff prepare for Council consideration and possible adoption an urgency ordinance pursuant to Section 65858 of the California Government Code that would prohibit the approval of applications for new gas station uses in the City.

On May 6, 2019 the City Council adopted Ordinance 2681 imposing a moratorium on the approval of new gas station/fueling station applications that are not already complete as of the effective date of the ordinance. The urgency ordinance adopted by the City Council was prepared in compliance with Government Code Section 65858 and included findings that there is a current and immediate threat to the public health, safety, or welfare and that adoption of the interim ordinance would protect the public safety, health, or welfare. Ordinance 2681 includes findings of public health, safety and welfare risk resulting based on the effect of the *McCorkle* decision on the City’s ability to conduct full environmental review of applications for new gas station uses and based on potential applications for new gas station uses near sensitive receptors.

In addition to approving Urgency Ordinance 2681, the City Council provided general direction at their meeting on May 6, 2019 to explore potential legislative options to alleviate the condition which led to the initial concern and adoption of the moratorium. These potential legislative options included:

- Modification to the IZO and/or SmartCode to prohibit new gas stations uses in all zones;
- Modification to the IZO to make new gas station uses subject to a CUP in all zones where they are currently permitted as of right;
- Modification to the use tables in the IZO and/or the City’s zoning map changing the zones in which gas stations are permitted;
- Adoption of specific use criteria for new gas station uses (similar to the approach taken for Bed and Breakfast Inns and Short-Term Vacation Rentals);
- Adoption of specific use criteria for new gas stations uses when in proximity to sensitive receptors such as residential neighborhoods, schools, parks, etc.;
- Adoption limitations on the size (number of pumps/dispensers or annual fuel throughput) of new gas station uses; and/or
- Adoption of expanded definitions of gas station uses addressing large gas stations and small gas stations (number or pumps/dispensers or annual fuel throughput), and identification of the appropriate entitlement process (e.g., whether a CUP or use criteria should apply) to address project specific impacts.

To provide adequate time for the City to explore these and other potential options, the City Council adopted an extension of urgency ordinance 2681 for an additional period of one year.

<p>EFFECTIVE DATE OF ORDINANCE</p> <p>May 6, 2019</p>
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ORDINANCE NO. 2681 N.C.S.

1 Introduced by

2 Seconded by

3
4 Gabe Kearney

5 Kathy Miller

6
7
8 **AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PETALUMA IMPOSING A**
9 **MORATORIUM ON THE APPROVAL OF APPLICATIONS FOR NEW GAS STATION USES IN THE CITY OF**
10 **PETALUMA THAT ARE NOT COMPLETE AS OF THE EFFECTIVE DATE OF THE ORDINANCE PURSUANT TO**
11 **CALIFORNIA GOVERNMENT CODE SECTION 65858 AND OTHER APPLICABLE LAW**
12

13 **WHEREAS**, Article XI, Section 5 of the California Constitution provides that it shall be
14 competent in any city charter to provide that the city governed thereunder may make and enforce
15 all ordinances and regulations in respect to municipal affairs subject only to restrictions and
16 limitations provided in their several charters and in respect to other matters they shall be subject to
17 the general laws; and
18

19 **WHEREAS**, Section 54 of Article VIII of the Petaluma Charter provides that the City, by and
20 through its council and other officials shall have and may exercise all powers necessary or
21 appropriate to the municipal corporation and the general welfare of its inhabitants, which are not
22 prohibited by the constitution and which it would be competent for the charter to set forth
23 particularly or specifically, and the specification of any particular powers shall not be held to be
24 exclusive or any limitation on the general grant of powers; and
25

26 **WHEREAS**, California Government Code Section 65858, subdivision (a) provides: that city
27 legislative bodies may, to protect public safety, health and welfare, adopt as an urgency measure
28 an interim ordinance prohibiting any uses that may conflict with a contemplated general plan,
29 specific plan, or zoning proposal that the legislative body is considering or studying or intends to
30 study within a reasonable time; that adoption of such urgency measures requires a four-fifths vote of
31 the legislative body; that such measures shall be of no effect 45 days from the date of adoption,
32 and may be extended a maximum to two times and have a maximum total duration of two years;
33 and
34

35 **WHEREAS**, California Government Code Section 65858, subdivision (c) provides that
36 legislative bodies may not adopt or extend such interim ordinances unless they contain findings that
37 there is a current and immediate threat to the public health, safety, or welfare, and that the
38 approval of additional entitlements would result in that threat to public health, safety, or welfare;
39 and
40

41 **WHEREAS**, California Government Code Section 65858, subdivision (c) further provides that
42 such interim ordinances that have the effect of denying approvals needed for the development of
43 projects with a significant component of multifamily housing (as defined in California Government
44 Code Section 65858, subdivisions (g) and (h)) may not be extended except upon written findings
45 adopted by the legislative body, supporting by substantial evidence on the record, that:

- (1) the continued approval of the development of multifamily housing projects would have a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date that the ordinance is adopted by the legislative body,
- (2) the interim ordinance is necessary to mitigate or avoid such impact, and
- (3) there is no feasible alternative to satisfactorily mitigate or avoid such impact as well or better, with a less burdensome or restrictive effect, than the adoption of the proposed interim ordinance; and

WHEREAS, California Government Code Section 65858, subdivision (d) provides that ten days prior to the expiration of an interim ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance; and

WHEREAS, residents in the neighborhood in proximity to the proposed Safeway Fuel Station project at 335 South McDowell Boulevard at the corner of South McDowell Boulevard and Maria Drive have expressed opposition to the project based on concerns related to air quality, health risks, safety, and circulation and traffic impacts;

WHEREAS, teachers, administrators, parents, and students and the adjacent McDowell Elementary School have expressed opposition to the project based on concerns involving potential impacts associated with air quality, health risk, safety, and circulation impacts; and

WHEREAS, public comments received in opposition to the project express a common concern with the incompatibility of the proposed gas station with the surrounding land uses and sensitive receptors, including residential, parks, and schools; and

WHEREAS, the property located at South McDowell Boulevard and Maria Drive is currently zoned C-2 and new gas station uses are a permitted use in the Zone C-2, subject to approval of Site Plan and Architectural Review (SPAR); and

WHEREAS, SPAR approval pursuant to Section 24.010 of the City's Implementing Zoning Ordinance (IZO), Ordinance No. 2300 N.C.S. adopted July 2, 2008, involves consideration of SPAR factors such as appropriate use of materials, architectural style, siting of structures on property, size, location and design of signs, and bulk and height of proposed structures, landscaping to approved City standards, and ingress, egress and internal circulation; and

WHEREAS, currently in the City new gas station uses are permitted in the C1, C2, and D4 zoning districts subject to SPAR, and are permitted in the BP, MU1A, MU1B, and T5 zones subject to SPAR and issuance of a Conditional Use Permit; and

WHEREAS, on December 17 and 18, 2018, respectively, the cases of *Georgetown Preservation Society v. County of El Dorado* and *McCorkle Eastside Neighborhood Group v. City of St. Helena* were published; and

WHEREAS, although the court in *Georgetown* held that evidence of aesthetic impacts of the proposed development in that case was sufficient to trigger the need for an Environmental Impact Report, the court in *McCorkle* held that environmental review in that case was limited to the scope of St. Helena's design review authority, and, specifically, its authority under its zoning regulations to mitigate project environmental impacts; and

1 **WHEREAS**, based on the *McCorkle* ruling, legal counsel for Safeway argued that the City
2 Council could not order an Environmental Impact Report based on information in the record
3 concerning project emissions and health risk impacts that are outside of the scope of the City's
4 discretionary approval under its SPAR regulations, and
5

6 **WHEREAS**, on the advice of the City Attorney and following the *McCorkle* ruling, the City
7 Council denied that appeal regarding the Planning Commission's approval of the Safeway Fuel
8 Station project, upholding the Planning Commission approval, despite concerns regarding potential
9 health and other impacts of the project; and
10

11 **WHEREAS**, prior to the *McCorkle* decision, it had been the City's consistent practice to treat
12 applications for SPAR approval as subject to the exercise of discretion of the approving body, up to
13 and including the authority of the approving body to disapprove the project on SPAR grounds, and
14 to conduct full CEQA review, up to and including the ordering of an Environmental Impact Report, if
15 warranted; and
16

17 **WHEREAS**, the *McCorkle* case limits environmental review of development applications to
18 environmental impacts the approving body has authority to mitigate; and
19

20 **WHEREAS**, the California Supreme Court has denied petitions to depublish or overturn the
21 *McCorkle* ruling, which remains in effect and binding on the City and its ability to conduct
22 environmental review regarding projects such as applications for new gas stations that may be
23 subject to only design review in specified zones; and
24

25 **WHEREAS**, the City's SPAR regulations do not address emissions or other project health risks
26 unrelated to aesthetics, siting and internal circulation; and
27

28 **WHEREAS**, City Planning staff has been contacted by a potential applicant for a new gas
29 station use located at the corner of Industrial Drive and Petaluma Boulevard North, near sensitive
30 receptors including a school, and where new gas stations uses are permitted as of right and subject
31 only to SPAR review, posing a threat to the public health, safety and welfare, from environmental
32 and health impacts that the City may be unable to avoid or mitigate following the *McCorkle*
33 decision; and
34

35 **WHEREAS**, there is no information in the record supporting that this interim ordinance
36 regarding new gas station applications in the City of Petaluma that are not complete as of the
37 effective date of the ordinance may have the effect of denying approvals needed for the
38 development of projects with a significant component of multifamily housing as defined in the
39 California Government Code Section 65858, subdivisions (g) and (h); and
40

41 **WHEREAS**, pursuant to Section 15001 of the California Environmental Quality Act (CEQA)
42 Guidelines, this ordinance is exempt from CEQA based on the following:
43

- 44 (1) This ordinance is not a project within the meaning of Section 15378 of the CEQA
45 Guidelines, because it has no potential for resulting in physical change in the
46 environment, directly or ultimately; it prevents changes in the environment related to
47 new gas station use applications pending consideration of possible amendments to the
48 City's Zoning Code or other land use regulations;
49
- 50 (2) This ordinance is categorically exempt from CEQA under Section 15308 of the CEQA
51 Guidelines as a regulatory action taken by the City pursuant to its policy power and in
52 accordance with Government Code Section 65858 to assure maintenance and
53 protection of the environment pending the evaluation and possible adoption of

1 contemplated local legislation, regulation and policies, which local legislation, if
2 adopted, will be subject to CEQA requirements;

- 3
4 (3) This ordinance is not subject to CEQA under the general rule that CEQA applies only to
5 projects which have the potential for causing a significant effect on the environment,
6 and for the reasons set forth in subparagraphs (1) and (2) above, it can be seen with
7 certainty that there is no possibility that this ordinance will have a significant effect on the
8 environment;

9
10 **NOW THEREFORE BE IT ORDAINED** by the Council of the City of Petaluma as follows:

11
12 **Section 1. Recitals Made Findings.** The above recitals are hereby declared to be true and
13 correct and findings of the City Council of the City of Petaluma.

14
15 **Section 2. Moratorium Imposed.** A moratorium is hereby imposed on the approval of
16 applications for new gas station uses in the City of Petaluma that are not complete as of the
17 effective date of this ordinance in accordance with the City's powers under Article XI, Section 5 of
18 the California Constitution, Article VII, Section 54 of the City Charter and California Government
19 Code Section 65858 and other applicable law, as follows:

20
21 A. Scope

22 Applications for land use or development entitlements for new gas station uses in the
23 City of Petaluma not complete as of the effective date of this ordinance may not be
24 approved during the moratorium period.

25
26 B. Statutory Findings and Purpose

27 This ordinance is declared to be an interim ordinance as defined under California
28 Government Code Section 65858. This ordinance is deemed necessary for the
29 following reasons:

- 30
31 1. The purpose of this ordinance is to protect the public safety, health, and welfare
32 from a current and immediate threat posed by the issuance of land use or
33 development entitlements for new gas station uses that could result in negative
34 health, safety or other impacts on adjacent or nearby existing uses or
35 neighborhoods with which new gas station uses may not be compatible, absent
36 adequate local regulation addressing compatibility of new gas station uses with
37 adjacent or nearby uses or neighborhoods.
- 38
39 2. New gas station uses have been and/or may be proposed for construction in the
40 City, and unless a moratorium is imposed on the issuance of land use or
41 development entitlements for new gas station uses in the City, such development
42 may result in negative health, safety or other impacts on adjacent or nearby
43 existing uses or neighborhoods with which new gas station uses may not be
44 compatible, absent adequate local regulation addressing compatibility of new
45 gas station uses with adjacent or nearby existing uses or neighborhoods. This is
46 particularly true regarding City zoning districts where currently new gas stations
47 are permitted uses (C1, C2, and D4 zones) and approval of applications for such
48 proposed new uses is subject only to site plan and architectural review, which
49 review does not take into account such consideration as project emissions and
50 other health impacts unrelated to aesthetics, siting and internal circulation.
- 51
52 3. It is, therefore, necessary to impose a moratorium on issuance of land use or
53 development entitlements for new gas station uses in the City that are not
54 complete as of the effective date of this ordinance to provide time to evaluate

and adopt legislation, guidelines and/or policies as required to address negative health, safety or other impacts of proposed new gas station uses on, adjacent to or nearby existing uses or neighborhoods.

C. Applicability

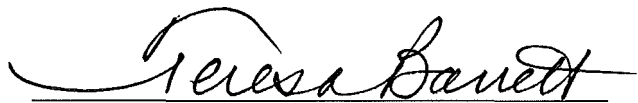
This ordinance applies to approval of applications for land use or development entitlements for new gas station uses in the City that are not complete as of the effective date of this ordinance. This ordinance has no effect on the processing of applications for land use or development entitlements for new gas station uses in the City, except that such applications may not be approved during the moratorium period. Subject to the moratorium on approval of applications for land use or development entitlements for new gas station uses, applications for such entitlements will continue to be processed during the moratorium period in accordance with applicable law.

Section 3. Severability. If any provision of the ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section 4. Effective Date and Duration. This ordinance shall become effective immediately upon passage and adoption if passed and adopted by at least four-fifths vote of the City Council and shall be in effect for 45 days there from unless extended by the City in accordance with Government Code Section 65858.

INTRODUCED, ordered posted, and **ADOPTED** this 6th day of May 2019, by the following vote:

Ayes:	Mayor Barrett, Fischer, Healy, Kearney, King, Vice Mayor McDonnell, Miller
Noes:	None
Abstain:	None
Absent:	None


Teresa Barrett, Mayor

ATTEST:

APPROVED AS TO FORM:


Samantha Pascoe, Deputy City Clerk


Lisa Tennenbaum, City Attorney

<p>EFFECTIVE DATE OF ORDINANCE</p>

<p>June 3, 2019</p>

ORDINANCE NO. 2688 N.C.S.

Introduced by

Seconded by

Miller

Fischer

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PETALUMA EXTENDING THE TIMELINE OF URGENCY ORDINANCE 2681 IMPOSING A MORATORIUM ON THE APPROVAL OF APPLICATIONS FOR NEW GAS STATION USES IN THE CITY OF PETALUMA THAT ARE NOT COMPLETE AS OF THE EFFECTIVE DATE OF THE ORDINANCE PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 AND OTHER APPLICABLE LAW

WHEREAS, Article XI, Section 5 of the California Constitution provides that it shall be competent in any city charter to provide that the city governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to the general laws; and

WHEREAS, Section 54 of Article VIII of the Petaluma Charter provides that the City, by and through its council and other officials shall have and may exercise all powers necessary or appropriate to the municipal corporation and the general welfare of its inhabitants, which are not prohibited by the constitution and which it would be competent for the charter to set forth particularly or specifically, and the specification of any particular powers shall not be held to be exclusive or any limitation on the general grant of powers; and

WHEREAS, California Government Code Section 65858, subdivision (a) provides: that city legislative bodies may, to protect public safety, health and welfare, adopt as an urgency measure an interim ordinance prohibiting any uses that may conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body is considering or studying or intends to study within a reasonable time; that adoption of such urgency measures requires a four-fifths vote of the legislative body; that such measures shall be of no effect 45 days from the date of adoption, and may be extended a maximum to two times and have a maximum total duration of two years; and

WHEREAS, California Government Code Section 65858, subdivision (c) provides that legislative bodies may not adopt or extend such interim ordinances unless they contain findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional entitlements would result in that threat to public health, safety, or welfare; and

WHEREAS, California Government Code Section 65858, subdivision (c) further provides that such interim ordinances that have the effect of denying approvals needed for the development of projects with a significant component of multifamily housing (as defined in California Government Code Section 65858, subdivisions (g) and (h)) may not be extended except upon written findings adopted by the legislative body, supporting by substantial evidence on the record, that:

- 1 (1) the continued approval of the development of multifamily housing projects would
2 have a significant, quantifiable, direct, and unavoidable impact, based on
3 objective, identified written public health or safety standards, policies, or conditions
4 as they existed on the date that the ordinance is adopted by the legislative body,
5
6 (2) the interim ordinance is necessary to mitigate or avoid such impact, and
7
8 (3) there is no feasible alternative to satisfactorily mitigate or avoid such impact as well
9 or better, with a less burdensome or restrictive effect, than the adoption of the
10 proposed interim ordinance; and
11

12 **WHEREAS**, California Government Code Section 65858, subdivision (d) provides that ten days
13 prior to the expiration of an interim ordinance or any extension, the legislative body shall issue a
14 written report describing the measures taken to alleviate the condition which led to the adoption of
15 the ordinance; and
16

17 **WHEREAS**, residents in the neighborhood in proximity to the proposed Safeway Fuel Station
18 project at 335 South McDowell Boulevard at the corner of South McDowell Boulevard and Maria
19 Drive have expressed opposition to the project based on concerns related to air quality, health risks,
20 safety, and circulation and traffic impacts;
21

22 **WHEREAS**, teachers, administrators, parents, and students and the adjacent McDowell
23 Elementary School have expressed opposition to the project based on concerns involving potential
24 impacts associated with air quality, health risk, safety, and circulation impacts; and
25

26 **WHEREAS**, public comments received in opposition to the project express a common
27 concern with the incompatibility of the proposed gas station with the surrounding land uses and
28 sensitive receptors, including residential, parks, and schools; and
29

30 **WHEREAS**, the property located at South McDowell Boulevard and Maria Drive is currently
31 zoned C-2 and new gas station uses are a permitted use in the Zone C-2, subject to approval of Site
32 Plan and Architectural Review (SPAR); and
33

34 **WHEREAS**, SPAR approval pursuant to Section 24.010 of the City's Implementing Zoning
35 Ordinance (IZO), Ordinance No. 2300 N.C.S. adopted July 2, 2008, involves consideration of SPAR
36 factors such as appropriate use of materials, architectural style, siting of structures on property, size,
37 location and design of signs, and bulk and height of proposed structures, landscaping to approved
38 City standards, and ingress, egress and internal circulation; and
39

40 **WHEREAS**, currently in the City new gas station uses are permitted in the C1, C2, and D4
41 zoning districts subject to SPAR, and are permitted in the BP, MU1A, MU1B, and T5 zones subject to
42 SPAR and issuance of a Conditional Use Permit; and
43

44 **WHEREAS**, on December 17 and 18, 2018, respectively, the cases of *Georgetown*
45 *Preservation Society v. County of El Dorado* and *McCorkle Eastside Neighborhood Group v. City of*
46 *St. Helena* were published; and
47

48 **WHEREAS**, although the court in *Georgetown* held that evidence of aesthetic impacts of the
49 proposed development in that case was sufficient to trigger the need for an Environmental Impact
50 Report, the court in *McCorkle* held that environmental review in that case was limited to the scope
51 of St. Helena's design review authority, and, specifically, its authority under its zoning regulations to
52 mitigate project environmental impacts; and
53

1 **WHEREAS**, based on the *McCorkle* ruling, legal counsel for Safeway argued that the City
2 Council could not order an Environmental Impact Report based on information in the record
3 concerning project emissions and health risk impacts that are outside of the scope of the City's
4 discretionary approval under its SPAR regulations, and
5

6 **WHEREAS**, on the advice of the City Attorney and following the *McCorkle* ruling, the City
7 Council denied that appeal regarding the Planning Commission's approval of the Safeway Fuel
8 Station project, upholding the Planning Commission approval, despite concerns regarding potential
9 health and other impacts of the project; and
10

11 **WHEREAS**, prior to the *McCorkle* decision, it had been the City's consistent practice to treat
12 applications for SPAR approval as subject to the exercise of discretion of the approving body, up to
13 and including the authority of the approving body to disapprove the project on SPAR grounds, and
14 to conduct full CEQA review, up to and including the ordering of an Environmental Impact Report, if
15 warranted; and
16

17 **WHEREAS**, the *McCorkle* case limits environmental review of development applications to
18 environmental impacts the approving body has authority to mitigate; and
19

20 **WHEREAS**, the California Supreme Court has denied petitions to depublish or overturn the
21 *McCorkle* ruling, which remains in effect and binding on the City and its ability to conduct
22 environmental review regarding projects such as applications for new gas stations that may be
23 subject to only design review in specified zones; and
24

25 **WHEREAS**, the City's SPAR regulations do not address emissions or other project health risks
26 unrelated to aesthetics, siting and internal circulation; and
27

28 **WHEREAS**, City Planning staff has been contacted by a potential applicant for a new gas
29 station use located at the corner of Industrial Drive and Petaluma Boulevard North, near sensitive
30 receptors including a school, and where new gas stations uses are permitted as of right and subject
31 only to SPAR review, posing a threat to the public health, safety and welfare, from environmental
32 and health impacts that the City may be unable to avoid or mitigate following the *McCorkle*
33 decision; and
34

35 **WHEREAS**, there is no information in the record supporting that this interim ordinance
36 regarding new gas station applications in the City of Petaluma that are not complete as of the
37 effective date of the ordinance may have the effect of denying approvals needed for the
38 development of projects with a significant component of multifamily housing as defined in the
39 California Government Code Section 65858, subdivisions (g) and (h); and
40

41 **WHEREAS**, pursuant to Section 15001 of the California Environmental Quality Act (CEQA)
42 Guidelines, the urgency ordinance was determined exempt from CEQA based on the following:
43

- 44 (1) This ordinance is not a project within the meaning of Section 15378 of the CEQA
45 Guidelines, because it has no potential for resulting in physical change in the
46 environment, directly or ultimately; it prevents changes in the environment related to
47 new gas station use applications pending consideration of possible amendments to the
48 City's Zoning Code or other land use regulations;
49
- 50 (2) This ordinance is categorically exempt from CEQA under Section 15308 of the CEQA
51 Guidelines as a regulatory action taken by the City pursuant to its policy power and in
52 accordance with Government Code Section 65858 to assure maintenance and
53 protection of the environment pending the evaluation and possible adoption of

1 contemplated local legislation, regulation and policies, which local legislation, if
2 adopted, will be subject to CEQA requirements;
3

- 4 (3) This ordinance is not subject to CEQA under the general rule that CEQA applies only to
5 projects which have the potential for causing a significant effect on the environment,
6 and for the reasons set forth in subparagraphs (1) and (2) above, it can be seen with
7 certainty that there is no possibility that this ordinance will have a significant effect on the
8 environment;
9

10 **WHEREAS**, on May 6, 2019 the City Council adopted Urgency Ordinance 2681 imposing a
11 moratorium on new gas station uses that are not complete as of the effective date of the
12 ordinance; and
13

14 **WHEREAS**, consistent with California Government Code Section 65858 the urgency ordinance
15 is effective for 45 days unless extended by the City in accordance with Government Code Section
16 65858; and
17

18 **WHEREAS**, Government Code Section 65858, subsection (a), provides for extension of an
19 urgency ordinance for a period not to exceed 10 months and 15 days with approval by the City
20 and noticing of a public hearing consistent with Government Code Section 65090; and
21

22 **WHEREAS**, consistent with Government Code Section 65090, notification of the June 3, 2019
23 hearing was published in the *Argus-Courier* on May 23, 2019.
24

25
26 **NOW, THEREFORE, BE IT ORDAINED** by the Council of the City of Petaluma as follows:
27

28 **Section 1. Recitals Made Findings.** The above recitals are hereby declared to be true and
29 correct and findings of the City Council of the City of Petaluma.
30

31 **Section 2. Time Extension.** This ordinance hereby extends the initial 45-day effective date of
32 Ordinance 2681 for an additional 10 months and 15 days in accordance with California
33 Government Code Section 65858 and other applicable law.
34

35 **Section 3. Moratorium Imposed.** The moratorium imposed by the adoption of Ordinance 2681
36 hereby remains in effect and prohibits the approval of applications for new gas station uses in the
37 City of Petaluma that are not complete as of the initial effective date of Ordinance 2681 in
38 accordance with the City's powers under Article XI, Section 5 of the California Constitution, Article
39 VII, Section 54 of the City Charter and California Government Code Section 65858 and other
40 applicable law, as follows:
41

42 A. Scope
43 Applications for land use or development entitlements for new gas station uses in the
44 City of Petaluma not complete as of the effective date of this ordinance may not be
45 approved during the moratorium period.
46

47 B. Statutory Findings and Purpose
48 Ordinance 2681 is an interim ordinance as defined under California Government
49 Code Section 65858. The Ordinance was deemed necessary for the following
50 reasons:
51

- 52 1. The purpose of this ordinance is to protect the public safety, health, and welfare
53 from a current and immediate threat posed by the issuance of land use or
54 development entitlements for new gas station uses that could result in negative

health, safety or other impacts on adjacent or nearby existing uses or neighborhoods with which new gas station uses may not be compatible, absent adequate local regulation addressing compatibility of new gas station uses with adjacent or nearby uses or neighborhoods.

2. New gas station uses have been and/or may be proposed for construction in the City, and unless a moratorium is imposed on the issuance of land use or development entitlements for new gas station uses in the City, such development may result in negative health, safety or other impacts on adjacent or nearby existing uses or neighborhoods with which new gas station uses may not be compatible, absent adequate local regulation addressing compatibility of new gas station uses with adjacent or nearby existing uses or neighborhoods. This is particularly true regarding City zoning districts where currently new gas stations are permitted uses (C1, C2, and D4 zones) and approval of applications for such proposed new uses is subject only to site plan and architectural review, which review does not take into account such consideration as project emissions and other health impacts unrelated to aesthetics, siting and internal circulation.
3. The imposition of Ordinance 2681 as a moratorium on issuance of land use or development entitlements for new gas station uses in the City that are not complete as of the effective date in order to provide time to evaluate and adopt legislation, guidelines and/or policies as required to address negative health, safety or other impacts of proposed new gas station uses on, adjacent to or nearby existing uses or neighborhoods.

C. Applicability

Ordinance 2681 applies to approval of applications for land use or development entitlements for new gas station uses in the City that are not complete as of the effective date of this ordinance. The ordinance has no effect on the processing of applications for land use or development entitlements for new gas station uses in the City, except that such applications may not be approved during the moratorium period. Subject to the moratorium on approval of applications for land use or development entitlements for new gas station uses, applications for such entitlements will continue to be processed during the moratorium period in accordance with applicable law.

Section 4. Severability. If any provision of the ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section 5. Effective Date and Duration. This ordinance shall become effective immediately upon passage and adoption if passed and adopted by at least four-fifths vote of the City Council and shall be in effect for 10 months and 15 days there from unless extended by the City in accordance with Government Code Section 65858.

INTRODUCED, ordered posted, and **ADOPTED** this 3rd day of June 2019, by the following vote:

Ayes: Mayor Barrett, Fischer, Healy, King, Vice Mayor McDonnell, Miller


Noes: None
Abstain: None
Absent: Kearney


Teresa Barrett, Mayor

ATTEST:

APPROVED AS TO FORM:


Samantha Pascoe, Acting City Clerk


Eric Danly, City Attorney

ATTACHMENT A

**RESOLUTION OF THE CITY OF PETALUMA PLANNING COMMISSION
RECOMMENDING THE CITY COUNCIL APPROVE A GENERAL PLAN
AMENDMENT TO POLICY 4-P-10**

WHEREAS, the City of Petaluma has initiated a General Plan 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, transportation remains the largest contributor of greenhouse gas and criteria pollutant emissions in California. Combating this to improve environmental and human health requires a massive transition from internal combustion engines to Zero Emission Vehicles.

WHEREAS, an inventory of current and approved Gas Stations shows they are adequate to serve existing and planned residents dependent upon internal combustion engines.

WHEREAS, the General Plan Amendment would revise Policy 4-P-10, as follows (~~strike through~~ = deletion; underline = addition),

~~“Require electric vehicle charging and alternative fuel facilities at all new and remodeled gas stations. Prohibit new fossil fuel gas stations and transition existing stations to serve Zero Emission Vehicles.”~~

WHEREAS, on January 14, 2021, public notice of the January 26, 2021 Planning Commission meeting to consider the amendment 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 General Plan Amendment 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. The General Plan Amendment 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, the amendment is, 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 amendment 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.

3. Government Code Section 65358 allows General Plan amendments when it is deemed in the public interest to do so.
4. Transportation remains the largest contributor of greenhouse gas and criteria pollutant emissions in California. Combating this to improve environmental and human health requires a massive transition from internal combustion engines to Zero Emission Vehicles. An inventory of current and approved Gas Stations shows they are adequate to serve existing and planned residents dependent upon internal combustion engines. Prohibiting new Gas Stations serves the public interest by preventing new sources of pollution that adversely impact environmental and human health.
5. State law limits the number of times a local agency can amend its general plan to more than four times per year. The proposed amendment represents the first amendment request for 2021.
6. The Planning Commission hereby recommends that the City Council approve a General Plan Amendment to revise Policy 4-P-10 (strikethrough = deletion; underline = addition) as follows:

~~“Require electric vehicle charging and alternative fuel facilities at all new and remodeled gas stations. Prohibit new fossil fuel gas stations and transition existing stations to serve Zero Emission Vehicles.”~~

**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.”

**RESOLUTION OF THE CITY OF PETALUMA PLANNING COMMISSION
RECOMMENDING THE CITY COUNCIL AMEND THE TEXT OF THE
IMPLEMENTING ZONING ORDINANCE, ORDINANCE 2300 N.C.S., TO
MODIFY CHAPTER 4 (ZONE DISTRICTS AND ALLOWABLE USES),
CHAPTER 11 (PARKING AND LOADING FACILITIES, OFF-STREET),
CHAPTER 22 (NON-CONFORMING USES), AND CHAPTER 28 (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 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

WEHREAS, the text amendments contained in Exhibit 1 to this resolution modify the City's Implementing Zoning Ordinance; and

WHEREAS, the text amendments contained in Exhibit 1 would codify a prohibition on new Gas Station uses, enact new non-conformity regulations specific to existing and approved Gas Station uses, and enact new regulations for the fueling of Zero Emission Vehicles; and

WHEREAS, on January 14, 2021, public notice of the January 26, 2021 Planning Commission meeting to consider the amendment 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 Implementing Zoning Ordinance 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 proposed amendments attached hereto as Exhibit 1, 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.

Chapter 4 Zone Districts and Allowable Land Uses

4.010 - Purpose

This Chapter lists the land uses that may be allowed by Section 2.020 (Zoning Map and Zones), determines the type of planning permit approval required for each use, and provides basic standards for site layout and building size.

4.020 – Purpose of Established Zones

- A. **OSP (Open Space and Park) zone.** The OSP zone is applied to undeveloped areas and sites that are appropriate for the preservation of natural resources, outdoor recreation, to be maintained in open space for the protection of public health and safety, and existing City public parks. City parks located in this zone may include buildings, structures, and uses that serve the community (e.g. Luchessi Community Center, Novak Center, Cavanaugh Center, Library, Water Resources building, etc.). The OSP zone is consistent with and implements the Urban Separator, Open Space, and City Park land use classifications of the General Plan.
- B. **AG (Agriculture) zone.** The AG zone is applied to areas that are actively and primarily used for grazing, or the production for sale of food and fiber. Areas subject to seasonal or historic flooding and identified by FEMA as areas warranting special consideration are included. The AG zone is consistent with and implements the Agriculture land use classification of the General Plan.
- C. **RR (Rural Residential) zone.** The RR zone is applied to areas of single dwelling development with a minimum lot size of 2 acres. This zone would be applied primarily to areas at the western perimeter of the City along the Urban Growth Boundary that are developed with single dwellings at densities ranging from 0.1 to 0.6 units per acre. This zone is intended to maintain a rural character and provide a transition to unincorporated rural and agricultural lands. The RR zone is consistent with and implements the Rural Residential land use classification of the General Plan.
- D. **R1 (Residential 1) zone.** The R1 zone is applied to areas of single dwelling development, primarily the western hillsides, with densities ranging from 0.6 to 2.5 units per acre, and larger lots required for sloped sites. The R1 zone is consistent with and implements the Very Low Density Residential land use classification of the General Plan.
- E. **R2 (Residential 2) zone.** The R2 zone is applied to areas previously developed and intended for detached single dwellings on individual lots, at densities ranging from 2.6 to 8.0 units per acre. The R2 zone is consistent with and implements the Low Density Residential land use classification of the General Plan.
- F. **R3 (Residential 3) zone.** The R3 zone is applied to the older neighborhoods surrounding the downtown that are characterized by a variety of housing types and densities in a walkable context. Densities range from 6.1 to 12.0 units per acre. The R3 zone is consistent with and implements the Diverse Low Density Residential land use classification of the General Plan.
- G. **R4 (Residential 4) zone.** The R4 zone is applied to areas intended for a variety of housing types ranging from single dwellings to multi-unit structures. Densities range from 8.1 to 18.0 units per acre. The R4 zone is consistent with and implements the Medium Density Residential land use classifications of the General Plan.
- H. **R5 (Residential 5) zone.** The R5 zone is applied to areas intended for the most urban housing types at densities ranging from 18.1 to 30.0 units per acre, but where existing lower density housing is considered conforming. The R5 zone is consistent with and implements the High Density Residential land use classification of the General Plan.
- I. **MH (Mobile Home) zone.** The MH zone is applied to existing mobile home parks throughout the City. The MH zone is consistent with the Mobile Home land use classification of the General Plan.
- J. **C1 (Commercial 1) zone.** The C1 zone is applied to existing smaller-scale shopping centers with off-street parking, or clusters of street-front stores that serve the surrounding neighborhood. The C1 zone is consistent with and implements the Neighborhood Commercial land use classification of the General Plan, which establishes a maximum floor area ratio of 0.8 for the classification.

- K. **C2 (Commercial 2) zone.** The C2 zone is applied to existing community and regional shopping center sites. The C2 district is consistent with and implements the Community Commercial land use classification of the General Plan, which establishes a maximum floor area ratio of 1.2 for the classification.
- L. **MU1A, MU1B, MU1C (Mixed Use 1) zone.** The MU1 zone is applied to areas intended for pedestrian-oriented, mixed-use development with ground-floor retail or office uses adjacent to the Downtown Core, and in other areas of the city where existing auto-oriented commercial areas are intended for improvement into pedestrian-oriented mixed use development. The MU1 zone is consistent with and implements the Mixed Use land use classification of the General Plan, which establishes a maximum floor area ratio of 2.5 for both residential and non-residential uses within the classification, and a maximum density of 30 units per acre for residential.

Note:

- Mixed Use 1A zone. This zone is applied to parcels located along corridors such as East Washington Street, Petaluma Boulevard North, Bodega Avenue and Lakeville Street. The parcels in these zones vary in size and are typically located adjacent to residential zones.
 - Mixed Use 1B zone. This zone is applied to larger parcels located primarily along major arterial roadways. The larger parcel size should allow for a mix of uses on the site.
 - Mixed Use 1C zone. This zone is applied to smaller parcels located in West Petaluma. Most of these parcels are located in residential areas and the intensity of the uses permitted in this zone is limited.
- M. **MU2 (Mixed Use 2) zone.** The MU2 zone is applied to the Petaluma Downtown and adjacent areas that are intended to evolve into the same physical form and character of development as that in the historic downtown area. The MU2 zone is consistent with and implements the Mixed Use land use classification of the General Plan, which establishes a maximum floor area ratio of 2.5 for both residential and non-residential uses within the classification, and a maximum density of 30 units per acre for residential.
- N. **BP (Business Park) zone.** The BP zone is intended for business and professional offices, technology park clusters, research and development, light industrial operations, and visitor service establishments, with retail as a secondary use only. The BP zone is consistent with and implements the Business Park land use classification of the General Plan, which establishes a maximum floor area ratio of 1.5 for the classification, although an FAR of 3.0 is allowed if all required parking is structured.
- O. **I (Industrial) zone.** The I zone is applied to areas that are appropriate for a full range of manufacturing, industrial processing, general service, warehousing, storage and distribution operations. Small restaurants and service commercial are allowed as ancillary uses. The I zone is consistent with and implements the Industrial land use classification of the General Plan, which establishes a maximum floor area ratio of 0.6 for the classification.
- P. **CF (Civic Facility) district.** The CF zone is applied to sites for proposed public utility facilities, government offices, community service uses and lands, and significant sites owned and operated by the elementary, secondary, or community college districts, as well as private and/or parochial schools. The zone implements and is consistent with the Public/Semi-Public, and Education classifications of the General Plan.
- Q. **FW (Floodway) zone.** The FW zone is applied to sites within the boundaries of the “Areas of Special Flood Hazard” and identified as “Floodway” areas. See Chapter 6 for the requirements of the Floodway zone.
- R. **Planned Unit Districts and Planned Community Districts.** The historic use of P.U.D.s and P.C.D.s for the development of residential, industrial, and commercial properties in various zones in which the underlying P.U.D. and/or P.C.D. uses are permitted is hereby recognized. Non-residential P.C.D.s in existence as of May 19, 2008, and residential P.U.D.s are recognized to be consistent with the intent of these regulations by the establishment of their individual and respective P.U.D. and P.C.D. standards. Development and redevelopment of lands within P.U.D.s and P.C.D.s, including modification of P.C.D.s and/or addition of land to P.C.D.s, shall be in accordance with the individual adopted standards for said P.U.D. or P.C.D. and other applicable zoning standards not otherwise modified by the P.U.D. or P.C.D. adopted standards. The creation and modification of P.U.D.s, and the modification and/or addition of land to P.C.D.s existing as of May 19, 2008, is regulated by Chapter 19 herein. The creation of

wholly new P.C.D.s, or the addition of land to a P.C.D. where the expansion area is not immediately adjacent, is not permitted by this Ordinance.

4.030 - Allowable Land Uses and Permit Requirements

- A. **General permit requirements.** Tables 4.1 through 4.5 identify the land uses allowed by this Zoning Ordinance in each zone, and the planning permit required to establish each use, in compliance with Section 3.030 (Allowable Land Uses and Planning Permit Requirements).
- B. **Requirements for certain specific land uses.** Where the last column in Tables 4.1 through 4.5 ("Specific Use Regulations") includes a section number, the referenced section may affect whether the use requires a Conditional Use Permit, and/or may establish other requirements and standards applicable to the use.

4.040 - Site Planning and Building Standards

Subdivisions, new land uses and structures, and alterations to existing land uses and structures, shall be designed, constructed, and established in compliance with the requirements in Tables 4.6 through 4.13, in addition to the applicable standards (e.g., landscaping, parking and loading, etc.) in Chapters 11, 13, 14.

4.050 – Dedication Required and Exceptions

- A. **Dedication required.** The developer shall dedicate any necessary right-of-way to the City to the alignment established by plan lines established in Chapter 13.20 of the Petaluma Municipal Code, or to an alignment consistent with applicable City right-of-way standards across the entire frontage or frontages and shall construct public improvements (including, but not limited to curbs, gutters, sidewalk, half street, water mains, storm drains and sanitary sewers) across such frontage to current city standards, whenever a development project is located, or which is proposed to be located:
 - 1. Upon one or more streets or roads where future right-of-way plan lines have been established pursuant to Chapter 13.20 of the Petaluma Municipal Code, or
 - 2. Upon one or more streets or roads which are not improved with existing curbs, gutters, sidewalks and other contiguous street improvements across the frontage or frontages of the property upon which said development project is located, or
 - 3. Upon a parcel of real property which has frontage on a dedicated street right-of-way where no such improvements have been constructed contiguous to the parcel upon which the development project is located. Nothing in this section shall be construed to prevent the City from requiring construction of frontage improvements pursuant to any other ordinance or regulation of the city.
- B. **Exceptions. Section 4.050(A)** shall not apply when any one or more of the following conditions exist:
 - 1. Where a condition of any subdivision or parcel map requires dedication and construction or public improvements as a condition of approval of the same development project.
 - 2. Where the value of the construction is less than \$10,000. This valuation may be raised by resolution of the City Council to compensate for inflation and increased building costs.
 - 3. Where the proposed development project is clearly accessory as determined by standards in the Zoning Ordinance, to an existing use upon the property.
 - 4. Where the development project consists primarily of the rehabilitation of an existing structure, when no change of use will occur.
 - 5. Where the developer establishes that the required dedication would render the real property upon which

the development project is to be constructed substantially valueless for any private use, but final determination of such fact shall be made only by the City Council upon petition of the developer or owner.

Natural and Rural Zones					
TABLE 4.1 Allowed Land Uses and Permit Requirements for Natural and Rural Zones	P(16) Permitted Use				
	CUP Conditional Use Permit Required				
	S Permit Requirement in Specific Use Regulations				
	A Accessory Use				
	— Use Not Allowed				
LAND USE TYPE (1)	Permit Required by Zone				Specific Use Regulations
	OSP	AG	RR	R1	
AGRICULTURAL & RESOURCE USES					
Crop production, horticulture, orchard, vineyard	P	P	P	P	
Farm animal keeping	P	P	P	P	
LODGING					
Lodging - Short-Term Vacation Rentals	—	—	P(15)	P(15)	Section 7.110
Lodging - Bed & Breakfast Inn	—	—	—	CUP	Section 7.100
RECREATION, EDUCATION & PUBLIC ASSEMBLY					
Community Meeting Facility	—	CUP	CUP	CUP	
Commercial recreation - Indoor	—	—	—	—	
Commercial recreation - Outdoor	—	—	—	—	
Golf course, country club	CUP	—	—	—	
Park	P	P	P	P	
School - Elementary, secondary, or college, private	—	CUP	CUP	CUP	
RESIDENTIAL					
Dwelling, Accessory	—	A,S	AS	AS	Section 7.030
Dwelling, Junior Accessory	—	A,S	AS	AS	Section 7.035
Dwelling, Caretaker	—	—	—	—	
Dwelling, Group	—	—	S(5)	S(5)	Section 7.040
Dwelling, Multiple	—	—	—	—	
Dwelling, Single Household	—	P	P	P	
Home Occupation	—	AS(2)	AS(2)	AS(2)	Section 7.050
Residential, Accessory Structure	—	A	A	A	
Residential Care, 6 or fewer clients, in a home	—	—	P	P	
Residential Care, 7 or more clients	—	—	—	—	
Swimming Pool, Hot Tub, Spa	—	—	A,S	AS	
Work/Live	—	—	—	—	
SERVICES - GENERAL					
Day care - Large family day care home	—	—	A(4)	A(4)	Section 7.060
Day care - Small family day care home	—	—	A(3)	A(3)	
Public safety facility	—	—	P	P	
TRANSPORTATION, COMMUNICATIONS, INFRASTRUCTURE					
City Water & Sewer Facility	CUP	P	P	P	
Telecommunications Facility	S	S	S	S	Section 7.090 & Muni Code 14.44
Zero Emission Vehicles (Battery Charging Station)	A(18)	A(18)	A(18)	A(18)	

Key to zone symbols

OS - Open Space

AG - Agriculture

RR - Rural Residential

R1 - Residential 1

Notes:

- (1) See glossary for land use definitions.
- (2) Home Occupation Permit and Business License Required
- (3) Business License Required
- (4) Business License & Compliance with Section 7.060 Required
- (5) Site Plan and Architectural Review Required & Compliance with Section 7.040 Required
- (6) Use allowed only on an upper floor or behind a ground floor street fronting use; use in other locations allowed subject to a CUP
- (7) Permitted use (P) if limited to a maximum of 5,000 square feet on the ground floor
- (8) A CUP is required for overnight board and care
- (9) Neighborhood serving and open at lunch
- (10) Allowed only on floors above the ground floor
- (11) Urgent care facilities may be located on the ground floor as a street fronting use
- (12) Allowed only in a shopping center
- (13) Use permitted only on Lakeville Highway between Baywood Drive and Casa Grande Road
- (14) See section 21.030 (Residential Uses Abutting Non-Residential Uses)
- (15) Short-term vacation rental permit, business license and transient occupancy tax certificate required (see section 7.110 of Implementing Zoning Ordinance)
- (16) Use must be at least 600 feet from a school or a childcare center, at least 200 feet from parks, youth centers, or the library, and 100 feet from residential districts as measured from property line to property line
- (17) All Cannabis Businesses must obtain an annual Commercial Cannabis Permit
- (18) Pursuant to Government Code Section 65850.7, this Zoning Ordinance requires no permit for stations.
- (19) Allowed as primary or accessory use when located on site of an existing Fueling Station/Gas Station land use.

Residential Zones					
TABLE 4.2 Allowed Land Uses and Permit Requirements for Residential Uses	P(16)	Permitted Use			
	CUP	Conditional Use Permit Required			
	S	Permit Requirement in Specific Use Regulations			
	A	Accessory Use			
	—	Use Not Allowed			
LAND USE TYPE (1)	Permit Required by Zone				Specific Use Regulations
	R2	R3	R4	R5	
LODGING					
Lodging - Short-Term Vacation Rentals	P(15)	P(15)	P(15)	P(15)	Section 7.110
Lodging -Bed & breakfast inn (B & B)	CUP	CUP	—	—	Section 7.100
RECREATION, EDUCATION & PUBLIC ASSEMBLY					
Community Meeting Facility	CUP	CUP	CUP	CUP	
Golf course, country club	—	—	—	—	
Park	P	P	P	P	
School - Elementary, secondary, or college, private	CUP	CUP	CUP	CUP	
RESIDENTIAL					
Dwelling, Accessory	A,S	A,S	A,S	A,S	Section 7.030
Dwelling, Junior Accessory	A,S	A,S	A,S	A,S	Section 7.035
Dwelling, Group	S(5)	S(5)	—	—	Section 7.040
Dwelling, Multiple	—	P	P	P	
Dwelling, Single Household	P	P	P	P	
Home Occupation	A,S(2)	A,S(2)	A,S(2)	A,S(2)	Section 7.050
Residential, Accessory Structure	A	A	A	A	
Residential Care, 6 or fewer clients, in a home	P	P	P	P	
Residential Care, 7 or more clients	—	—	—	—	
Swimming Pool, Hot Tub, Spa	A,S	A,S	A,S	A,S	Section 7.080
Work/Live	—	—	—	—	
SERVICES - BUSINESS, FINANCIAL, PROFESSIONAL					
Medical services -Major	—	—	—	—	
Medical Services-Minor	—	—	—	—	
SERVICES - GENERAL					
Adult day program	—	—	—	—	
Child care center	—	—	—	—	
Day care - Large Family	A (4)	A (4)	A (4)	A (4)	Section 7.060
Day care - Small Family	A(3)	A(3)	A(3)	A(3)	
Public safety facility	P	P	P	P	
TRANSPORTATION, COMMUNICATIONS, INFRASTRUCTURE					
City Water & Sewer Facility	P	P	P	P	
Telecommunications facility	S	S	S	S	Section 7.090 & Muni Code 14.44
Utility facility	—	—	—	—	
Zero Emission Vehicles (Battery Charging Station)	A (18)	A (18)	A (18)	A (18)	

Key to zone symbols

R2 - Residential 2

R3 - Residential 3

R4 - Residential 4

R5 - Residential 5

Notes:

- (1) See glossary for land use definitions.
- (2) Home Occupation Permit and Business License Required
- (3) Business License Required
- (4) Business License & Compliance with Section 7.060 Required
- (5) Site Plan and Architectural Review Required & Compliance with Section 7.040 Required
- (6) Use allowed only on an upper floor or behind a ground floor street fronting use; use in other locations allowed subject to a CUP
- (7) Permitted use (P) if limited to a maximum of 5,000 square feet on the ground floor
- (8) A CUP is required for overnight board and care
- (9) Neighborhood serving and open at lunch
- (10) Allowed only on floors above the ground floor
- (11) Urgent care facilities may be located on the ground floor as a street fronting use
- (12) Allowed only in a shopping center
- (13) Use permitted only on Lakeville Highway between Baywood Drive and Casa Grande Road
- (14) See section 21.030 (Residential Uses Abutting Non-Residential Uses)
- (15) Short-term vacation rental permit, business license and transient occupancy tax certificate required (see section 7.110 of Implementing Zoning Ordinance)
- (16) Use must be at least 600 feet from a school or a childcare center, at least 200 feet from parks, youth centers, or the library, and 100 feet from residential districts as measured from property line to property line
- (17) All Cannabis Businesses must obtain an annual Commercial Cannabis Permit
- (18) Pursuant to Government Code Section 65850.7, this Zoning Ordinance requires no permit for stations.
- (19) Allowed as primary or accessory use when located on site of an existing Fueling Station/Gas Station land use.

Mixed Use Zones					
TABLE 4.3 Allowed Land Uses and Permit Requirements for Mixed Use Zones	P(16)	Permitted Use			
	CUP	Conditional Use Permit Required			
	S	Permit Requirement in Specific Use Regulations			
	A	Accessory Use			
	—	Use Not Allowed			
LAND USE TYPE (1)	Permit Required by Zone				Specific Use Regulations
	MU1A	MU1B	MU1C	MU2	
INDUSTRY, MANUFACTURING & PROCESSING					
Artisan/craft product manufacturing	P	P	—	CUP(6)	
Catering service, as a primary use	P(6)	P	—	P(6)	
Furniture and fixture manufacturing, cabinet making	—	P	—	—	
Laboratory - Medical, analytical	—	P	—	—	
Manufacturing, light	—	P(14)	—	—	
Media production	P(6)	P	—	P(6)	
Printing and publishing	P(6)	P	—	P(6)	
Research and development	—	P	—	—	
LODGING					
Lodging - Short-Term Vacation Rentals	P(15)	P(15)	P(15)	P(15)	Section 7.110
Lodging - Bed & breakfast inn (B&B)	—	—	—	P	
Lodging - Hotel/Motel	P	P	—	P	
RECREATION, EDUCATION & PUBLIC ASSEMBLY					
Cardroom	CUP	CUP	—	CUP	Chapter 9
Community Meeting Facility	CUP	CUP	CUP	CUP	
Commercial recreation - Indoor	CUP	CUP	—	P(6)	
Fitness/health facility	P	P	—	P	
Library, museum, art gallery	P	P	—	P	
Park	P	P	P	P	
School - Elementary, secondary, or college, private	CUP	CUP	CUP	CUP	
School - Specialized Education and Training	CUP	CUP	—	CUP	
Studio - Art, dance, martial arts, music, etc.	P	P	—	P	
Theater, cinema or performing arts	CUP	CUP	—	CUP	Theater District Ord. 2158
RESIDENTIAL					
Dwelling, Multiple	CUP	CUP	P	—	
Dwelling, Accessory	A,S	A,S	A,S	A,S	Section 7.030
Dwelling, Junior Accessory	A,S	A,S	A,S	A,S	Section 7.035
Dwelling, Single	—	—	P	—	
Home Occupation	A,S(2)	A,S(2)	A,S(2)	A,S(2)	Section 7.050
Residential care, 7 or more clients	P(10)	P(10)	P	CUP(10)	
Residential care facility, adult	P(6)	P(6)	—	CUP(10)	
Residential care facility, for the chronically ill	P(6)	P(6)	—	CUP(10)	
Residential care facility, for the elderly	P(6)	P(6)	—	CUP(10)	
Residential in mixed use building	P(10)	P(10)	P(10)	P(10)	
Work/Live	P(6)	P(6)	P	P(6)	

TABLE 4.3		P(16) Permitted Use CUP Conditional Use Permit Required S Permit Requirement in Specific Use Regulations A Accessory Use — Use Not Allowed				
Allowed Land Uses and Permit Requirements for Mixed Use Zones		Permit Required by Zone				Specific Use Regulations
		MU1A	MU1B	MU1C	MU2	
LAND USE TYPE (1)						
RETAIL						
Adult oriented business	CUP	CUP	—	CUP	Chapter 10	
Artisan Shop	P	P	—	P		
Auto parts sales	P	P	—	—		
Bar, tavern, night club	CUP	CUP	—	CUP	Chapter 8	
Building and landscape materials sales - Indoor	P	P	—	P		
Fueling Station/Gas station	CUP =	CUP =	—	—		
General retail	P	P	—	P		
Groceries/specialty foods - 25,000 sf or less	P	P	—	P		
Groceries/specialty foods - More than 25,000 sf	P	P	—	—		
Plant nursery	P	P	—	—		
Restaurant, café, coffee shop	P	P	CUP	P		
SERVICES - BUSINESS, FINANCIAL, PROFESSIONAL						
ATM	P	P	P	P		
Bank, financial services	P	P	—	P		
Business support service	P	P	—	P		
Medical services - Health Care Facility	P(6)	P(6)	—	P(6)		
Medical services - Major	P	P	—	P		
Medical services - Minor	P(6), (11)	P(6), (11)	P	P(6), (11)		
Office - government	P	P	P	P(6)		
Office - Headquarters, or processing	P(6)	P	—	P(6)		
Office - Professional, administrative	P	P	P	P(6)		
SERVICES - GENERAL						
Adult Day Program	CUP	CUP	CUP	P		
Child Care Center	P(6)	P(6)	—	P(6)		
Child day care - Large Family	—	—	A(4)	—	Section 7.060	
Child day care - Small Family	A(3)	A(3)	A(3)	A(3)		
Kennel, animal boarding	—	CUP	—	—		
Meals Assembly Business	P(12)	—	—	—		
Mortuary, funeral home	CUP	—	—	—		
Personal services	P	P	—	P		
Personal services - Restricted	P	P	—	P		
Public safety facility	P	P	P	P		
Vehicle services - Minor maintenance/repair	—	P	—	CUP		
Veterinary clinic, animal hospital	P(8)	P(8)	—	P(8)		

TABLE 4.3 Allowed Land Uses and Permit Requirements for Mixed Use Zones	P(16)	Permitted Use			
	CUP	Conditional Use Permit Required			
	S	Permit Requirement in Specific Use Regulations			
	A	Accessory Use			
	—	Use Not Allowed			
LAND USE TYPE (1)	Permit Required by Zone				Specific Use Regulations
	MU1A	MU1B	MU1C	MU2	
TRANSPORTATION, COMMUNICATIONS, INFRASTRUCTURE					
City water & sewer facility	P	P	P	P	
Parking facility, public or commercial	CUP	—	—	CUP	
Telecommunications facility	S	S	S	S	Section 7.090 & Muni Code 14.44
Utility facility	CUP	CUP	—	CUP	
<u>Zero Emission Vehicles (Battery Charging Station)</u>	<u>A (18)</u>	<u>A (18)</u>	<u>A (18)</u>	<u>A (18)</u>	
<u>Zero Emission Vehicles (Hydrogen Fuel Cell Station)</u>	<u>P, A (19)</u>	<u>—</u>	<u>—</u>	<u>P, A (19)</u>	

Key to zone symbols**MU1A - Mixed Use 1A****MU1C - Mixed Use 1C****MU1B - Mixed Use 1B****MU2 - Mixed Use 2****Notes:**

- (1) See Glossary for land use definitions.
- (2) Home Occupation Permit and Business License Required
- (3) Business License Required
- (4) Business License & Compliance with Section 7.060 Required
- (5) Site Plan and Architectural Review Required & Compliance with Section 7.040 Required
- (6) Use allowed only on an upper floor or behind a ground floor street fronting use; use in other locations allowed subject to a CUP
- (7) Permitted use (P) if limited to a maximum of 5,000 square feet on the ground floor
- (8) A CUP is required for overnight board and care
- (9) Neighborhood serving and open at lunch
- (10) Allowed only on floors above the ground floor
- (11) Urgent care facilities may be located on the ground floor as a street fronting use
- (12) Allowed only in a shopping center
- (13) Use permitted only on Lakeville Highway between Baywood Drive and Casa Grande Road
- (14) See section 21.030 (Residential Uses Abutting Non-Residential Uses)
- (15) Short-term vacation rental permit, business license and transient occupancy tax certificate required (section 7.110 of Implementing Zoning Ordinance)
- (16) Use must be at least 600 feet from a school or a childcare center, at least 200 feet from parks, youth centers, or the library, and 100 feet from residential districts as measured from property line to property line
- (17) All Cannabis Businesses must obtain an annual Commercial Cannabis Permit
- (18) Pursuant to Government Code Section 65850.7, this Zoning Ordinance requires no permit for stations.
- (19) Allowed as primary or accessory use when located on site of an existing Fueling Station/Gas Station land use.

Commercial, Business Park, and Industrial Zones					
TABLE 4.4 Allowed Land Uses and Permit Requirements for Commercial, Business Park, and Industrial Zones	P(16)	Permitted Use			
	CUP	Conditional Use Permit Required			
	S	Permit Requirement in Specific Use Regulations			
	A	Accessory Use			
	—	Use Not Allowed			
LAND USE TYPE (1)	Permit Required by Zone				Specific Use Regulations
	C1	C2	BP	I	
INDUSTRY, MANUFACTURING & PROCESSING					
Artisan/craft product manufacturing	—	—	P	P	
Catering service, as a primary use	P(6)	P(6)	P	P	
Furniture and fixtures manufacturing, cabinet shop	—	—	—	P	
Laboratory - Medical, analytical	—	—	P	P	
Laboratory - Cannabis	—	—	P(16,17)	P(16,17)	PMC 10.15
Laundry, dry cleaning plants	—	—	—	P	
Manufacturing/processing - Light	—	—	P	P	
Manufacturing/processing - Medium intensity	—	—	—	P	
Manufacturing/processing - Cannabis	—	—	P(16,17)	P(16,17)	PMC 10.15
Media production	—	—	P	P	
Petroleum product storage and distribution	—	—	—	CUP	
Printing and publishing	—	—	P	P	
Recycling facility	—	—	CUP	CUP	
Recycling facility - Scrap and dismantling yard	—	—	—	—	
Retail Sale and Delivery - Cannabis	—	—	P(16,17)	P(16,17)	PMC 10.15
Research and development	—	—	P	P	
Storage yard- outdoor	—	—	—	CUP	
Storage - warehouse, indoor storage	—	—	CUP	P	
Wholesaling and distribution	—	—	P	P	
LODGING					
Lodging - Hotel/Motel	—	P	CUP	—	
RECREATION, EDUCATION & PUBLIC ASSEMBLY					
Cardroom	CUP	CUP	CUP	—	Chapter 9
Community Meeting Facility	P	P	CUP	CUP	
Commercial recreation - Indoor	—	CUP	CUP	—	
Commercial recreation - Outdoor	—	CUP	—	—	
Conference/convention facility	—	—	CUP	—	
Fitness/health facility	P	P	P	CUP	
Park	P	P	P	P	
School - Elementary, secondary, or college, private	—	—	CUP	—	
School - Specialized Education and Training	P(6)	P(6)	CUP	—	
Sports and entertainment assembly	—	—	—	—	
Studio - Art, dance, martial arts, music, etc.	P	P	P	—	
RESIDENTIAL					
Emergency Shelter	—	—	—	P	
Dwelling, Caretaker	—	—	P	P	
Home Occupation	A, S(2)	A, S(2)	—	—	Section 7.050
Residential care, 7 or more clients	CUP(10)	CUP(10)	—	—	
Residential care, adult	CUP(10)	CUP(10)	—	—	
Residential care, for the chronically ill	CUP(10)	CUP(10)	—	—	
Residential care, for the elderly	CUP(10)	CUP(10)			
Residential in mixed use building	P(10)	P(10)	—	—	
Work/Live	P(6)	P(6)	—	—	

TABLE 4.4 Allowed Land Uses and Permit Requirements for Commercial, Business Park, and Industrial Zones	P(16) Permitted Use CUP Conditional Use Permit Required S Permit Requirement in Specific Use Regulations A Accessory Use — Use Not Allowed				
	Permit Required by Zone				Specific Use Regulations
LAND USE TYPE (1)	C1	C2	BP	I	
RETAIL					
Adult oriented business	CUP	CUP	—	—	Chapter 10
Artisan Shop	P	P	—	—	
Auto vehical sales and rental	—	—	—	—	
Bar, tavern, night club	CUP	CUP	—	—	Chapter 8
Building and landscape materials sales - Indoor	P	P	—	—	
Building and landscape materials sales - Outdoor	—	—	—	—	
<u>Fueling Station</u> /Gas station	<u>P</u>	<u>P</u>	<u>CUP</u>	—	
General retail	P	P	—	—	
Groceries/specialty foods - 25,000 sf or less	P	P	—	—	
Groceries/specialty foods - More than 25,000 sf	P	P	—	—	
Plant nursery	P	P	—	—	
Restaurant, café, coffee shop	P	P	P(9)	P(9)	
SERVICES - BUSINESS, FINANCIAL, PROFESSIONAL					
ATM	P	P	P	P	
Bank, financial services	P	P	P	—	
Business support service	P	P	P	P	
Medical services - Health Care Facility	P(6)	P(6)	P	—	
Medical services - Major	—	—	P	—	
Medical services - Minor	P(6), (11)	P(6), (11)	P	—	
Office - government	P	P	P	—	
Office - Headquarters, or processing	P(6)	P(6)	P	—	
Office - Professional, administrative	P	P	P	—	
SERVICES - GENERAL					
Adult Day Program	P	P	P	—	
Child Care Center	P	P	P(6)	P(6)	
Child day care - Large Family	—	—	—	—	
Child day care - Small Family	A(3)	A(3)	—	—	
Kennel, animal boarding	—	—	—	CUP	
Maintenance/repair service - Client site services	—	—	P	P	
Maintenance/repair service - Equipment, appliances	—	—	—	P	
Meals Assembly Business	P(12)	P(12)	—	—	
Mortuary, funeral home	—	—	—	—	
Personal services	P	P	—	—	
Personal services - Restricted	P	P	—	—	
Public safety facility	P	P	P	P	
Vehicle services - Major repair/body work	—	—	—	P	
Vehicle services - Minor maintenance/repair	—	—	—	P	
Veterinary clinic, animal hospital	P(8)	P(8)	P	P	

TABLE 4.4 Allowed Land Uses and Permit Requirements for Commercial, Business Park, and Industrial Zones	P(16)		Permitted Use		
	CUP		Conditional Use Permit Required		
	S		Permit Requirement in Specific Use Regulations		
	A		Accessory Use		
	—		Use Not Allowed		
LAND USE TYPE (1)	Permit Required by Zone				Specific Use Regulations
	C1	C2	BP	I	
TRANSPORTATION, COMMUNICATIONS, INFRASTRUCTURE					
City water & sewer facility	P	P	P	P	
Parking facility, public or commercial	CUP	CUP	—	—	
Telecommunications facility	S	S	S	S	Section 7.090 & Muni Code 14.44
Utility facility	CUP	CUP	CUP	CUP	
<u>Zero Emission Vehicles (Battery Charging Station)</u>	<u>A (18)</u>	<u>A (18)</u>	<u>A (18)</u>	<u>A (18)</u>	
<u>Zero Emission Vehicles (Hydrogen Fuel Cell Station)</u>	<u>P, A (19)</u>	<u>P, A (19)</u>	<u>=</u>	<u>=</u>	

Key to zone symbols:**C1 - Commercial 1****BP - Business Park****C2 - Commercial 2****I - Industrial****Notes:**

- (1) See glossary for land use definitions.
- (2) Home Occupation Permit and Business License Required
- (3) Business License Required
- (4) Business License & Compliance with Section 7.060 Required
- (5) Site Plan and Architectural Review Required & Compliance with Section 7.040 Required
- (6) Use allowed only on an upper floor or behind a ground floor street fronting use; use in other locations allowed subject to a CUP
- (7) Permitted use (P) if limited to a maximum of 5,000 square feet on the ground floor
- (8) A CUP is required for overnight board and care
- (9) Neighborhood serving and open at lunch
- (10) Allowed only on floors above the ground floor
- (11) Urgent care facilities may be located on the ground floor as a street fronting use
- (12) Allowed only in a shopping center
- (13) Use permitted only on Lakeville Highway between Baywood Drive and Casa Grande Road
- (14) See section 21.030 (Residential Uses Abutting Non-Residential Uses)
- (15) Short-term vacation rental permit, business license and transient occupancy tax certificate required (see section 7.110 of Implementing Zoning Ordinance)
- (16) Use must be at least 600 feet from a school or a childcare center, at least 200 feet from parks, youth centers, or the library, and 100 feet from residential districts as measured from property line to property line
- (17) All Cannabis Businesses must obtain an annual Commercial Cannabis Permit
- (18) Pursuant to Government Code Section 65850.7, this Zoning Ordinance requires no permit for stations.
- (19) Allowed as primary or accessory use when located on site of an existing Fueling Station/Gas Station land use.

Civic Facility Zone		
TABLE 4.5 Allowed Land Uses and Permit Requirements for Civic Facility Zone	P(16)	Permitted Use
	CUP	Conditional Use Permit Required
	S	Permit Requirement in Specific Use Regulations
	A	Accessory Use
	—	Use Not Allowed
LAND USE TYPE (1)	Permit Required by Zone	Specific Use Regulations
	CF	
RECREATION, EDUCATION & PUBLIC ASSEMBLY		
Park	P	
Community Meeting Facility	CUP	
School - Elementary, secondary, or college, private	CUP	
Theater, cinema or performing arts	CUP	Theater District Ord. 2158
RESIDENTIAL		
Emergency Shelter	CUP	
Dwelling, Caretaker	P	
SERVICES - BUSINESS, FINANCIAL, PROFESSIONAL		
Office - Business, service, or government	P	
SERVICES - GENERAL		
Adult Day Program	CUP	
Child Care Center	P	
Public safety facility	P	
TRANSPORTATION, COMMUNICATIONS, INFRASTRUCTURE		
City water & sewer facility	P	
Parking facility, public or commercial	P	
Telecommunications facility	S	Section 7.090 & Muni Code 14.44
Utility facility	CUP	
<u>Zero Emission Vehicles (Battery Charging Station)</u>	<u>A (18)</u>	

Key to zone symbols:**CF - Civic Facilities****Notes:**

- (1) See glossary for land use definitions.
- (2) Home Occupation Permit and Business License Required
- (3) Business License Required
- (4) Business License & Compliance with Section 7.060 Required
- (5) Site Plan and Architectural Review Required & Compliance with Section 7.040 Required
- (6) Use allowed only on an upper floor or behind a ground floor street fronting use; use in other locations allowed subject to a CUP
- (7) Permitted use (P) if limited to a maximum of 5,000 square feet on the ground floor
- (8) A CUP is required for overnight board and care
- (9) Neighborhood serving and open at lunch
- (10) Allowed only on floors above the ground floor
- (11) Urgent care facilities may be located on the ground floor as a street fronting use
- (12) Allowed only in a shopping center
- (13) Use permitted only on Lakeville Highway between Baywood Drive and Casa Grande Road
- (14) See section 21.030 (Residential Uses Abutting Non-Residential Uses)
- (15) Short-term vacation rental permit, business license and transient occupancy tax certificate required (see section 7.110 of Implementing Zoning Ordinance)

TABLE 4.6 OSP AND AG ZONE DEVELOPMENT STANDARDS

Development Feature	Requirement by Zone	
	OSP Open Space & Parks	AG Agriculture
Lot size	<i>Minimum area and width required for each lot in a new subdivision</i>	
Minimum area	NA	20,000 sf
Minimum width		
Interior lot	NA	100 ft
Corner lot	NA	110 ft
Minimum depth	NA	130 ft
Setbacks	<i>Minimum setbacks required. See Chapter 12 for modifications, reductions, and encroachments. See Chapter 7 for any setback requirements applicable to a specific land use.</i>	
Primary structure		
Front	40 ft ¹	30 ft
Side – Interior (each)	20 ft ¹	15 ft
Side – Street side	40 ft ¹	30 ft
Rear	40 ft ¹	30 ft
Garage front	40 ft ¹	30 ft
Detached Accessory Structure		
Front	Not Permitted ¹	Not Permitted
Side – Interior (each)	4 ft ¹	4 ft
Side – Street	30 ft ¹	30 ft
Rear	5 ft ¹	5 ft
Site coverage	<i>The percent of the total site area covered by structures, open or enclosed, excluding uncovered steps, patios and terraces.</i>	
Maximum coverage		
Primary structure	NA	NA
Accessory structure, detached	10% of the required setback area or 500 sf, whichever is greater	10% of the required setback area or 500 sf, whichever is greater
Height limit	<i>Maximum allowable height of structures. See Glossary for height measurement requirements, and Chapter 12 for height limit modifications.</i>	
Maximum height		
Principal Building	25 ft	25 ft
Accessory Structure	25 ft	25 ft
Usable Open Space	NA	NA
Fencing, Landscaping, & Tree Preservation	See Chapters 13, 14, and 17	
Parking	See Chapter 11	
Signs	See Chapter 20	

1. The development standards for buildings and structures in City parks shall be as prescribed in Table 4.13 (Civic Facilities).

TABLE 4.7 – RR AND R1 ZONE DEVELOPMENT STANDARDS

Development Feature	Requirement by Zone	
	RR Rural Residential	R1 Residential 1
Lot size	<i>Minimum area and width required for each lot in a new subdivision</i>	
Minimum area	2 acres ¹	20,000 sf ¹
Minimum width		
Interior lot		100 ft
Corner lot	150 ft 165 ft	110 ft
Minimum depth	150 ft	130 ft
Setbacks	<i>Minimum setbacks required. See Chapter 12 for modifications, reductions, and encroachments. See Chapter 7 for any setback requirements applicable to a specific land use.</i>	
Primary structure		
Front	40 ft	30 ft
Side – Interior (each)	20 ft	15 ft
Side – Street side	40 ft	30 ft
Rear	40 ft	30 ft
Garage front	40 ft	30 ft
Detached Accessory Structure		
Front	Not Permitted	Not Permitted
Side – Interior (each)	4 ft	4 ft
Side – Street	40 ft	30 ft
Rear	5 ft	5 ft
Rear – Accessory Dwelling	4 ft	4 ft
Site coverage	<i>The percent of the total site area covered by structures, open or enclosed, excluding uncovered steps, patios and terraces.</i>	
Maximum coverage		
Primary structure	NA	NA
Accessory structure, detached ²	10% of the required setback area or 500 sf, whichever is greater	10% of the required setback area or 500 sf, whichever is greater
Height limit	<i>Maximum allowable height of structures. See Glossary for height measurement requirements, and Chapter 12 for height limit modifications.</i>	
Maximum height		
Principal Building	25 ft	25 ft
Accessory Structure	15 ft	15 ft
Accessory Dwelling	21 ft	21 ft
Usable Open Space	NA	NA
Fencing, Landscaping, & Tree Preservation	See Chapters 13, 14, and 17	
Parking	See Chapter 11	
Signs	See Chapter 20	

1. If slope of the parcel is 10% or greater, the minimum parcel size is determined by Section 16.070(C).

2. See Section 7.030. Does not apply to accessory dwelling units 800 sf or less.

TABLE 4.8 – R2 AND R3 ZONE DEVELOPMENT STANDARDS

Development Feature	Requirement by Zone	
	R2 Residential 2	R3 Residential 3
Lot size	<i>Minimum area and width required for each lot in a new subdivision</i>	
Minimum area	6,000 sf ¹	4,000 sf ¹
Minimum width		
Interior lot	50 ft	40 ft
Corner lot	55 ft	45 ft
Minimum depth	70 ft	70 ft
Setbacks	<i>Minimum setbacks required. See Chapter 12 for modifications, reductions, and encroachments. See Chapter 7 for any setback requirements applicable to a specific land use.</i>	
Primary structure		
Front	20 ft	15 ft
Side – Interior (each)	5 ft	3 ft
Side – Street side		
Corner Lot	10 ft	10 ft
Reverse Corner Lot	15 ft	10 ft
Rear	20 ft	15 ft
Garage front	20 ft	20 ft
Detached Accessory Structure		
Front	Not Permitted	Not Permitted
Side – Interior (each)	4 ft	4 ft
Side – Street	10 ft	10 ft
Rear	5 ft	5 ft
Rear – Accessory Dwelling	4 ft	4 ft
Site coverage	<i>The percent of the total site area covered by structures, open or enclosed, excluding uncovered steps, patios and terraces.</i>	
Maximum coverage		
Primary structure	NA	NA
Accessory structure, detached ²	10% of the required setback area or 500 sf, whichever is greater	10% of the required setback area or 500 sf, whichever is greater
Height limit	<i>Maximum allowable height of structures. See Glossary for height measurement requirements, and Chapter 12 for height limit modifications.</i>	
Maximum height		
Principal Building	25 ft	25 ft
Accessory Structure	15 ft	15 ft
Accessory Dwelling	21 ft	21 ft
Usable Open Space	NA	600 sf
Fencing, Landscaping, & Tree Preservation	See Chapters 13, 14, and 17	
Parking	See Chapter 11	
Signs	See Chapter 20	

1. If slope of the parcel is 10% or greater, the minimum parcel size is determined by Section 16.070(C).

2. See Section 7.030. Does not apply to accessory dwelling units 800 sf or less.

TABLE 4.9 – R4 AND R5 ZONE DEVELOPMENT STANDARDS

Development Feature	Requirement by Zone	
	R4 Residential 4	R5 Residential 5
Lot size	<i>Minimum area and width required for each lot in a new subdivision</i>	
Minimum area	3,500 sf ¹	1,500 sf ¹
Minimum width		
Interior lot	35 ft	NA
Corner lot	40 ft	NA
Minimum depth	70 ft	NA
Setbacks	<i>Minimum setbacks required. See Chapter 12 for modifications, reductions, and encroachments. See Chapter 7 for any setback requirements applicable to a specific land use.</i>	
Primary structure		
Front	10 ft	0 ft
Side – Interior (each)	0 ft	0 ft
Side – Street side	10 ft	0 ft
Rear	10 ft	0 ft
Garage front	20 ft	0 ft
Detached Accessory Structure		
Front	Not Permitted	Not Permitted
Side – Interior (each)	4 ft	4 ft
Side – Street	10 ft	10 ft
Rear	5 ft	5 ft
Rear – Accessory Dwelling	4 ft	4 ft
Site coverage	<i>The percent of the total site area covered by structures, open or enclosed, excluding uncovered steps, patios and terraces.</i>	
Maximum coverage		
Primary structure	60%	NA
Accessory structure, detached ²	10% of the required setback area or 500 sf, whichever is greater	NA
Height limit	<i>Maximum allowable height of structures. See Glossary for height measurement requirements, and Chapter 12 for height limit modifications.</i>	
Maximum height		
Principal Building	35 ft	45 ft ³
Accessory Structure	25 ft	25 ft
Accessory Dwelling	21 ft	21 ft
Usable Open Space	300 sf/unit	400 sf/unit May include common open space
Fencing, Landscaping, & Tree Preservation	See Chapters 13, 14, and 17	
Parking	See Chapter 11	
Signs	See Chapter 20	

1. If slope of the parcel is 10% or greater, the minimum parcel size is determined by Section 16.070(C).

2. See Section 7.030. Does not apply to accessory dwelling units 800 sf or less.

3. An increase in height may be permissible as prescribed in Section 12.025.

TABLE 4.10 MU1 AND MU2 ZONE DEVELOPMENT STANDARDS

Development Feature	Requirement by Zone	
	MU1 Mixed Use 1	MU Mixed Use 2
Lot size	<i>Minimum area and width required for each lot in a new subdivision</i>	
Minimum area	NA	2,000 sf
Minimum width	NA	NA
Minimum depth	NA	NA
Setbacks Primary structure	<i>Minimum setbacks required. See Chapter 12 for modifications, reductions, and encroachments. See Chapter 7 for any setback requirements applicable to a specific land use.</i>	
Front	0 ft	0 ft minimum 10 ft maximum
	0 ft	0 ft minimum 10 ft maximum
Side – Interior (each)	Abutting an R District: 15 ft plus 1 foot of additional setback for each foot of building height over 20 ft	Abutting an R District: 15 ft plus 1 foot of additional setback for each foot of building height over 20 ft
Side – Street side	0 ft	0 ft minimum 10 ft maximum
	0 ft	0 ft
Rear	Abutting an R District: 15 ft plus 1 foot of additional setback for each foot of building height over 20 ft	Abutting an R District: 15 ft plus 1 foot of additional setback for each foot of building height over 20 ft
Garage front	NA	NA
Detached Accessory Structure		
Front	Not Permitted	Not Permitted
Side – Interior (each)	4 ft	4 ft
Side – Street	10 ft	10 ft
Rear	5 ft	5 ft
Rear – Accessory Dwelling	4 ft	4 ft
Site coverage Maximum coverage ²	Floor Area Ratio. The gross floor area of all buildings on a lot divided by the building site area.	Site Coverage. The percent of the total site area covered by structures, open or enclosed, excluding uncovered steps, patios and terraces.
	2.5 floor area ratio	80 % 100% for structured parking
Height limit Maximum height	<i>Maximum allowable height of structures. See Glossary for height measurement requirements, and Chapter 12 for height limit modifications.</i>	
Principal Building	30 ft ¹	45 ft
Accessory Structure	20 ft	20 ft
Usable Open Space	30 sf/unit ²	30 sf/unit ²
Fencing, Landscaping, & Tree Preservation	See Chapters 13, 14, and 17	
Parking	See Chapter 11	
Signs	See Chapter 20	

1. When the building is more than 30 feet from an abutting property line, one additional foot of height is permitted with each additional foot of setback over 30 feet for a maximum building height of 45 feet.

2. See Section 7.030. Does not apply to accessory dwelling units 800 sf or less.
3. The minimum depth of usable open space is 3 feet. Usable common open space is strongly encouraged.

TABLE 4.11 – C1 AND C2 ZONE DEVELOPMENT STANDARDS

Development Feature	Requirement by Zone	
	C1 Commercial 1	C2 Commercial 2
Lot size	<i>Minimum area and width required for each lot in a new subdivision</i>	
Minimum area	NA	NA
Minimum width	NA	NA
Minimum depth	NA	NA
Setbacks	<i>Minimum setbacks required. See Chapter 12 for modifications, reductions, and encroachments. See Chapter 7 for any setback requirements applicable to a specific land use.</i>	
Primary structure		
Front	0 ft	0 ft
	0 ft	0 ft
Side – Interior (each)	Abutting an R District: 15 ft plus 1 foot of additional setback for each foot of building height over 20 ft	Abutting an R District: 15 ft plus 1 foot of additional setback for each foot of building height over 20 ft
Side – Street side	0 ft	0 ft
	0 ft	0 ft
Rear	Abutting an R District: 15 ft plus 1 foot of additional setback for each foot of building height over 20 ft	Abutting an R District: 15 ft plus 1 foot of additional setback for each foot of building height over 20 ft
Garage front	NA	NA
Detached Accessory Structure		
Front	Not Permitted	Not Permitted
Side – Interior (each)	4 ft	4 ft
Side – Street	10 ft	10 ft
Rear	5 ft	5 ft
Site coverage	<i>Floor Area Ratio. The gross floor area of all buildings on a lot divided by the building site area.</i>	
Maximum Coverage		
Floor Area Ratio	0.8	1.2
Height limit	<i>Maximum allowable height of structures. See Glossary for height measurement requirements, and Chapter 12 for height limit modifications.</i>	
Maximum height		
Principal Building	30 ft	40 ft
Accessory Structure	15 ft	15 ft
Usable Open Space	NA	NA
Fencing, Landscaping, & Tree Preservation	See Chapters 13, 14, and 17	
Parking	See Chapter 11	
Signs	See Chapter 20	

TABLE 4.12 – BP AND I ZONE DEVELOPMENT STANDARDS

Development Feature	Requirement by Zone	
	BP Business Park	I Industrial
Lot size	<i>Minimum area and width required for each lot in a new subdivision</i>	
Minimum area	20,000 sf	20,000 sf
Minimum width		
Interior lot	100 ft	100 ft
Corner lot	110 ft	110 ft
Minimum depth	100 ft	100 ft
Setbacks	<i>Minimum setbacks required. See Chapter 12 for modifications, reductions, and encroachments. See Chapter 7 for any setback requirements applicable to a specific land use.</i>	
Primary structure		
Front	0 ft	0 ft
Side – Interior (each)	0 ft	0 ft
Side – Street side	Adjacent to a non-industrial or non-business park use: 20 ft	Adjacent to a non-industrial or non-business park use: 20 ft
Rear	0 ft	0 ft
Garage front	Adjacent to a non-industrial or non-business park use: 20 ft	Adjacent to a non-industrial or non-business park use: 20 ft
Detached Accessory Structure	NA	NA
Front	Not Permitted	Not Permitted
Side – Interior (each)	4 ft	4 ft
Side – Street	10 ft	10 ft
Rear	5 ft	5 ft
Site coverage	<i>Floor Area Ratio. The gross floor area of all buildings on a lot divided by the building site area.</i>	
Maximum Coverage		
Floor Area Ratio	1.5	0.6
Height limit	<i>Maximum allowable height of structures. See Glossary for height measurement requirements, and Chapter 12 for height limit modifications.</i>	
Maximum height		
Principal Building	40 ft	40 ft
Accessory Structure	15 ft	15 ft
Usable Open Space	NA	NA
Fencing, Landscaping, & Tree Preservation	See Chapters 13, 14, and 17	
Parking	See Chapter 11	
Signs	See Chapter 20	

TABLE 4.13 – CF ZONE DEVELOPMENT STANDARDS

Development Feature	Requirement by Zone
	CF Civic Facilities
Lot size	<i>Minimum area and width required for each lot in a new subdivision</i>
Minimum area	Same as abutting zoning district
Minimum width	
Interior lot	Same as abutting zoning district
Corner lot	
Minimum depth	Same as abutting zoning district
Setbacks	<i>Minimum setbacks required. See Chapter 12 for modifications, reductions, and encroachments. See Chapter 7 for any setback requirements applicable to a specific land use.</i>
Primary structure	
Front	Same as abutting zoning district
Side – Interior (each)	Same as abutting zoning district
Side – Street side	Same as abutting zoning district
Rear	Same as abutting zoning district
Garage front	Same as abutting zoning district
Detached Accessory Structure	
Front	Not Permitted
Side – Interior (each)	4 ft
Side – Street	10 ft
Rear	5 ft
Site coverage	<i>The percent of the total site area covered by structures, open or enclosed, excluding uncovered steps, patios and terraces.</i>
Maximum coverage	
Primary structure	Same as abutting zoning district
Accessory structure, detached	Same as abutting zoning district
Height limit	<i>Maximum allowable height of structures. See Glossary for height measurement requirements, and Chapter 12 for height limit modifications.</i>
Maximum height	
Principal Building	25 ft
Accessory Structure	15 ft
Usable Open Space	NA
Fencing, Landscaping, & Tree Preservation	See Chapters 13, 14, and 17
Parking	See Chapter 11
Signs	See Chapter 20

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Chapter 11 **Parking and Loading Facilities, Off-Street**

11.010 - Purpose of Off-Street Parking and Loading

This chapter establishes regulations to reduce street congestion and traffic hazards in the City of Petaluma by incorporating safe, adequate, attractively designed facilities for off-street parking and loading as an integral part of every use of land in the City requiring such facilities and by providing adequate shower facilities in commercial settings to encourage employee bicycle commuting to and from the workplace.

11.020 - Definitions

The following definitions shall apply to this chapter:

- A. **Floor Area.** In the case of office, merchandise or service uses, the gross area used or intended to be used by tenants, or for service to the public as customers, patrons, clients, or patients including areas occupied by fixtures and equipment used for display or sales of merchandise. It does not include areas used principally for non-public purposes, such as storage and incidental repair.
- B. **Off-Street Parking Space.** A permanently surfaced area for automobile and bicycle parking which has been delineated, in accordance with City standards, located either within a structure or in the open, excluding aisles, driveways and access drives.
- C. **Off-Street Parking Facility.** A site, or a portion of a site, devoted to off-street parking of automobiles and bicycles, including parking spaces, aisles, access drives and landscaped areas, and providing automobile and bicycle access to a public street or bikeway.

11.030 - Off-Street Parking – General Regulations

The following general requirements apply to off-street parking:

- A. **Off-Street Parking.** There shall be provided on the same site with any use off-street parking, spaces for automobiles and bicycles in accordance with the requirements of this Chapter, or as provided in Section 11.040 (Alternatives to On-Site Parking). In all cases where bicycle parking is required, bicycle parking shall not be more inconveniently located than car parking and attempts should be made to have bicycle parking more convenient. All deviations from the City of Petaluma Municipal Code or the City of Petaluma Zoning Ordinance regarding bicycle parking shall be routed through the PBAC. Where existing buildings not now meeting these requirements are proposed to be enlarged or increased in capacity in excess of ten percent (10%), in any district except as provided in Table 11.1 for addition of new bedrooms, off-street parking shall be provided as required herein for the entire floor area of the structure.
- B. **Off-Street Parking Facilities to Serve One Use.** Off-street parking facilities for one use shall not be considered as providing required off-street parking facilities for any other use except as provided for in Section 11.065(C).
- C. **More Than One Use on a Site.** If more than one use is located on a site, the number of parking spaces provided shall be equal to the sum of the requirements prescribed in this Chapter for each use.

11.035 - Exception to Off-Street Parking

Sites and structures located in a municipal parking assessment district are exempt from the requirement to provide off-street parking facilities.

11.040 - Alternatives to On-Site Parking

- A. The requirements of Section 11.030(A) shall be considered satisfied if the required parking is provided up to six hundred (600) feet from the site of the use being served and the required bicycle parking is provided up to 100 feet from the site, such distance being measured along the shortest available route of pedestrian access to the primary building entrance. The determination of the distance to be permitted (0-600') shall be made by the Community Development Director on a case-by-case basis. The Director shall consider the following in making the determination: type of use being served; ease of bicycle and pedestrian access from the off-site location to the site

being served; characteristics of the off-site parking facility(s); potential adverse effects that reduced on-site parking may present to the immediate area; term of off-site rental/lease arrangements. This alternative does not apply to residential parking.

- B. Requirements for the provision of parking facilities, with respect to two or more establishments on the same or different sites, may be satisfied by the permanent allocation of the requisite number of spaces for each use in a common parking facility, located not farther than three hundred (300) feet measured along the shortest available route of pedestrian access from the site of any such participating use. In such cases, bicycle parking shall still be required adjacent to each building.
- C. The Director may approve valet parking in place of on-site parking. For purposes of this section, valet parking is defined as an approved parking facility more than 300 feet from the facility served, together with a developer or occupant-provided service which either provides on-demand customer transportation to the facility from the parking area, and vice-versa, or which provides attendants to park and retrieve customer vehicles from the parking area. The following standards shall apply to valet parking:
 - 1. The lot to be used for valet parking must be able to accommodate the number of parking spaces that are required in Section 11.060 of this Ordinance. The on-site parking spaces being provided for this use may be deducted from the total number required in Section 11.060.
 - 2. The standards for off-street parking facilities in Section 11.070 of this Ordinance shall apply to valet parking lots except that, if attendants will park the cars, the requirements of Sections 11.070(A) and (B) may be relaxed, consistent with practical design standards.
 - 3. Valet parking lots shall not be permitted in residential zoning districts (RR, R1, R2, R3, R4, R5, MH, or residential P.U.D. districts).
 - 4. The valet parking lot shall be located within 1/2 mile of the use that it serves.
 - 5. If the valet parking lot serves more than one use, the number of spaces provided shall be equal to the sum of the requirements prescribed in Section 11.060 for each use.
 - 6. The valet parking service (attendants or transportation) shall be maintained in service during all hours of operation of the facility served.
 - 7. At any time that the valet parking lot is no longer available for use as a valet parking lot for the approved use, that use shall cease or be reduced to an intensity consistent with available off-street parking until such time as the required off-street parking can be provided.
 - 8. The applicant for valet parking shall be required to submit proof of entitlement to use the proposed valet parking area (lease, rental agreement, ownership) and any permit granted pursuant to this ordinance may be conditioned upon the duration of such entitlement.

11.050 - Planned Districts

Separate parking requirements may be adopted pursuant to Chapter 19 for Planned Unit. The more restrictive requirements of this Zoning Ordinance or the Planned District regulations shall prevail.

11.060 - Number of Automobile Parking Spaces Required

The number of automobile parking spaces required shall be determined as indicated in Table 11.1.

Table 11.1

Use	Number of Parking Spaces Required
Artisan/Craft Product Manufacturing	1 space per 500 square feet of gross floor area
Artisan Shop	1 for each 300 gross square feet of floor area
Auto and Vehicle Sales	1 for each 400 square feet of gross floor area
Auto Parts Sales	1 for each 300 gross square feet of floor area
Banks and Financial Services	1 for each 300 gross square feet of floor area
Bars, Taverns, Nightclubs	1 for each 2.5 seats
Bed and Breakfast Inns	1 for each guest room plus 1 for the inn owner/manager
Child Care Center	1 for each staff member (employee, parent volunteer, etc.) plus 1 loading/unloading space for each 10 children
Commercial Recreation- Bowling Alleys	5 for each alley
Commercial Recreation- Indoor. Dance halls, coin operated amusement arcades, electronic games arcades, ice and roller skating, pool and billiard rooms.	1 for each 50 square feet of gross floor area
Conference/Convention Facility	1 for each 3.5 seats of maximum seating capacity or 1 for each 60 square feet of gross floor area if there are no fixed seats
Dwelling- Accessory	No additional parking requirements apply beyond what currently exists for the existing primary dwelling See specific use regulations in Section 7.030
Dwelling- Single Household, including Attached Townhomes	1 covered space plus 2 additional covered or uncovered spaces
Dwelling- Single Household Addition of New Bedrooms	1 additional space for each additional bedroom over 4 bedrooms
Dwelling- Single Household Conversion of Required Covered Parking to Living Space	Space(s) converted to living quarters replaced with covered or uncovered parking space No replacement parking required for conversions to accessory dwelling units or junior accessory dwelling units.
Dwelling- Mobile Home Park	2 for each mobile home space in the park
Dwellings- Multiple Household	1 which may be covered or uncovered for each bedroom, studio, or efficiency unit. In no case shall a project provide an overall parking ratio of less than 1.5 spaces per unit.
Fueling/Gas Stations	1 for each Pump Island, plus 1 for each Service Bay, plus 1 for each Employee on the Maximum Shift

Funeral Homes, Mortuaries	1 for each 5 seats for the aggregate number of seats provided in all assembly rooms of the mortuary
General Retail Groceries, Specialty Foods	1 for each 300 square feet of gross floor area
Hotels and Motels	1 for each living or sleeping unit plus 1 for the owner or manager
Libraries, Museums and Art Galleries	1 for each 1.5 employees plus 1 for each 200 square feet of gross floor area
Maintenance/Repair Service	1 for each 400 square feet of gross floor area
Manufacturing/Processing	1 space per 500 square feet of gross floor area
Medical Services- Health Care Facility Medical Services- Major	1 for each 3 beds plus 1 for each employee on the maximum shift plus 1 for each 2 staff doctors
Medical Services- Minor	1 for each 200 square feet of gross floor area
Offices- Business/Service, Government, Processing, Professional	1 for each 300 gross square feet of floor area
Public/Civic Buildings and Grounds other than Schools and Administrative Offices	1 for each 2 employees on the maximum shift
Religious Facilities	1 for each 4 seats
Restaurant, Coffee Shop, Café	1 for each 2.5 seats
Rooming, Boarding, Lodging Houses	1 for each bedroom
School-Private Elementary and Junior High	1 for each employee on the maximum shift
School-Private High School and College	1 for each employee on the maximum shift 1 for each 2 students
School- Specialized Education and Training	1 for each employee on the maximum shift 1 for each 2 students
Sports and Entertainment Assembly Facility	1 for each 3.5 seats of maximum seating capacity or 1 for each 60 square feet of gross floor area if there are no fixed seats
Studio- Art, Dance, Martial Arts, Music	1 for each employee on the maximum shift 1 for each 2 students
Theater, Cinema or Performing Arts	1 for each 3.5 seats of maximum seating capacity or 1 for each 60 square feet of gross floor area if there are no fixed seats
Vehicle Services- Major and Minor	1 for each 400 square feet of gross floor area
Wholesaling and Warehouse	1 space per 500 square feet of gross floor area
Unspecified Uses of Buildings, Structures, or Premises	The number of spaces shall be determined by the Zoning Administrator (Director) in accordance with the general purposes standards herein. All new structures in Industrial zones shall provide no less than 35 spaces per acre of land

11.065 - Power of the Zoning Administrator (Director) to Modify Requirements

The provisions of this section as to number of spaces may be modified by the Zoning Administrator (Director) in the following cases only. Any other request for modification shall be submitted as, and meet the tests for, a variance. If the modification pertains to bicycle parking, it shall be routed through the PBAC as well.

- A. Compact spaces may be proposed as set forth within the adopted City standards, subject to review and approval of the Planning Commission.
- B. The number of spaces required may be modified for uses such as elderly housing or retirement homes where it can be demonstrated that automobile use or ownership is significantly lower than for other dwelling or lodging houses.
- C. When a common off-street parking facility, located within three hundred (300) feet of the uses served will provide twenty (20) or more parking spaces, the total number of parking spaces required for all the uses served may be reduced by not more than twenty-five (25) percent upon the obtaining of a conditional use permit. The Zoning Administrator (Director) shall determine prior to granting a conditional use permit for such a reduction that the typical use of the off-street parking facility would be staggered to such an extent that the reduced number of spaces would be adequate to serve all uses sharing the facility.

11.070 - Standards for Off-Street Automobile Parking Facilities

All off-street parking facilities shall conform with the following standards:

- A. **Aisles.** Access to each off-street automobile or bicycle parking space shall be from a driveway or aisle, which is sufficient for readily turning and maneuvering automobiles and bicycles.
- B. **Access.** Each parking space shall be accessible from a street or alley or from an aisle or drive connecting with a street or alley. No off-street parking facility for five (5) or more spaces in an R District shall be designed so that vehicles must back across a sidewalk in order to gain access to a street or alley.

When a parking facility does not abut a public or private street, alley, or access easement, there shall be provided an access drive of not less than twenty (20) feet in width, except as follows:

- 1. Drives furnishing access to parking facilities serving from three (3) to ten (10) dwelling units shall be not less than twelve (12) feet in width and drives serving two (2) or fewer dwelling units shall be not less than ten (10) feet in width.
 - 2. Where separated one-way access drives are proposed, these shall consist of two (2) drives each of which shall not be less than twelve (12) feet in width.
- C. **Site Distance.** Each entrance and exit to a parking lot or driveway shall be constructed and maintained so that any vehicle entering or leaving such parking lot shall be clearly visible a distance of not less than fifteen feet (15') to a person approaching such entrance or exit on any abutting pedestrian walk or foot path and not less than thirty feet (30') to a person approaching such entrance or exit on any abutting bikeway.
- D. **Driveway Gradients.** The maximum gradient for an aisle or drive connecting off-street parking space(s) with the public right-of-way shall not exceed fifteen (15) percent except in hilly areas where maximum gradient shall not exceed eighteen (18) percent and the maximum change in gradient of any such aisle or drive shall not exceed twelve (12) percent rise or eight (8) percent decline in any thirty (30) linear feet.
- E. **Parking in Required Yards.** Parking areas for other than single-family, residential duplex, and bed and breakfast structures shall not be permitted in required front setback or required street side setback.
- F. **Permanent Surface.** Parking areas, aisles, and access drives shall be constructed and maintained to provide a durable, dustless surface and shall be graded and drained to dispose of surface water without damage to private or public properties, streets, or alleys.

- G. **Lighting.** Any lights provided to illuminate a parking facility shall be arranged so as to reflect the light away from any adjacent properties, streets or highways.
- H. **Repair Work.** No repair work or servicing of vehicles shall be conducted on parking area.
- I. **Parking Stall Size.** Parking stall size shall be determined by the Planning Commission in the Site Plan and Architectural Review Procedures and Guidelines.
- J. **Landscape Reserve.** Parking spaces required Industrial and Business Parks zoning districts that exceed current employment needs may be reserved as landscaped area, subject to approval by the Director.

11.080 - Site Plan Approval

All parking facilities except those provided for permitted principal uses in the A, RR, R1, R2, and R3 Districts shall be subject to site plan approval as provided in Section 24.010 of this ordinance, and all areas not used for parking spaces and access drives shall be landscaped in accordance with the standards of Chapter 14 herein.

11.090 - Standards for Bicycle Facilities

The following bicycle facilities shall be provided:

- A. **Number of A Bicycle Parking Spaces Required.** The number of bicycle parking spaces required shall be a minimum of 10% of the automobile spaces required, except for Commercial Recreation and Community Facilities which shall provide a minimum of 25% of the automobile spaces required.
- B. **Type of Bicycle Parking.** The City shall require the installation of a certain percentage of Bicycle Parking (bicycle locker and guarded parking, covered and uncovered bicycle racks) depending on the type of land use. Unless otherwise specified on a case by case basis, of the total bicycle spaces required 60% should be bicycle lockers, another form of enclosed bicycle parking, or guarded parking and 40% should be bicycle racks covered. The intent of this requirement is to provide secure parking at locations where employees and customers will be parking for long periods of time, in particular adjacent to any areas close to public transportation. All deviations from this requirement shall be routed through the PBAC.
- C. **Showers.** Employee shower facilities shall be provided for any new building constructed or for any addition to or enlargement of any existing building in compliance with the Table 11.2:

Table 11.2

Use	Number of Showers Required
Medical, Professional General Business Offices, Financial Services, Business and Trade Schools, General Business Services, Research and Development, Manufacturing	
Less than 10,000 gross square feet	None
10,000-19,999 gross square feet	1
20,000 – 49,999 gross square feet	2
More than 50,000 gross square feet	4
Retail, Personal Services, Eating and Drinking Establishments	
Less than 10,000 gross square feet	None
10,000 -24,999 gross square feet	1
25,000 – 49,999 gross square feet	2
More than 100,000 gross square feet	4

11.095 – Modifications

The provisions of this section as to square footage requiring showers may be modified. Any request for modification shall be routed through the Petaluma Bicycle Advisory Committee for recommendation to the Planning Commission.

11.100 - Off-Street Loading Berth Requirements

For every building or addition, the number of off-street loading berths required shall be as indicated in Table 11.3.

Table 11.3

Use	Number of Loading Berths Required
Motels, hotels, restaurants, public and private business and administrative office, post offices, hospitals, sanitariums, nursing homes, and charitable and religious institutions and clubs	
less than 5,000 sq. ft. of gross floor area	0
5,001 to 50,000 sq. ft. of gross floor area	1
50,001 to 150,000 sq. ft. of gross floor area	2
each additional 150,000 sq. ft. of gross floor area	1
Commercial and industrial establishments, including retail stores, personal service establishments, commercial service enterprises, warehouses, storage facilities, manufacturing plants, and other industrial uses	
less than 12,500 sq. ft. of gross floor area	1
12,501 to 20,000 sq. ft. of gross floor area	2
20,000 to 30,000 sq. ft. of gross floor area	3
30,000 to 50,000 sq. ft. of gross floor area	4
50,000 to 75,000 sq. ft. of gross floor area	5
each additional 25,000 sq. ft. of gross floor space	1
Offices, public buildings other than administrative offices, schools and colleges, places of public assembly, charitable and religious institutions and clubs not used for human habitation, and public utility and public service structures and installations, when any of the foregoing requires the recurring receipt, delivery, or distribution of goods or equipment by truck	One loading berth, plus such additional berths as may be prescribed by the Zoning Administrator (Director)
Mortuaries	
less than 5,000 sq. ft. of gross floor area	1
5,000 to 10,000 sq. ft. of gross floor area	2
each additional 5,000 sq. ft. of gross floor space	1
Cemeteries, columbaria and crematories	One berth plus the number of additional berths prescribed by the Zoning Administrator (Director)
Any other use which requires the recurring receipt or distribution of goods or equipment by truck	One berth plus the number of additional berths prescribed by the Zoning Administrator (Director)

11.105 - Power of the Zoning Administrator to (Director) to Modify or Increase Requirements

The provisions of this section as to number of spaces may be modified or increased by the Zoning Administrator (Director) in the following cases only. Any other request for modification shall be submitted as, and meet the tests for, a variance. If the modification pertains to bicycle parking, it shall be routed through the PBAC as well.

- A. The number of off-street loading spaces may be reduced by not more than ten (10) percent when a common loading facility is provided within three hundred (300) feet of the uses served, upon the obtaining of a conditional use permit. The Zoning Administrator (Director) shall determine prior to granting a conditional use permit for such a reduction that the typical use of the off-street loading facility would be staggered to such an extent that the reduced number of spaces would be adequate to serve all uses sharing the facility.
- B. Off-street loading berths in addition to those prescribed in the schedule of off-street loading berth requirements shall be provided if the Zoning Administrator (Director) finds that such additional berths are necessary to ensure that trucks will not be loaded, unloaded, or stored on public streets. A finding of the Zoning Administrator (Director) shall be based on an investigation of the anticipated frequency of truck pick-ups and deliveries and of the truck storage requirements of the use for which the off-street loading berths are required.

11.110 - Off-Street Loading Facilities – General Regulations

The following general requirements apply to off-street parking:

- A. At the time of initial occupancy, major alteration, or enlargement of a site, or of completion of construction of a structure or of a major alteration or enlargement of a structure, there shall be provided off-street loading facilities for trucks in accordance with the schedule of off-street loading berth requirements prescribed in Section 11.100. For the purpose of this section, the terms “major alteration” or “enlargement” shall mean a change of use or an addition which would increase the number of loading berths required by not less than ten (10) percent of the total number required. The number of loading berths provided for a major alteration or enlargement of a site or structure shall be in addition to the number existing prior to the alteration or enlargement, unless the pre-existing number is greater than the number prescribed in Section 11.100 in which instance the number in excess of the prescribed minimum shall be counted in calculating the number provided to serve the major alteration or enlargement.
- B. **Location of Off-Street Loading Facilities.** Off-street loading facilities prescribed in Section 11.100, inclusive, shall be located on the same site with the use for which the berths are required or on an adjoining site.
- C. **Off-Street Loading Facilities to Serve One Use.** Off-street loading facilities for one use shall not be considered as **providing** required off-street loading facilities for any other use except as provided for in Section 11.105.
- D. **More Than One Use on a Site.** If more than one use is located on a site, the number of loading berths provided shall be equal to the sum of the requirements prescribed in this article for each use. If more than one use is located on a site and the gross floor area of each use is less than the minimum for which loading berths are required, off-street loading berths shall be provided as if the aggregate gross floor area were used for the use requiring the greatest number of loading berths.
- E. Space allocated to any off-street loading berth shall not, while so located, be used to satisfy the space requirements for any off-street parking facility.

11.120 - Standards for Off-Street Loading Facilities

All off-street loading facilities shall conform to the following standards:

- A. Each loading berth shall be not less than forty-five (45) feet in length and twelve (12) feet in width exclusive of aisle or maneuvering space, and shall have an overhead clearance of not less than fourteen (14) feet, except that for mortuaries, cemeteries, columbariums and crematories, a loading berth used exclusively for hearses shall be not less than twenty-four (24) feet in length and ten (10) feet in width and shall have an overhead clearance of not less than eight (8) feet.

- B. Such space may occupy all or any part of any required setback, except front and street side setbacks, and shall not be located closer than fifty (50) feet to any lot in any R District, unless enclosed on all sides by a wall not less than eight (8) feet in height.
- C. Sufficient room for turning and maneuvering vehicles shall be provided on the site.
- D. Each loading berth shall be accessible from a street or alley or from an aisle or drive connecting with a street or alley.
- E. Entrances from and exits to streets and alleys shall be designed to minimize traffic congestion and shall be placed at locations approved by the Zoning Administrator (Director).
- F. The loading area, aisles, and access drives shall be paved so as to provide a durable, dustless surface and shall be so graded and drained so as to dispose of surface water without damage to private or public properties, streets, or alleys.
- G. Bumper rails shall be provided at locations approved by the Zoning Administrator (Director) where needed for safety or to protect property.
- H. If the loading area is illuminated, lighting shall be deflected away from abutting residential sites so as to cause no annoying glare.
- I. No repair work or servicing of vehicles shall be conducted in a loading area.
- J. Landscaping and screening, in accordance with the standards of Chapter 14.

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Chapter 22 Non-Conforming Uses

22.010 - Purpose

The purpose of the regulation of non-conforming uses is to control, reduce, or eliminate conflicts arising from the presence in any district of uses or structures not conforming to district regulations. Where the degree of conflict is sufficiently great as to constitute an impairment of public welfare, peace, or safety, it is the intent of this Chapter to provide an equitable process for the removal of such uses or structures.

22.020 - Definitions

- A. **Non-conforming use.** A non-conforming use is one which was originally legal, but which does not presently conform to the provisions of the district in which it is situated. Any previously existing use for which district regulations now require a use permit shall be deemed to be non-conforming until such a permit is secured.
- B. **Non-conforming structure.** A non-conforming structure is one which was legal at the time of construction, but which does not presently conform to the provisions of the district in which it is situated. Any previously existing structure, including a sign or sign structure, for which district regulations now require a use permit, shall be deemed to be non-conforming until such a permit is secured.

22.030 - Regulation of Non-conforming Uses and Structures

Except as provided at Section 22.035, All non-conforming uses and structures ~~or~~ shall be subject to the following regulations:

- A. **Modifications to Non-Conforming Uses and Structures.** A non-conforming use or structure shall not be enlarged, extended, or moved to a different portion of the lot or parcel of land occupied by such use, except that a non-conforming structure may be reconstructed in such a way as to make it conforming, and residential and accessory structures located in appropriate residential districts which have non-conforming setbacks may be altered or added to, provided that such alterations and additions would not result in a greater non-conformity of setbacks and provided further that minimum setback of ten (10) feet are maintained for a principal structure's front and rear setbacks, three (3) feet for a principal structure's side setback, and three (3) feet side and rear setbacks for accessory structures, including telecommunications facilities (except for exempt facilities).
- B. **Modifications to Non-Conforming Structures and Accessory Dwelling Unit Conversions.** A non-conforming structure that will be converted to an accessory dwelling unit may be reconstructed to occupy the same location, building footprint, and height as the existing structure. A conversion or reconstruction for the purposes of creating a new accessory dwelling unit that is proposing expansion to a nonconforming structure, such as a second story, must provide setbacks of no less than four feet from the side and rear lot lines.
- C. **Change of Use.** No non-conforming use shall be changed to another non-conforming use without approval by the Planning Commission and then only to a use which, in the opinion of the Commission, is of the same or of a more restricted nature.
- D. **Discontinuation of a Non-Conforming Use of a Structure.** A non-conforming use of a structure shall not be re-established if such use has been discontinued for a period of twelve (12) months or more, or has been changed to, or replaced by, a conforming use. Intent to resume use of a non-conforming structure shall not confer the right to do so.
- E. **Discontinuation of a Non-Conforming Use of Land.** A non-conforming use of land, not involving a structure other than fences, signs, and buildings less than four hundred (400) square feet in area shall not be re-established if such use of land has been discontinued for a period of three (3) months or more, or has been changed to, or replaced by, a conforming use. Intent to resume a non-conforming use of land shall not confer the right to do so.
- F. **Damage to a Non-Conforming Structure.** A non-conforming structure which is damaged by fire, flood, or act of God to an extent exceeding fifty (50) percent of its value, as determined by a methodology based on comparable neighborhood values as approved by the Director, shall not be restored or reconstructed except in such a manner

and for such a use as will conform to the regulations for the district in which it is situated.

- G. **Maintenance and Repair.** Notwithstanding any of the foregoing regulations, nothing in this section shall be deemed to prevent normal maintenance and repair of any use or structure or the carrying out upon the issuance of a building permit or major structural alterations or demolitions necessary in the interest of public safety. In granting such a building permit, the Building Official shall state the precise reason why such alterations were deemed necessary.

22.035 - Regulation of Non-conforming Fueling Station/Gas Station Uses and Structures

- A. **Purpose.** To support implementation of General Plan Policy 4-P-10 through regulations that:
1. Provide for the continued operation of Fueling Station/Gasoline Station uses as legal non-conforming uses and describe when they may be deemed abandoned.
 2. Allow alterations to Fueling Station/Gasoline Stations when such changes provide greater protection of the environment, safeguard public health and safety, facilitate the use of zero emission vehicles, or enable other uses permitted within the respective zoning district.
 3. Prohibit Fueling Station/Gasoline Station operations from increasing the storage and dispensing capacity of gasoline and any other fossil fuel.
- B. **Applicability.** This section applies to:
1. All lawfully developed and operating Fueling Station/Gasoline Station uses in existence prior to [insert ordinance effective date; e.g., April 16, 2020].
 2. All Fueling Station/Gasoline Station uses not yet developed and/or operating but subject to an approved and unexpired land use permit.
- C. **Modifications to Fueling Stations/Gas Station Uses, Generally.** Except as provided below, Fueling Station/Gas Station uses and structures related thereto shall not be enlarged, extended, reconstructed or moved to a different portion of the lot or parcel of land occupied by such use. As determined by the Zoning Administrator, examples of features subject to this provision include, but are not limited to, those related to the sale, storage, conveyance, and dispensing of gasoline and any other fossil fuel (e.g., storage tanks, pumps, dispensers).
- D. **Modifications to Improve Soil, Groundwater and Stormwater Quality.** Fueling Station/Gas Station uses may be modified to conform to current stormwater quality control regulations or remediate contamination of the soil or groundwater.
- E. **Modifications to Improve Traffic Safety.** As determined by the City Engineer, the pedestrian and vehicular circulation features (e.g., curbing, sidewalks, traffic control devices) of a Fueling Station/Gas Station use may be modified to improve public safety.
- F. **Modifications to Enable Zero Emission Vehicles (Battery Charging Station).** Fueling Station/Gas Station uses may be modified to accommodate battery charging station(s) for zero emission vehicles. Pursuant to Government Code Section 65850.7, this Zoning Ordinance requires no permit for battery charging stations.
- G. **Modifications to Enable Zero Emission Vehicles (Hydrogen Fuel Cell Station).** Fueling Station/Gas Station uses may be altered to include facilities for the storage, conveyance and dispensing of hydrogen to zero emission vehicles.
- H. **Modifications for Commercial Uses Other Than Fossil Fuel Sales.** Fueling Station/Gas Station uses may be altered to accommodate commercial uses that are not related to fossil fuel sales and provided for in the respective zoning district.
- I. **Discontinuation of a Fueling Station/Gas Station Uses or Structures.** A Fueling Station/Gas Station use shall

not be re-established if such use has been discontinued for a continuous period of twelve (12) months or more, or has been changed to, or replaced by, a conforming use.

- J. Relationship to Section 22.030. All provisions at Section 22.030(C), (F) and (G) are incorporated here by reference and affirmed as applicable to this section.

22.040 - Non-Conformity by Reason of Non-Compliance with Performance Standards or Absence of a Conditional Use Permit

- A. Any use which is non-conforming at the time of the adoption of this Ordinance by reason of non-compliance with performance standards established in Chapter 21 shall adopt measures necessary to conform therewith within five (5) years of the adoption of this Ordinance.
- B. Any use which is non-conforming by reason of failure to secure a use permit shall be subject to the regulations of Section 22.030 until such time as a use permit is secured.

22.050 - Construction Approved Prior to Ordinance

A building, structure or part thereof which does not conform to the regulations for the district in which it is situated, but for which a building permit was issued prior to the enactment of this Ordinance may be completed providing work is prosecuted continuously and without delay. Such building, structure or part thereof shall be deemed to be a non-conforming use and shall thereafter be subject to the restrictions set forth herein.

Chapter 28

Glossary

28.010 - Purpose

The chapter establishes the definitions of terms and phrases that are technical or specialized or that may not reflect common usage. If a word is not defined in this chapter, or in another chapter of this Ordinance, the Director shall determine the correct definition.

28.020 – Definitions of Specialized Terms and Phrases

As used in this Ordinance, the following terms shall have the meaning ascribed to them in this Section, unless the context in which they are used clearly requires otherwise.

A. Definitions, "A."

Abut. Adjoin or border on.

Adult oriented business. As defined in Chapter 10.

Adult Day Program. Any community-based facility or program that provides care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of these individuals on less than a 24-hour basis.

Alcoholic Beverage Establishment. A commercial and non-commercial establishment wherein alcoholic beverages are sold, served, or given away for consumption on the premises, excluding full-service restaurants. Typical alcoholic beverage establishments include but are not limited to the following recognized types of establishments: bars, cocktail lounges, ballrooms, dance bars, piano bars, billiard or game parlors, bowling alleys and nightclubs.

Alley. A public or private way which affords only secondary access to abutting property.

Arborist. 1) A person currently certified by the Western Article of the International Society of Arboriculture as an expert on the care of trees; 2) a consulting arborist who satisfies the requirements of the American Society of Consulting Arborists; or 3) other qualified professionals who the Director determines have gained through experience the qualifications to identify, remove, or replace trees.

Artisan Shop. A retail store selling art glass, ceramics, jewelry, and other handcrafted items, where the facility includes an area for the crafting of the items being sold.

Artisan/Craft Product Manufacturing. Establishments manufacturing and/or assembling small products primarily by hand, including but not limited to jewelry, pottery, ceramics, small glass and metal art, and craft products. May also include small scale artisanal food and beverage product manufacturing.

Automated Teller Machine (ATM). Computerized, self-service machines used by banking customers for financial transactions, including deposits, withdrawals and fund transfers, without face-to-face contact with financial institution personnel. The machines may be located at or within banks, or in other locations.

Auto Parts Sales. Stores that sell new automobile parts and accessories. Establishments that provide installation services are instead included under "Vehicle Services - Repair and Maintenance - Minor." Does not include tire recapping establishments, which are found under "Vehicle Services" or businesses dealing exclusively in used parts, which are included under "Recycling - Scrap and Dismantling Yards."

Auto and Vehicle Sales and Rental. A retail or wholesale establishment selling and/or renting automobiles, trucks and vans, trailers and motorcycles (bicycle sales are included under "General Retail"). May also include repair shops and the sales of parts and accessories, incidental to vehicle dealerships. Does not include: the sale of auto parts/accessories separate from a vehicle dealership (see "Auto Parts Sales"); mobile home, recreational vehicle, or watercraft sales (see "Mobile Home, RV and Boat Sales"); tire recapping establishments (see "Vehicle Services"); businesses dealing exclusively in used parts, (see "Recycling - Scrap and Dismantling Yards"); or "Gas Stations," which are separately defined.

B. Definitions, "B."

Bank, Financial Services. Financial institutions including:

banks and trust companies	other investment companies
credit agencies	securities/commodity contract brokers and dealers
holding (but not primarily operating) companies	security and commodity exchanges
lending and thrift institutions	vehicle finance (equity) leasing agencies

See also, "Automated Teller Machine."

Bar/Tavern. A business where alcoholic beverages are sold for on-site consumption, which are not part of a larger restaurant. Includes bars, taverns, pubs, and similar establishments where any food service is subordinate to the sale of alcoholic beverages. May also include beer brewing as part of a microbrewery. Does not include adult oriented businesses (also see "Night Club").

Bed and Breakfast Inn (B&B). A residential structure with one household in permanent residence, with three or more bedrooms furnished for compensation for overnight lodging, where meals may be provided subject to applicable Health Department regulations. Does not include room rental, which is separately defined (see "Rooming, Lodging, Boarding House, or Short-Term Vacation Rental").

Bedroom. Any space in the conditioned area of a dwelling unit or accessory structure located along an exterior wall, but not including the following: hall; bathroom; kitchen; living room, dining room, family room, laundry room, closet/dressing room opening off of a bedroom. If a home office, library or similar room is proposed, it may be exempted from being considered a bedroom if there is no closet and at least one of the following is present: a) a minimum 4 foot opening, without doors, into another room; or b) a half wall (4 foot maximum height) between the room and another room. A detached building which contains only a half bath will not routinely be considered as having a bedroom unless it is specifically identified and permitted as a guest house.

Block. The properties abutting on one side of a street and lying between the two nearest intersecting or intercepting streets, or nearest intersecting or intercepting street and railroad right-of-way, unsubdivided land, or watercourse.

Building. See "structure"

Building Height. Measured as the vertical distance between the average finish grade and the midpoint between the eaves and ridge of a gambrel, hip or gable roof, or the highest point of a flat or shed roof, or the ridge of the roofline of a mansard roof. When either of the following occurs, a dormer shall also be considered a roof for the purposes of determining building height:

- the width of the roof of the dormer exceeds 49% of the width of the roof of the building; or
- the width of the dormer measured from building wall to building wall exceeds 49% of the width of the building measured from building wall to building wall.

All building elevations are required to comply with the height limit for the zoning district in which the property is located.

Building and Landscape Materials Sales-Indoor. See "General Retail"

Building and Landscape Materials Sales-Outdoor. See "Storage-Yard, Outdoor"

Business Support Service. An establishment within a building that provides services to other businesses. Examples of these services include:

blueprinting	film processing and photo finishing (retail)
computer related services (rental, repair)	protective services
copying and quick printing services	security systems service

C. Definitions, "C."

Catering. A business that prepares and delivers food for consumption on the premises of a client. Does not include mobile food vendors.

Child Care Center. A child day care facility (other than a family day care home) as defined in Government Code Section 65915, subdivision (h), paragraph (4) and successor statuses including, but not limited to, infant centers, preschools, extended day care facilities and school age child care centers that provides non-medical care and supervision for minor children for periods of less than 24 hours and is licensed by the California State Department of Social Services. Excludes "Child Day Care," below.

Child Day Care. Facilities that provide care, protection and supervision of children, in the care giver's home, for periods of less than 24 hours per day, while the parents or authorized representatives are away. These facilities include the following, all of which are required to be licensed by the State of California Department of Social Services.

1. **Large Family.** A home that provides family child care for up to 12 children, or for up to 14 children. These capacities include children under age 10 who live in the licensee's home and the assistant provider's children under age 10. A large family day care home is required to comply with the requirements of Section 7.060.
2. **Small Family.** A home that provides family child care for up to six children, or for up to eight children. These capacities include children under age 10 who live in the licensee's home.

Combining District. Special regulations to be invoked where appropriate or necessary in addition to basic district regulations.

Commercial Recreation - Indoor. Establishments providing indoor amusement and entertainment services for a fee or admission charge, including:

bowling alleys	electronic game arcades (video games, pinball, etc.)
coin-operated amusement arcades	ice skating and roller skating
dance halls, clubs and ballrooms	pool and billiard rooms as primary uses

This use does not include adult oriented businesses, which are separately defined. Four or more electronic games or coin-operated amusements in any establishment, or a premises where 50 percent or more of the floor area is occupied by amusement devices, are considered an electronic game arcade as described above; three or fewer machines are not considered a land use separate from the primary use of the site.

Commercial Recreation - Outdoor. Facilities for various outdoor recreational activities, where a fee is charged for use. Examples include:

amusement and theme parks	miniature golf courses
go-cart tracks	water slides
golf driving ranges	

May also include commercial facilities customarily associated with the above outdoor commercial recreational uses, including bars and restaurants, video game arcades, etc.

Community Meeting Facility. A multi-purpose meeting and/or recreational facility typically consisting of one or more meeting or multi-purpose rooms, which may also include kitchen and/or outdoor cooking or eating facilities, that area available for use by various groups for such activities as meetings, parties, receptions, dances, etc. Community meeting facilities include community center and the following.

1. **Club, Lodge, Private Meeting Hall.** Permanent, headquarters-type and meeting facilities for organizations operating on a membership basis for the promotion of the interests of the members, including facilities for:

business associations	political organizations
civic, social and fraternal organizations	professional membership organizations
labor unions and similar organizations	other membership organizations
2. **Religious Facility.** A facility operated by a religious organization to provide a place for worship, or the promotion of religious activities. This use includes: churches, mosques, synagogues, temples, etc., and their accessory uses on the same site, such as living quarters for staff, fund-raising sales, bazaars, dinners, parties, or other outdoor events on the same site. Other uses defined in the Implementing Zoning Ordinance and identified in Tables 4.1 through 4.5, which may be maintained by religious organizations, such as full-time educational institutions, hospitals, or recreational camps, shall be permitted as set forth in Tables 4.1 through 4.5 of the Implementing Zoning Ordinance.

Conference/Convention Facility. One or more structures accommodating multiple assembly, meeting, and/or exhibit rooms, and related support facilities (e.g., kitchens, offices, etc.).

Coverage. The percent of the total site area covered by structures, open or enclosed, excluding uncovered steps, patios and terraces.

Crop Production, Horticulture, Orchard, Vineyard. Commercial agricultural production field and orchard uses, including the production of the following, primarily in the soil on the site and not in containers, other than for initial propagation prior to planting in the soil on the site:

flowers and seeds	ornamental crops
tree nuts	field crops
trees and sod	melons
vegetables	grains
wine and table grapes	fruits

Also includes associated crop preparation services and harvesting activities: mechanical soil preparation; irrigation system construction; spraying. May also include the sale of products grown on site. Does not include greenhouses which are instead defined under "Plant Nursery" or containerized crop production, which is instead defined under "Plant Nursery."

D. Definitions, "D."

Demolition. The removal of 50% or more of the exterior walls of a building or structure or the relocation of a building from one parcel of land to another or the raising of an existing structure beyond what is required for a new foundation. The initial determination of demolition is made by the Community Development Director.

Development Project. Any project which would, if carried out, establish or permit to be established any new or changed use of any real property, building, structure or sign.

Driveway, Residential. A way that is typically paved and provides direct access from a public or private street to an individual dwelling unit or to the garage or parking area for the residential unit.

Dwelling, Accessory. An attached or detached residential dwelling unit that provides complete independent living facilities for one or more persons and is located on a lot with a proposed or existing primary residence. It shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel as that on which the single or multifamily household dwelling is or will be situated and meeting the requirements of Section 7.030.

Dwelling, Attached. A building containing a single dwelling unit and having one or more walls in common with another such unit with each unit located on a separate lot.

Dwelling, Caretaker. A permanent residence that is secondary or accessory to the primary use of the property and used for housing a caretaker employed on the site of any non-residential use where needed for security purposes.

Dwelling, Detached. A building designed for and/or occupied exclusively by one household that has no walls in common with any other structure or dwelling unit.

Dwelling, Group. A group of two (2) or more detached dwellings located on one parcel of land in one (1) ownership and meeting the requirements of Section 7.040. No more than three (3) dwelling units shall be erected in a dwelling group. An accessory dwelling is not included as a dwelling for the purposes of a dwelling group.

Dwelling, Junior Accessory. A unit that is no more than 500 square feet in size and contained entirely within a single-family residence and meeting the requirements of Section 7.035. A junior accessory dwelling unit may include separate sanitation facilities, or may share sanitation facilities with the existing structure.

Dwelling, Multiple. A building designed or used exclusively as a residence including two or more separate dwelling units. This definition includes but is not limited to duplexes, triplexes, apartments, and condominiums under a common ownership.

Dwelling, Single Household. A freestanding building designed for and/or occupied by one household.

Dwelling, Unit. A room or group of internally connected rooms that have sleeping, cooking, eating, and sanitation facilities, but not more than one kitchen, which constitute an independent housekeeping unit, occupied by or intended for one household on a long-term basis.

E. Definitions, "E."

Electric Vehicle Supply Equipment. The hardware, including connectors, fixtures, devices, and other components required to charge an electric vehicle.

Emergency Shelter. Emergency shelter means housing with minimal supportive services for homeless persons that is limited to occupancy of six months or less by a homeless person.

F. Definitions, "F."

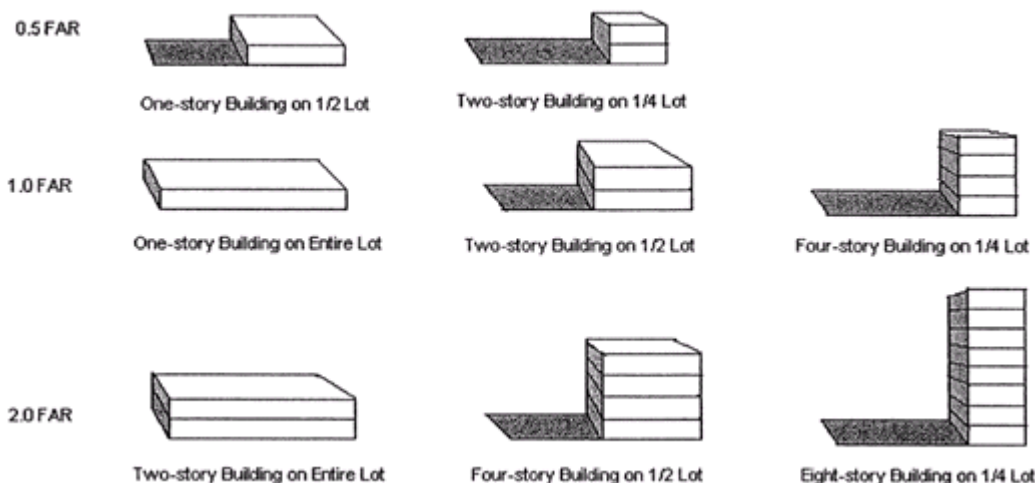
Farm Animal Keeping. Raising of livestock and poultry, dairying, or animal husbandry.

Fence. A device or portion thereof designed to separate or screen property areas and not to carry super-imposed load.

Fitness/ Health Facility. A fitness center, gymnasium, health and athletic club, which may include any of the following: sauna, spa or hot tub facilities; indoor tennis, handball, racquetball, archery and shooting ranges and other indoor sports activities. Does not include adult entertainment businesses.

Floor area, Gross. The entire area within the walls of a building, measured in a horizontal plane from the outside edge of exterior wall to exterior wall, in square feet.

Floor Area Ratio. The gross floor area of all buildings on a lot divided by the building site area (see exhibit below).



Fueling Station/Gas Station. A retail business selling gasoline and/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, and restaurant facilities.

Furniture/Fixtures Manufacturing, Cabinet Shop. Manufacturers producing: wood and metal household furniture and appliances; bedsprings and mattresses; all types of office furniture and public building furniture and partitions, shelving, lockers and store furniture; and miscellaneous drapery hardware, window blinds and shades. Includes furniture re-upholstering businesses, wood and cabinet shops, but not sawmills or planing mills, which are instead included under "Manufacturing - Heavy."

G. Definitions, "G."

Garage, or Carport. Parking space and shelter for automobiles or other vehicles, where the size of the parking space complies with the provisions of Section 11.070(l) (Parking Stall Size).

1. A garage is a completely enclosed attached or detached accessory structure with an operational door
2. A carport is an attached or detached accessory structure enclosed on no more than two sides.

A garage or carport complies with the requirements of this Zoning Code for "covered" parking spaces.

Garage Sale. A sale of articles belonging to one or more households, held for a period not to exceed three consecutive days, at a frequency not to exceed once every two months at any single location.

General Retail. Stores and shops selling many lines of merchandise. Examples of these stores and lines of merchandise include, but are not limited to:

antique stores	drug stores and pharmacies
art galleries, retail	furniture, furnishings, and appliances
artists' supplies	toys and games
jewelry	musical instruments, parts and accessories
auto parts sales	second hand stores
bicycles	specialty shops
books, magazines, and newspapers	sporting goods and equipment
building and landscape materials indoor	department stores
cameras and photographic supplies	wine shops
clothing, shoes, and accessories	convenience stores

Golf Course, Country Club. Golf courses, and accessory facilities and uses including: clubhouses with bar and restaurant, locker and shower facilities; driving ranges; "pro shops" for on-site sales of golfing equipment; and golf cart storage and sales facilities.

Grade, Finish. The ground surface immediately adjacent to the exterior base of a structure.

Grade, Natural or Existing. The contour of the ground surface before grading.

Groceries, Specialty Foods. A retail business where the majority of the floor area open to the public is occupied by food products packaged for preparation and consumption away from the store.

Guest House. A detached living quarters of permanent construction, without kitchen or cooking facilities, clearly subordinate and incidental to the main building on the same lot, and intended for use by occasional guests of the occupants of the main building.

H. Definitions, "H."

Home Occupation. A commercial activity conducted in a dwelling located in a Residential, Mixed Use, or Commercial zoning district, which is clearly incidental and secondary to the use of the dwelling for residential purposes and in accordance with the provisions of Section 7.050.

Hotel or Motel. A facility with guest rooms or suites, with or without kitchen facilities, rented to the general public for transient lodging. Hotels typically include a variety of services in addition to lodging; for example, restaurants, meeting facilities, personal services, etc. Also includes accessory guest facilities such as swimming pools, tennis courts, indoor athletic facilities, accessory retail uses, etc.

Household. A person or group of people who live together in a single dwelling unit, but not including the renting of rooms.

I. Definitions, "I."

No definitions beginning with "I"

J. Definitions, "J."

No definitions beginning with "J"

K. Definitions, "K."

Kennel, Animal Boarding. A commercial facility for the grooming, keeping, boarding or maintaining of four or more dogs (four months of age or older), or four dogs or cats for sale in pet shops or patients in animal hospitals. See also "Veterinary Clinic, Animal Hospital."

Kitchen. A room or space within a building used or intended to be used for cooking or preparation of food, which included any of the following: stove, oven, range top.

L. Definitions, "L."

Laboratory - Medical, Analytical, Testing. A facility for testing, analysis, and/or research. Examples of this use include medical labs, soils and materials testing labs, and forensic labs.

Laboratory – Cannabis. Testing laboratories that offer or perform testing of cannabis or cannabis products in accordance with Petaluma Municipal Code sections 10.15.020 and 10.15.040, and the current City of Petaluma Cannabis Permit Regulations.

Laundry, Dry Cleaning Plant. A service establishment engaged primarily in high volume laundry and garment services, including: carpet and upholstery cleaners; diaper services; dry cleaning and garment pressing; commercial laundries; linen supply. These facilities may include accessory customer pick-up facilities. These facilities do not include coin-operated laundries or dry cleaning pick-up stores without dry cleaning equipment; see "Personal Services."

Library, Museum, Art Gallery. A public or quasi-public facility, examples of which include: aquariums, arboretums, art galleries and exhibitions, botanical gardens, historic sites and exhibits, libraries, museums, planetariums, and zoos. May also include accessory retail uses such as a gift/book shop, restaurant, etc.

Lot or Parcel. A recorded lot or parcel of real property lawfully created as required by applicable Subdivision Map Act and City ordinance requirements, including this Zoning Ordinance. Types of lots include the following:

Corner Lot. A lot located at the intersection of two or more streets, where they intersect at an interior angle of not more than 135 degrees. If the intersection angle is more than 135 degrees, the lot is an interior lot.

Flag Lot. A lot having access from the building site to a public street by means of private right-of-way strip.

Interior Lot. A lot abutting only one street.

Reverse Corner Lot. A corner lot the side line of which is substantially a continuation of the front property line of the first lot to its rear.

Double Frontage Lot. An interior lot with frontage on two generally parallel streets.

Lot Area. Gross lot area is the total area included within the lot lines of a lot, exclusive of adjacent dedicated street rights of way. Net lot area is the gross area of the lot, exclusive of:

1. Easements for streets or driveways that are not for the exclusive use of the lot on which the easement is located;
2. The access strip required to serve a flag lot.

Lot, Depth. The average linear (or mean horizontal) distance between the front and rear lot line lines or between the front lot line and the intersection of the two side lot lines if there is no rear lot line.

Lot Frontage. The property line of a site abutting a street, other than the street side line of a corner lot.

Lot, Width. The horizontal distance between the side lot lines.

Lot Line or Property Line. Any recorded boundary of a lot. The types of lot lines are as follows:

Front Lot Line. On an interior lot, the property line separating the parcel from the street. The front line on a corner lot is the line with the shortest frontage. If the street fronting lot lines of a corner lot are equal in length, the front lot line shall be determined by the Director. On a double frontage lot, both lot lines are front lot lines and the lot is considered to have no rear lot line.

Interior Lot Line. Any lot line not abutting a street that is not a rear lot line.

Rear Lot Line. A property line that does not intersect the front lot line, which is most distant from and most closely parallel to the front lot line.

Side Lot Line. Any lot line that is not a front or a rear lot line.

Street Side Lot Line. On a corner lot, the lot line with the longest frontage.

M. Definitions, "M."

Maintenance/Repair Service - Client Site Services. Base facilities for various businesses that provide services on the premises of their clients. Includes gardening, janitorial, pest control, water and smoke damage recovery, and similar services; and maintenance/repair services for appliances, computers, electronics, elevators, equipment, HVAC, instrument, where the service is provided on the client site.

Maintenance/Repair Service - Equipment, Appliances. A business that provides repair and/or maintenance services for appliances, computers, electronics, and other types of non-vehicular related equipment that is brought to the facility by the client. These businesses do not operate on the same site as a retail establishment that sells the product being maintained or repaired. When these services operate from a retail establishment that sells the products being maintained or repaired, they are instead considered part of the retail use.

Manufactured/Mobile Home. A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under this part. California Health and Safety Code Section 18007.

Manufacturing – Cannabis. Businesses that manufacture and sell topical or edible cannabis products using cannabis infusions, infusion processes, or cannabis concentrates only business to business (non-retail) in accordance with Petaluma Municipal Code section 10.15.040 and the current City of Petaluma Commercial Cannabis Permit Regulations. Excludes manufacturing of cannabis products involving volatile solvents, and repackaging cannabis or cannabis products or re-labeling cannabis or cannabis product containers.

Manufacturing/Processing - Light. A facility accommodating manufacturing processes and establishments engaged in the assembly, fabrication, and conversion of already processed raw materials into products, where the operational characteristics of the manufacturing processes and the materials used are unlikely to cause significant impacts on surrounding land uses or the community. Examples of light manufacturing uses include, but are not limited to, the following:

clothing and fabric product manufacturing
electronics, equipment, and appliance manufacturing
food and beverage product manufacturing

metal products fabrication, machine and welding shops
paper product manufacturing

Manufacturing/Processing - Medium Intensity. A facility accommodating manufacturing processes that involve and/or produce building materials, fabricated metal products, machinery, and/or transportation equipment, where the intensity and/or scale of operations is greater than those classified under "Manufacturing - Light," but where impacts on surrounding land uses or the community can typically be mitigated to acceptable levels. Examples of medium intensity manufacturing uses include, but are not limited to, the following:

lumber and wood product manufacturing
machinery manufacturing
motor vehicles and transportation equipment

stone and cut stone product manufacturing
structural clay and pottery product manufacturing

Manufacturing/Processing - Heavy Intensity. A facility accommodating processes that involve and/or produce basic metals, building materials, chemicals, fabricated metals, paper products, machinery, textiles, and/or transportation equipment where the intensity and/or scale of operations may cause significant impacts on surrounding land uses or the community.

Meals Assembly. A facility that provides a location for clients to assemble meals from ingredients and take them offsite for cooking and consumption. Meals may also be assembled onsite for clients to pickup at the facility. No eating facilities are provided.

Media Production. Facilities for motion picture, television, video, sound, computer, and other communications media production.

Medical Service - Health Care Facility. A facility, place, or building that is maintained and operated to provide medical care. Includes nursing homes, intermediate care facilities, medical clinics, and home health agencies, all of which are licensed by the California State Department of Health Services, and defined in Health and Safety Code Section 1200 et seq.

Medical Service - Minor. A facility other than a hospital where medical, dental, mental health, surgical, and/or other personal health care services are provided on an outpatient basis. Includes medical offices (for example offices for chiropractors, dentists, medical doctors, optometrists, prescription opticians, psychologists/psychiatrists, etc.), outpatient facilities which may include surgery, urgent care facilities, dental laboratories, and medical laboratories. May include massage therapy and acupuncture when not part of a personal service or spa establishment.

Medical Service - Major. Hospitals and similar facilities engaged primarily in providing diagnostic services, and extensive medical treatment, including surgical and other hospital services. These establishments have an organized medical staff, inpatient beds, and equipment and facilities to provide complete health care. May include on-site accessory clinics and laboratories, accessory retail uses and emergency heliports (see the separate definition of "Accessory Retail Uses").

Mobile Home, RV, and Boat Sales. Retail establishments selling both mobile home dwelling units, and/or various vehicles and watercraft for recreational uses. Includes the sales of boats, campers and camper shells, jet skis, mobile homes, motor homes, and travel trailers.

Mortuary, Funeral Home. Funeral homes and parlors, where deceased are prepared for burial or cremation, funeral services may be conducted.

N. Definitions, "N."

Night Club. A facility serving alcoholic beverages for on-site consumption, and providing entertainment, examples of which include live music and/or dancing, comedy, etc. (also see "Bar/Tavern").

O. Definitions, "O."

Office. This Code distinguishes between the following types of offices. These do not include medical offices (see "Medical Service - Minor").

1. **Accessory.** An office facility incidental and accessory to another business or sales activity that is the primary use. These are permitted accessory to any other use allowed in all zones established by this code.
2. **Government.** An administrative, clerical, or public contact and/or service office of a local, state, or federal government agency. Includes post offices, but not bulk mailing distribution centers, which are under "Truck or Freight Terminal."
4. **High Employee.** An office-type facility characterized by high employee concentration, and occupied by businesses engaged in information processing. Examples of these uses include, but are not limited to:

airline, lodging chain, and rental car company reservation centers
 consumer credit reporting
 data processing services
 health management organization (HMO) offices where no medical services are provided
 insurance claim processing
 mail order and electronic commerce transaction processing
 telemarketing

5. **Professional/Administrative.** An office-type facility occupied by businesses that provide direct professional services and/or is engaged in the production of intellectual property. Examples of these uses include, but are not limited to:

accounting, auditing and bookkeeping services	financial management and investment counseling
advertising agencies	single or small group psychologists/psychiatrists/counselors
attorneys	management and public relations services
commercial art and design services	media production services
construction contractors (office facilities only)	design services including architecture, engineering,
photographers and photography studios	landscape architecture, urban planning
court reporting services	educational, scientific and research organizations

One Foot Lambert. Equals brightness equivalent to one lumen per square foot reflected from a surface. One lumen per square foot is equal to a square foot illuminated evenly by one foot candle at any point.

Outdoor Advertising Structure. Any device which is used or designed so that it may be used to direct attention to a business, profession, commodity, service, or entertainment, conducted, sold, or offered elsewhere than upon the lot where such sign is located.

P. Definitions, "P."

Park. City owned land whose primary purpose is recreation, includes, but is not limited to, playfields and courts, swimming pools, recreational facilities, community gardens, playgrounds, trails, and nature preserves.

Parking Facility, Public or Commercial. Includes both day use and long-term public and commercial garages, parking lots and structures, except when accessory to a primary use. (All primary uses are considered to include any customer or public use off-street parking required by the Zoning Code). Also include "park and ride" lots. Does not include dismantling yards.

Performance Standards. Regulations for the control of "dangerous or objectionable elements" as defined in Article XX.

Personal Services. Establishments providing non-medical services to individuals as a primary use. Examples of these uses include:

barber and beauty shops	massage (licensed, therapeutic, non-sexual)
clothing rental	pet grooming with no boarding
dry cleaning pick-up stores with limited equipment	shoe repair shops
home electronics and small appliance repair	tailors
laundromats (self service laundries)	tanning salons
locksmiths	

These uses may also include accessory retail sales of products related to the services provided.

Personal Services - Restricted. Personal services that may tend to have a potentially offensive effect upon surrounding areas and which may need to be dispersed to minimize their adverse impacts. Examples of these uses include:

check cashing stores	soup kitchens
fortune tellers	spas and hot tubs for hourly rental
palm and card readers	tattoo and body piercing services
psychics	

Petroleum Product Storage and Distribution. A facility for the bulk storage and wholesale distribution of gasoline, diesel fuel, and/or other fuels and petroleum products.

Plant Nursery. A commercial agricultural establishment engaged in the production of ornamental plants and other nursery products, grown under cover either in containers or in the soil on the site, or outdoors in containers. The outdoor production of ornamental plants in the soil on the site is instead included under "Crop Production, Horticulture, Orchard, Vineyard." Also includes establishments engaged in the sale of these products (e.g., wholesale and retail nurseries) and commercial-scale greenhouses. The sale of house plants or other nursery products entirely within a building is also included under "General Retail."

Printing and Publishing. A small scale establishment engaged in printing by letterpress, lithography, gravure, screen, offset, or electrostatic (xerographic) copying; and other establishments serving the printing trade such as bookbinding, typesetting, engraving, photoengraving and electrotyping. This use also includes establishments that publish newspapers, books and periodicals; establishments manufacturing business forms and binding devices. "Quick printing" services are included in the definition of "Business Support Services."

Public Safety Facility. A facility operated by a public agency including fire stations, other fire prevention and fire fighting facilities, police and sheriff substations and headquarters, including interim incarceration facilities.

Q. Definitions, "Q."

No definitions beginning with "Q"

R. Definitions, "R."

Recreational Vehicle. A motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational, emergency, or other occupancy, that meets all of the following criteria: (1) It contains less than 320 square feet of internal living room area, excluding built-in equipment, including, but not limited to, wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms. (2) It contains 400 square feet or less of gross area measured at maximum horizontal projections. (3) It is built on a single chassis. (4) It is either self-propelled, truck-mounted, or permanently towable on the highways without a permit. Also includes a "park trailer" as defined by California Health & Safety Code 18009.3. California Health & Safety Code, Section 18010.

Recycling Facility. This land use type includes a variety of facilities involved with the collection, sorting and processing of recyclable materials. Recyclable materials include reusable domestic containers and other materials which can be reconstituted, re-manufactured, or reused in an altered form, including glass, metals, paper and plastic. Recyclable material does not include refuse or hazardous materials.

Research and Development (R&D). A facility for scientific research, and the design, development and testing components in advance of product manufacturing, and the assembly of related products from parts produced off-site, where the manufacturing activity is secondary to the research and development activities.

Residential Facilities, Adult (ARF). Facilities of any capacity that provide 24-hour non-medical care for adults ages 18 through 59, who are unable to provide for their own daily needs. Adults may be physically handicapped, developmentally disabled, and/or mentally disabled.

Residential Care Facilities for the Chronically III (RCFCI). Facilities with a maximum licensed capacity of 25. Care and supervision is provided to adults who have Acquired Immune Deficiency Syndrome (AIDS) or the Human Immunodeficiency Virus (HIV).

Residential Care Facilities for the Elderly (RCFE). Provide care, supervision and assistance with activities of daily living, such as bathing and grooming. They may also provide incidental medical services under special care plans.

The facilities provide services to persons 60 years of age and over and persons under 60 with compatible needs. RCFEs may also be known as assisted living facilities, retirement homes and board and care homes. The facilities can range in size from six beds or less to over 100 beds. The residents in these facilities require varying levels of personal care and protective supervision. Because of the wide range of services offered by RCFEs, consumers should look closely at the programs of each facility to see if the services will meet their needs.

Restaurant, Café, Coffee Shop. A retail business selling ready-to-eat food and/or beverages for on- or off-premise consumption. These include eating establishments where customers are served from an ordering counter for either on- or off-premise consumption ("counter service"); establishments where customers are served food at their tables for on-premise consumption ("table service"), which may also provide food for take-out; and exclusively pedestrian-oriented facilities that serve from a walk-up ordering counter. This use does not include a mobile food vendor.

Retail Sale and Deliver – Cannabis. Businesses that sell cannabis and cannabis products using a delivery-only method at a maximum of two different locations in the City, with no sale of cannabis or cannabis products to customers, primary care givers or qualified patients permitted at the business location at any time and no signage at the business location or on the delivery vehicles indicating the presence of cannabis or cannabis products or that the seller sells cannabis or cannabis products in accordance with Petaluma Municipal Code sections 10.15.040 and 10.15.060, and the current City of Petaluma Commercial Cannabis Permit Regulations.

Retaining Wall. Any wall erected to hold back or support a bank of earth.

Rooming or Boarding, Accessory. A portion of a dwelling where lodging and boarding are provided for no more than 3 persons for a period of 30 days or longer.

Rooming, Lodging or Boarding House. A dwelling or part of a dwelling where lodging is furnished for compensation to three or more persons living independently from each other for a period of 30 days or longer. Meals may also be included.

S. Definitions, "S."

School. A private academic educational institution, including:

boarding school	high school
community college, college, or university	military academy
elementary, middle and junior high schools	

School – Specialized Education and Training. A private academic educational institution, providing specialized education/training. Examples include the following:

art school	establishments providing courses by mail
ballet and other dance school	language school
business, secretarial and vocational	music school
computers and electronics school	professional school (law, medicine, etc.)
drama school	seminaries/religious ministry training facility
driver education school	

Also includes facilities, institutions and conference centers that offer specialized programs in personal growth and development, such as fitness, environmental awareness, arts, communications, and management. Does not include pre-schools and child day care facilities (see "Child Day Care Facilities"). See also the definition of "Studios - Art, Dance, Martial Arts, Music, etc." for smaller-scale facilities offering specialized instruction.

Scrap and Dismantling Yard. Outdoor establishments primarily engaged in assembling, breaking up, sorting, and the temporary storage and distribution of recyclable or reusable scrap and waste materials, including auto wreckers engaged in dismantling automobiles for scrap, and the incidental wholesale or retail sales of parts from those vehicles. Includes light and heavy processing facilities for recycling (see the definitions above). Does not include: places where these activities are conducted entirely within buildings; secondhand stores; the sale of operative used cars; or landfills or other waste disposal sites.

Short-Term Vacation Rental. A dwelling, part of a dwelling, or dwelling as an accessory or secondary unit furnished for compensation for a period of less than 30 days. Meals may also be included. Does not include room rental for 30 days or more, which is separately defined (see "Rooming, Lodging, or Boarding House").

Setback. The required distance by which a structure, parking area, or other development feature must be separated from a property line, other structure, development feature (e.g. back of sidewalk, or curb) or street center line.

Setback, Front. The required area extending across the full width of a site measured from the front property line, street plan line, or access easement to the primary structure. The depth of the front setback is measured as the minimum horizontal distance between the front property line, street plan line, or access easement and a line parallel thereto with the required minimum distance determined by the development standards for the applicable zoning district.

Setback, Rear. The required area extending across the full width of a site measured from the rear lot line and a structure. The depth of a rear setback is measured as the minimum horizontal distance between the rear property line and a line parallel thereto with the required minimum distance determined by the development standards for the applicable zoning district.

Setback, Side. The required area extending from the front property line, street plan line, or access easement to the rear property line. The width of a side setback is the minimum horizontal distance between an interior side property line and a line parallel thereto with the required minimum distance determined by the development standards for the applicable zoning district.

Setback, Street Side. The required area extending from the front property line, street plan line, or access easement to the rear property line. The width of a street side setback is the minimum horizontal distance between the street side property line and a line parallel thereto with the required minimum distance determined by the development standards for the applicable zoning district for a corner or reverse corner lot.

Sports and Entertainment Assembly Facility. A large-scale indoor or outdoor facility accommodating spectator-oriented sports, concerts, and other entertainment activities. Examples of this land use include amphitheaters, race tracks, stadiums and coliseums. May also include commercial facilities customarily associated with the above uses, including bars and restaurants, gift shops, video game arcades, etc.

Storage- Warehouse, Indoor Storage. Facilities for the storage of commercial goods of any nature. Includes cold storage. Does not include storage or mini-storage facilities offered for rent or lease to the general public. (see also "Wholesaling and Distribution" and "Truck or Freight Terminal").

Storage- Outdoor Storage Yard. The open storage of various materials outside of a structure other than fencing, either as an accessory or principal use.

Street. A public or private right-of-way which provides a public means of access to abutting property. The term "street" shall include avenue, drive, circle, road, parkway, boulevard, highway, thoroughfare, or any other similar term, but not alley. The term shall include the total width of the dedicated right-of-way.

Structure. Anything constructed or erected which requires location on the ground or which is attached to something having location on the ground, excluding vehicles designed and used only for the transportation of people or goods, a swimming pool or spa, a fence, or a wall used as a fence.

Structure, Accessory. A building or structure normally subordinate, and the use of which is incidental, to the primary use of the site.

Structure, Accessory Detached. An accessory building or structure with a minimum separation from a primary structure or building of at least three feet. For purposes of measurement, roof eaves and overhangs, bays, balconies, and other projections shall be considered points of reference. For the purposes of this code, any structure not meeting the separation requirement is considered attached to the primary structure and is subject to the development standards for the primary structure.

Studio - Art, Dance, Martial Arts, Music, etc. Small scale facilities, typically accommodating one group of students at a time, in no more than one instructional space. Larger facilities are included under the definition of "Schools - Specialized education and training." Examples of these facilities include: individual and group instruction and training in the arts; production rehearsal; photography, and the processing of photographs produced only by users of the studio facilities; martial arts training studios; gymnastics, yoga and similar instruction; and aerobics and gymnastics studios with no other fitness facilities or equipment.

Supportive Housing. Housing with no limit on length of stay, that is occupied by the Target Population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. Supportive housing is a residential use subject only to those restrictions that apply to other residential uses of the same type in the same zone.

Swimming Pool. A pool, pond, land, or open tank intended for swimming or recreational bathing that contains water over 18 inches deep. "Swimming pool" includes in-ground and above ground pools, hot tubs and spas and portable spas and non-portable wading pools.

T. Definitions, "T."

Target Population. Persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include,

among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care system, individuals exiting from institutional settings, veterans, and homeless people.

Telecommunication Facility. A facility that transmits and/or receives electromagnetic signals. It includes antennas, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals, telecommunication towers or similar structures supporting said equipment, equipment buildings, parking area, and other accessory development. Telecommunications facilities are further classified by type (i.e., exempt, mini, minor and major) in Chapter 14.44 of the Petaluma Municipal Code. (Ord. 2039 N.C.S., 11/96)

Theater, cinema or performing arts. An indoor facility for public assembly and group entertainment, other than sporting events. Examples of these facilities include:

- civic theaters, and facilities for "live" theater and concerts
- movie theaters
- similar public assembly facilities

See also "Sports and Entertainment Assembly."

Theater, Movie. See Ordinance 2158 prohibiting movies outside of Theater Combining District until 8/4/23

Transitional Housing. Buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six months from the beginning of the assistance. Transitional housing is a residential use subject to only those restrictions that apply to other residential uses of the same type in the same zone.

U. Definitions, "U."

Utility Facility. A permanent structure or facility serving as a junction point for transferring a utility services product from transmission lines to local distribution and service lines, whether for electricity, natural gas, or domestic water supply. These uses include any of the following facilities that are not exempted from land use permit requirements by Government Code Section 53091:

corporation and maintenance yards
electrical substations and switching stations
natural gas regulating and distribution facilities

public water system wells, treatment plants and storage
wastewater treatment plants, settling ponds, and disposal
fields

These uses do not include office or customer service centers, which are classified in "Offices"; or transmission, switching, distribution, or service facilities for telephone or other telecommunications services, which are instead classified in "Telecommunications Facilities."

Usable Open Space. Includes the aggregate area of side and rear yards, patios, and balconies and decks having a depth of not less than three (3) feet and area not less than 30 square feet, on a building site or building, which is available and accessible to the occupants of the building or building site for purposes of active and/or passive outdoor recreation. This area is exclusive of driveways, areas for off-street parking and services, and ground level areas with a width of less than five (5) feet or maximum dimension of under ten (10) feet. At least seventy-five (75%) percent of the usable open space shall have a slope of ten (10%) percent or less.

Use, Accessory. A use customarily incidental to, related and clearly subordinate to a primary use on the same parcel, which does not alter the primary use nor serve property other than the parcel where the primary use is located. See also "Primary Use."

Use, Conditional. A use of a site for which application for and approval of a Conditional Use Permit is required.

Use, Permitted. For the purpose of this ordinance, a permitted use in any district shall include any use listed as a *Permitted Principal Use* or *Accessory Use*.

Use, Primary. The main purpose for which a site is developed or occupied, including the activities that are conducted on the site a majority of the hours during which the activities occur.

Use, Temporary. A use of land that is designed operated and occupies a site for a limited period of time, typically less than 12 consecutive months.

V. Definitions, "V."

Vehicle Services. The repair, servicing, alteration, restoration, towing, painting, cleaning, or finishing of automobiles, trucks, recreational vehicles, boats and other vehicles as a primary use, including the incidental wholesale and retail sale of vehicle parts as an accessory use. This use includes the following categories.

1. **Major Repair/Body Work.** These establishments include towing, collision repair, other body work, and painting services; tire recapping.
2. **Minor Maintenance/Repair.** Minor facilities providing limited repair and maintenance services. Examples include: attended and self-service car washes; car stereo and alarm installers; detailing services; muffler and radiator shops; quick-lube services; tire and battery sales and installation (not including recapping).

Does not include automobile parking (see "Parking Facilities"), repair shops that are part of a vehicle dealership on the same site (see "Auto and Vehicle Sales and Rental," and "Mobile Home, RV, and Boat Sales and Rental"); gas stations, which are separately defined; or dismantling yards, which are included under "Recycling - Scrap and Dismantling Yards."

Vehicle Storage. A service facility for the long-term storage of operative cars, trucks, buses, recreational vehicles, and other motor vehicles, for clients. Does not include dismantling yards (classified in "Recycling - Scrap and Dismantling Yards").

Veterinary Clinic, Animal Hospital. Office and indoor medical treatment facilities used by veterinarians, including large and small animal veterinary clinics, and animal hospitals.

Vision Triangle. The triangular area formed by the intersection of the extension of the curb lines and a line connecting them at points thirty-five (35) feet from the intersection of the extended curb lines.

W. Definitions, "W."

Wholesaling and Distribution. Establishments engaged in selling merchandise to retailers; to contractors, industrial, commercial, institutional, farm, or professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. May also include distribution of products direct to customers from online sales. Examples of these include, but are not limited to:

agents, merchandise or commodity brokers, and commission merchants
assemblers, buyers and associations engaged in the cooperative marketing of farm products
merchant wholesalers
stores primarily selling electrical, plumbing, heating and air conditioning supplies and equipment
ecommerce facilities

X. Definitions, "X."

No definitions beginning with "X"

Y. Definitions, "Y."

Yard. An open space on the same site as a structure, unoccupied and unobstructed from the ground upward.

Z. Definitions, "Z."

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.

Zero Emission Vehicles (Battery Charging Station). 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.

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.

Zoning. The act of regulating the use of land and the size of and location of buildings on the land, such regulations are designed to assure the health, safety and general welfare of a community.

Zoning District. Any of the residential, commercial, public, or overlay districts established by Article XX of this Zoning Code (Zoning Districts, Allowable Land Uses and Permit Requirements), within which certain land uses are allowed or prohibited, and certain site planning and development standards are established (e.g., setbacks, height limits, site coverage requirements, etc.).

Zoning Map. The Zoning Map or Maps of the City of Petaluma, California together with all amendments subsequently adopted.



Date: April 30, 2021
To: Santa Rosa Climate Action Subcommittee
From: Coalition Opposing New Gas Stations

Re: May 12, 2021 Climate Action Subcommittee agenda item: Request to City of Santa Rosa to adopt an ordinance prohibiting the construction of new gas stations within Santa Rosa City limits

Dear Subcommittee Members,

Thank you for your efforts to safeguard the environment and consider actions that meaningfully address the climate crisis and for placing this item on your May 12 agenda. Given that Santa Rosa has adopted a Climate Emergency Resolution, we write to encourage you to consider adopting an ordinance to prohibit the permitting or construction of new gasoline stations within Santa Rosa city limits.

As you know, the City of Petaluma adopted an ordinance on February 22, 2021 prohibiting the construction of new gasoline stations, apparently the first City in the nation to do so. We have included that ordinance in this communication. To date, no serious repercussions, community opposition, lawsuits from industry, or any other challenges to the ordinance have emerged, so we urge Santa Rosa to take similar action. We would advise that a Santa Rosa ordinance focus only on prohibiting new gas stations, and not include language about potential other uses for existing gas station sites, as the Petaluma ordinance did.

Santa Rosa already has about seventeen operating gasoline stations and there is no demonstrated need or community demand for new ones. We have included a map that notes operating gasoline stations in Santa Rosa in the correspondence. The bottom line is that no matter where you are in Santa Rosa, a gasoline station is just a few minutes away

There are currently two active applications to construct new gasoline stations in Santa Rosa but CONGAS does not suggest or support an ordinance that would affect those proposals, filed under existing rules. The proposed prohibition would be an important pre-emptive measure to save the city staff time, money, and effort should any applications come to Santa Rosa in the future. New gas stations are a bad investment and only prolong dependency on fossil fuel infrastructure.

We urge you to develop a draft ordinance and bring this matter to a full City Council meeting. Please let us know if you have any questions or would like further information.

Sincerely,
Jenny Blaker and Woody Hastings
Co-coordinators, Coalition Opposing New Gas Stations (CONGAS)

Background about CONGAS and our reasons for opposing new gas stations:

The Coalition Opposing New Gas Stations ([CONGAS](#)) has been working to stop the construction of new gas stations in Sonoma County since February 2019, when there was an application to construct a new ARCO gas station between Cotati and Sebastopol in unincorporated Sonoma County, at Hwy 116/Stony Point Road. The applicant withdrew in the face of fierce public opposition generated by CONGAS. CONGAS has actively opposed other gas station proposals in Sonoma County and the City of Santa Rosa since then, and to date two other applications have been withdrawn and one is on hold.

Primary motivation

Burning of fossil fuels is a major cause of the climate crisis, and fossil fuels used for transportation are a major source of greenhouse gas emissions in Sonoma County.

Environmental Justice

Fossil fuels including gasoline leave a wake of destruction to people around the world and to the planet, whether due to extraction, pipeline construction and leaks, or processing. Indigenous people and communities of color are disproportionately affected.

Human Health and Environmental Impacts

Gas stations are hazardous to human health, emitting toxic fumes including benzene, toluene, and other toxic volatile organic compounds. Leaks and spills from gas pumps and storage tanks are inevitable even with the new, double-hulled, underground storage tanks, and contaminate surface and ground water and soil, eventually leaking into the groundwater which supplies our drinking water. Sonoma County is already riddled with [leaking underground storage tanks](#), including in Santa Rosa, where there is at least one abandoned old gas station site. One gallon of oil can pollute 1 million gallons of water. One pin-prick size hole in an underground gas tank can leak 400 gallons of fuel a year. Runoff from gas stations impacts soil, wildlife and habitat due to the presence and spread of materials that are toxic to all living organisms. For further information on the negative impacts of gas stations and the transition taking place away from fossil fuels, see www.coltura.org

What we support:

In the light of the climate crisis and climate justice issues, we support clean- or zero- emission, affordable, convenient, frequent, reliable, connected public transportation; safe, accessible and connected amenities for pedestrians and bicyclists; and planning that minimizes the need for individual vehicle transportation. In addition we should be continuing to support infrastructure for charging for electric vehicles where people already live, work, and spend time. In September 2020 Governor Newsom passed an Executive Order prohibiting the sale of new fossil fuel-powered vehicles beyond 2035. GM has pledged not to build new gas-powered cars beyond 2030 and others are following suit, so the transition has begun, sales of EVs are increasing, prices will decrease and the demand for charging stations will increase as time goes on.

From: [Gloria Zarifa](#)
To: [Hopwood, Kimberly](#)
Cc: [Nicholson, Amy](#); [Mahre, Kali](#)
Subject: [EXTERNAL] "Climate Action Subcommittee Public Comment - Item # 2"
Date: Wednesday, May 12, 2021 1:43:31 PM

Please choose Option 1: Prohibit new gas stations within city limits!

Gloria Zarifa
Sonoma County resident opposed to new gas stations

From: [Mahre, Kali](#)
To: [Hopwood, Kimberly](#); [Nicholson, Amy](#)
Subject: Fwd: [EXTERNAL] Re: Climate Action Subcommittee Public Comment - Item # 2
Date: Friday, May 14, 2021 8:24:25 AM

Kali Mahre | Administrative Secretary

Planning and Economic Development | [100 Santa Rosa Ave, Room 3 | Santa Rosa, CA 95404](#)
kmahre@srcity.org



From: Wendy Herniman <wherniman@gmail.com>
Sent: Thursday, May 13, 2021 8:19:55 AM
To: Mahre, Kali <KMahre@srcity.org>
Subject: [EXTERNAL] Re: Climate Action Subcommittee Public Comment - Item # 2

Dear Councilmembers,

I am writing to respectfully urge the Climate Action Subcommittee to choose Option 1 to prohibit all new gas stations within our city's limits. We need to be substantive with our declaration of a climate emergency and work towards becoming carbon neutral, which requires actively promoting renewable energy sources and usage. Furthermore, we already have plenty of gas stations within our city and county.

With thanks for your service to our community,

Wendy Armstrong-Herniman
5224 Beaumont Way, Santa Rosa, CA 95409

On Thu, May 13, 2021 at 8:16 AM Wendy Herniman <wherniman@gmail.com> wrote:

Dear Councilmembers,

I am writing to respectfully urge the Climate Action Subcommittee to choose Option 1 to prohibit all new gas stations within our city's limits. We need to be substantive with our declaration of a climate emergency and work towards becoming carbon neutral, which requires actively promoting renewable energy sources and usage. Furthermore, we already have plenty of gas stations within our city and county.

With thanks for your service to our community,

Wendy Armstrong-Herniman
5224 Beaumont Way, Santa Rosa, CA 95409