



CITY OF CALISTOGA

STAFF REPORT

TO: Honorable Mayor and City Council
FROM: Samantha Thomas, Associate Planner
DATE: December 21, 2021
SUBJECT: Second Reading and Adoption: Ord. No. 755 Prohibition of New Gas Station Land Uses Ordinance

Approved by

Brad Kilger, Interim City Manager

DESCRIPTION

Consideration of proposed amendments to Calistoga Municipal Code Title 17, Zoning, to prohibit new gas station land uses in all zoning districts and to provide uniform and comprehensive regulations and development standards for modifications, maintenance, operation, and discontinuation of fueling station/gas station uses and facilities in the City.

RECOMMENDATION

Staff recommends that the City Council:

Adopt Ordinance No. 755 as submitted.

BACKGROUND

At the City Council meeting on December 7, 2021, the City Council waived the first reading and introduced the attached Ordinance No. 755, which provide amendments to Title 17, Zoning of the Calistoga Municipal Code.

On August 3, 2021, the Calistoga City Council adopted Resolution No. 2021-063 Declaring a Climate Emergency and committed the city to net zero emission by 2030 (see **Attachment 2**). Pursuant to Resolution No. 2021-063 (Declaring a Climate Emergency) the City Council, committed to evaluate all planning and policy decisions to implement both immediate and sustainable actions in support of net zero climate pollution by or before 2030, measured in terms of net contribution to excess trapped heat. Resolution No. 2021-063 furthers the goals of the Climate Action Plan ("CAP") adopted by City

Council in 2014, which sought to reduce the City's emissions by 15 percent from its 2005 baseline. As noted in the CAP, the transportation sector was the largest source of emissions for Calistoga in 2005 and 2010, generating over half of the total emissions in 2010.

In furtherance of the City's dedication to addressing the Climate Emergency, the City's Green Committee recommended that the City amend its Zoning Code, found in Title 17 of the City's Municipal Code, to prohibit development of new fossil fuel gas stations. These proposed amendments are supported by broad scientific consensus, the CAP, and the City's General Plan commitments.

The proposed amendments constitute a public necessity and promote 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 air, soil, groundwater, and surface waters. The City's 2003 General Plan Land Use Elements and Open Space and Conservation Elements also include goals, objectives, and policies supporting these environmentally sound policies.

Alternatively, the City's Zoning Code does not provide specific standards for the implementation of these policies and is silent on the issues of ZEV charging stations. The City adopted the California Green Building Standards Code which includes regulatory guidance (e.g., design and safety standards, number of charging spaces required, accessibility requirements) for battery powered ZEV charging stations, which are requirements of AB 1236. California law now limits the bases under which a local entity can deny a permit for a ZEV charging station. Such permit applications must be approved through a building permit or similar non-discretionary process focusing on public health and safety. These provisions of state law facilitate streamlined and efficient development of ZEV charging stations, with the expectation that an increased supply of charging stations will translate to increased use of ZEVs and, thus, decreased use and dependence on harmful fossil fuels. However, the Zoning Code does not indicate where these charging stations are permissible and/or prohibited, thus development of such stations is currently complicated and unclear. The proposed amendments work to clarify the City's regulatory scheme for ZEV charging stations.

California established ambitious ZEV infrastructure and vehicle targets: 250,000 shared plug-in electric vehicle chargers, including 10,000 direct current fast chargers (for battery powered ZEV) and 200 hydrogen stations (for hydrogen fuel cell powered ZEV) by 2025.¹ These targets put California on the path to host 5 million ZEVs by 2030.² As previously states, while the General Plan is supportive of alternatives to fossil fuels, there are no existing zoning regulations to provide standards for implementation of such alternatives.

¹ <https://businessportal.ca.gov/wp-content/uploads/2019/07/GoBIZ-EVCharging-Guidebook.pdf>

² *Id.*

In the interest of clarity and consistency throughout the Municipal Code, the proposed amendments make the Zoning Code clear that discretionary permits shall not be required for electric vehicle charging stations and enable fossil fuel gas stations to transition to retail hydrogen for fuel cell electric vehicles.

Staff's inventory of gas stations/fueling stations within the City of Calistoga's incorporated limits shows three (3) existing stations (see **Attachment 3**). Based on this inventory, all stations are 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 in the 2014 Housing Element but not yet constructed within the City of Calistoga's incorporated limits.

Staff worked with the City Attorney's Office in vetting and carefully reviewing the proposed amendments. After thoroughly researching what other neighboring cities have enacted, such as the City of Petaluma and the City of American Canyon, Staff prepared draft amendments to the Calistoga Municipal Code Title 17, Zoning, for consideration.

On November 10, 2021, the Planning Commission conducted a public hearing regarding the proposed amendments. After a presentation by staff, and questions answered by staff and the Chair of the Green Committee, the Planning Commission recommended the ordinance to the City Council by a 4-1 vote. One email regarding the zoning ordinance amendment was received by staff and no public comments were received during the meeting. Resolution PC 2021-22 is provided in **Attachment 4**.

OVERVIEW OF PROPOSED CODE AMENDMENTS

The basic purpose of the amendments is to eliminate the potential for new adverse effects of greenhouse gas emissions by (1) prohibiting development of new gas stations in all zoning districts and (2) incentivize the use of environmentally friendly, zero emissions vehicles ("ZEV").

As described below, Staff's proposed amendments would eliminate the potential for new adverse effects of greenhouse gas emissions through a prohibition on new gas stations in all zoning districts. The proposed amendments would also enable and incentivize existing gas stations to continue operations without future expansion(s) of elements supportive of fossil fuels (e.g., pumps, tanks) by transitioning to serve ZEV. The amendments also ensure that charging stations for ZEV are considered accessory or primary uses in all zoning districts.

As a point of clarification, these amendments would change the way the City's Zoning Code treats car wash facilities. Currently car wash facilities are included in the definition of "service station," which means that car wash facilities are subject to the same zoning regulations as gas stations. The amendments would "unlink" car wash facilities from gas stations, such that zoning regulations related to car wash facilities remain unchanged by the amendments, while gas station use, would be prohibited, as described in detail below.

Thus, car wash facilities shall continue to be allowed in the Community Commercial (CC) district subject to a conditional use permit.

IMPLEMENTING THE PROPOSED ZONING CODE AMENDMENTS

Currently, gas stations are a conditionally permitted land use in the Downtown Commercial (DC) and Community Commercial (CC) zoning districts. The proposed amendments would alter the City's Zoning Code to instead, prohibit new gas stations in all zones. Existing gas station uses may continue as non-conforming uses.

In addition to the overall prohibition on new gas station development, the proposed amendments can be grouped into two categories:

- (1) regulations to provide for and manage non-conforming gas stations; and
- (2) new regulations to promote ZEVs.

Regulations for Non-Conforming Fossil Fuel Gas Stations

After review of the citywide non-conformity regulations, Staff determined that more specific standards are necessary to provide clear standards for the manner which existing gas stations may be modified in the future. Therefore, Staff proposes new provisions be added to Chapter 17.44 of the City's Zoning Code, which governs regulation of nonconforming uses and structures (see **Attachment 1, Exhibit 8**).

If these amendments are adopted by the City Council, an existing gas station may only modify its existing site under certain circumstances by applying to the Planning Commission for a use permit and design review approval. A use permit and design review application to modify an existing gas station will only be considered if the proposed modifications:

- accommodate battery charging stations or hydrogen fuel cell stations to serve ZEV³;
- improve soil, groundwater, and stormwater quality;
- improve traffic safety; or
- further compliance with other General Plan requirements, such as overlay designations.

Regulations for Zero Emission Vehicles

The proposed amendments seek to facilitate the transition of gas stations to serve ZEV battery and hydrogen fuel cell vehicles by amending the Zoning Code to reflect both California's and Calistoga's commitment to ZEVs. As detailed in **Attachment 1, Exhibit 7**, Staff's proposed amendments would make ZEV charging stations an allowed accessory use in all zones. Hydrogen fuel cell stations would be considered either an

³ Use permit and design review approval would only be required in this case if substantial modifications were being proposed to the overall site rather than just the mere addition of battery charging stations.

accessory or primary use, to enable incremental change to gas stations or a full transition to hydrogen fuel cell service.

PLANNING COMMISSION REVIEW

As noted above, the Planning Commission considered the proposed amendments at a public hearing on November 10, 2021. The Planning Commission recommended the amendments to the City Council by a 4-1 vote. Some specific comments or concerns raised by the Planning Commission are included (*with responses by staff*):

- If one or two gas stations went out of business, this ordinance would not prevent a new operator from coming in and operating them as a gas station. Correct?

Response: *If the new operator is not expanding the use and the use of the gas station has not been discontinued for a continuous period of 180-days or more, the new operator would be allowed to come in and continue the use of the gas station.*

- Would safety improvements, minor lighting improvements, as well as improvements to the convenience stores associated with the existing gas stations be allowed?

Response: *Per Section 17.44.070 Regulations of nonconforming gas station uses and structures, in the proposed zoning code amendments, these modifications would be allowed.*

ENVIRONMENTAL REVIEW

This action will not have a significant effect on the environment in accordance with the California Environmental Quality Act (CEQA). The proposed ordinance is not a project subject to CEQA review in accordance with Section 15378. Further, section 15601(b)(3) of the CEQA guidelines exempts these amendments from CEQA analysis because the City's action in adopting the amendments provides 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 activity in question may have a significant effect on the environment, in part because the proposed amendments prevent the negative environmental impacts arising from new gas station uses. Section 15308 also exempts these proposed amendments from CEQA analysis as the amendments seek to protect the environment.

The new non-conformity regulations in this proposed ordinance for gas station uses that generally prohibit the enlargement, extension, reconstruction, or relocation of gas station uses are categorically exempt from CEQA under CEQA Guidelines Section 15301 (Existing Facilities).

The new non-conformity regulations in this proposed 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 CEQA Guidelines Section 15301 (Existing Facilities), Section 15303 (New Construction or Conversion of Small Structures),

Section 15304 (Minor Alterations to Land), and Section 15308 (Actions by Regulatory Agencies for Protection of the Environment).

The provisions of this proposed ordinance pertaining to battery charging standards for ZEV 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.

The provisions of this proposed ordinance pertaining to hydrogen fuel cell station standards for ZEV are categorically exempt from CEQA under CEQA Guidelines Section 15301 (Existing Facilities), 15303 (New Construction or Conversion of Small Structures), Section 15304 (Minor Alterations to Land), and Section 15308 (Actions to Protect the Environment).

FINANCIAL IMPACT

There are no immediate direct impacts related to this proposed ordinance. However, applications for the modification of existing gas stations as well as applications for zero emission vehicle charging stations will be charged fees for application processing. There are other potential indirect costs that cannot be quantified at this point.

CONSISTENCY WITH COUNCIL GOALS AND OBJECTIVES

This action would be broadly consistent with Council Goal 6: Create an environmentally sustainable community. Specifically, it would be in furtherance of Objectives 1 and 2 under Goal 6: Implement “green” environmental sustainability policies and initiatives, and reduce greenhouse gas emissions.

ATTACHMENTS

1. Draft Ordinance No. 755 with Exhibits 1 through 8
2. Resolution No. 2021-063 Declaring a Climate Emergency
3. Gas Station Location Map
4. Resolution PC 2021-22

ORDINANCE NO. 755

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA
AMENDING CALISTOGA MUNICIPAL CODE CHAPTER 17.04 (DEFINITIONS);
CHAPTER 17.21 (DC DOWNTOWN COMMERCIAL), CHAPTER 17.22 (CC
COMMUNITY COMMERCIAL), CHAPTER 17.36 (OFF-STREET PARKING AND
LOADING), CHAPTER 17.38 (GENERAL PROVISIONS AND EXCEPTIONS),
AND CHAPTER 17.44 (NON-CONFORMING LOTS, STRUCTURES AND USES)
TO PROHIBIT NEW GAS STATION LAND USES (ZOA 2021-1) AND
INCENTIVIZE ZERO EMISSION VEHICLE CHARGING STATION USES IN THE
CITY OF CALISTOGA**

WHEREAS, transportation remains the largest contributor to greenhouse gas and criteria pollutant emissions in California;

WHEREAS, to combat the increasing rate of greenhouse gas emissions and to improve environmental and human health, society must transition from internal combustion engines to Zero Emission Vehicles ("ZEV") as the predominant method of transportation; and

WHEREAS, an inventory of current and approved gas stations in the City shows they are adequate to serve existing and planned residential developments whose residents may be dependent upon internal combustion engines; and

WHEREAS, on August 3, 2021, the City Council of the City of Calistoga adopted Resolution No. 2021-063 Declaring a Climate Emergency and committing the City to net zero emissions goals by 2030; and

WHEREAS, this Resolution 2021-063 furthers the 2014 City's Climate Action Plan ("CAP"), which seeks to reduce the City's greenhouse gas emissions by 15 percent from a 2005 baseline level; and

WHEREAS, the City's Green Committee has recommended that the City amend Title 17 of the City of Calistoga Municipal Code to prohibit new gas station development in all zoning districts and to provide uniform and comprehensive regulations and development standards for modifications, maintenance, operation, and discontinuation of gas station uses and facilities in the City; and

WHEREAS, a prohibition on new gas station land uses in the City of Calistoga is desirable, and consistent with the goals, policies, and implementation measures of the General Plan; and

WHEREAS, the Land Use Element and the Open Space and Conservation Element of the City's General Plan illustrate the City's commitment to reducing greenhouse gas emissions; and

WHEREAS, a prohibition on new gas station land uses in the City of Calistoga would further support the goals of the City's CAP and Resolution No. 2021-063 Declaring a Climate Emergency adopted by Calistoga City Council; and

WHEREAS, the proposed ordinance would be in furtherance of Council Goal 6: Create an environmentally sustainable community; and

WHEREAS, in accordance with Section 17.02.040 of the Calistoga Municipal Code, amendments to Title 17, Zoning, of the City's Municipal Code may be initiated by the City Council, a property owner or interested party; and

WHEREAS, the amendments modify the City's Zoning Code to prohibit new gas station uses, enact new non-conformity regulations specific to existing gas station uses, and enact new regulations to incentivize the creation of ZEV charging stations; and

WHEREAS, the draft amendments was released to the public for review on the City's website on October 6, 2021; and

WHEREAS, the Planning Commission considered this amendment at its regular meeting of October 13, 2021. Prior to taking action on the amendment, the Planning Commission received written and oral reports by the staff and received public testimony. Due to technical difficulties with Zoom, the Planning Commission continued the item to a future date; and

WHEREAS, the Planning Commission considered this amendment at its regular meeting of November 10, 2021. Prior to taking action on the amendment, the Planning Commission received written and oral reports by the staff, and received public testimony; and

WHEREAS, on November 10, 2021, and after all interested parties had the opportunity to be heard, the Planning Commission recommended by a 4-1 vote the proposed text amendments to the City Council for consideration, and adopted Resolution PC 2021-22; and

WHEREAS, during its review, the City Council considered the public record, including the staff report, findings, and any written materials and testimony presented by the public during the hearing.

NOW, THEREFORE, THE CALISTOGA CITY COUNCIL DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE

Findings: The above recitals are incorporated herein as if set forth herein in full and each is relied upon independently by the City Council for its adoption of this ordinance.

SECTION TWO

Zoning Code Amendments: Chapter 17.04, 17.21, 17.22, 17.36, 17.38, and 17.44 of the Calistoga Municipal Code is hereby amended as set forth in the attachment Exhibits 1 through 8.

SECTION 3

Environmental Review. The City Council has considered all of the evidence in the record, including the staff reports, public petition and Green Committee advice, and

hereby determines that this Ordinance is exempt from review under the California Environmental Quality Act (CEQA). Compliance with the California Environmental Quality Act (CEQA) is demonstrated as follows:

a. Actions Relating to Gas Station Prohibition. The Zoning Code 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.

b. Actions Relating to New Non-Conformity Regulations for Gas Stations. These amendments would apply to three already-developed properties which have 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 ZEVs; and (4) those to install facilities for the storage, conveyance and dispensing of hydrogen to ZEVs. The latter two categories of modifications (i.e., battery charging stations, hydrogen) are addressed separately below.

The Zoning Code 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 Code 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.

c. Actions Relating to Land Use – Zero Emission Vehicles (Battery Charging Station). The Zoning Code amendments pertaining to battery charging standards for ZEVs 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.

d. Actions Relating to Land Use – Zero Emission Vehicles (Hydrogen Fuel Cell Station). The Zoning Code amendments would allow for hydrogen fuel stations at existing gas stations. As described, there are three already-developed gas stations which have already demonstrated, separately compliance with CEQA. Presently, there are no retail hydrogen stations in the City of Calistoga.

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 station 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 to 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 Code amendments pertaining to hydrogen fuel cell station standards for ZEVs 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).

SECTION FOUR

The proposed Zoning Code amendments to prohibit new fueling station/gas station land uses in the City of Calistoga is desirable, and consistent with the City's 2003 General Plan Land Use Elements and Open Space and Conservation Elements goals, objectives, and policies supporting these environmentally sound policies.

SECTION FIVE

Pursuant to Resolution No. 2021-063 (Declaring a Climate Emergency) the City Council has, among other things, committed to evaluate all planning and policy decisions to implement both immediate and sustainable actions in support of net zero climate pollution by or before 2030, measured in terms of net contribution to excess trapped heat.

The proposed 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 proposed amendments' components facilitating the use of

ZEVs support the use of transportation technologies without the aforementioned adverse effects.

SECTION SIX

Severability. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

SECTION SEVEN

Effective Date. This Ordinance shall take effect thirty (30) days after its passage and before the expiration of fifteen (15) days after its passage, shall be published in accordance with law, in a newspaper of general circulation published and circulated in the City of Calistoga.

THIS ORDINANCE was introduced with the first reading waived at the City of Calistoga City Council meeting of the 7th day of **December 2021**, and was passed and adopted at a regular meeting of the Calistoga City Council on the **21st** day of **December 2021**, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

Marni Rittburg, CMC, City Clerk

Chris Canning, Mayor

Dated: _____

Exhibit 1

Chapter 17.04 – Definitions

17.04.060 Automobile repair facilities. "Automobile repair facilities" shall mean a place where minor motor vehicle repairs and lubrication are performed by auto mechanics and technicians, including sale of accessories for the vehicle.

17.04.142 Car wash facilities. "Car wash facilities" shall mean a place containing equipment for washing motor vehicles where no chain conveyor or blower is used.

17.04.226 Electric Vehicle Supply Equipment. "Electric Vehicle Supply Equipment" shall mean the hardware, including connectors, fixtures, devices, and other components required to charge an electric vehicle.

17.04.300 Gas Station. "Gas Station" shall mean a retail business selling gasoline or other motor vehicle fuels, and related products, derived from fossil fuels (e.g., petroleum, coal, natural gas).

17.04.700 Zero Emission Vehicle. "Zero Emission Vehicle" shall mean 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.

17.04.710 Zero Emission Vehicles – Battery Charging Station. "Zero Emission Vehicles – Battery Charging Station" shall mean 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.

17.04.720 Zero Emission Vehicles – Hydrogen Fuel Cell Station. "Zero Emission Vehicles – Hydrogen Fuel Cell Station" shall mean one or more hydrogen fuel cell filling spaces served by equipment that stores, conveys, and dispenses hydrogen to zero emission vehicles.

Exhibit 2

Chapter 17.21.030 Conditionally Permitted Uses.

A. The following uses require a use permit in the DC district, pursuant to Chapter 17.40 CMC:

1. Wine shops, including tasting facilities.
2. Wine, beer and liquor sales.
3. Tasting rooms.
 - a. Seventy-five percent of the wines poured for tasting in a winery tasting room without charge shall comply with one of the following:
 - i. Are labeled Napa County, Napa Valley or other legally recognized American viticultural area within the County of Napa; or
 - ii. Are made with at least 75 percent fruit grown within the 94515 zip code area.

A combination of wines meeting the criteria stated in the subsections above may be allowed if collectively the combination represents at least 75 percent of the wines being poured for tasting in the winery tasting room.

- b. The use shall meet the standards of the City's tasting room policy, adopted by resolution.
4. Sale of used or secondhand goods, excluding books and magazines.
5. Firearm and ammunition sales.
6. Souvenir shops.
7. Walkaway businesses.
8. Outdoor sales establishments, such as plant nurseries and garden supplies, and storage associated with a primary use, such as hardware and home improvement stores.
9. Sexually oriented retail businesses.
10. Cottage industries, such as carpenters, when ancillary to retail sales of products or merchandise made on the premises.
11. Bars.
12. Restaurants, bakeries, cafes and other similar uses, with or without outdoor seating, not meeting the criteria set forth CMC 17.21.020(A)(9)(a).
13. Formula businesses otherwise allowed in CMC 17.21.020, but not including formula restaurants or formula visitor accommodations.
14. Banks and financial institutions with drive-up or walk-up facilities.
15. Hotels, hotel-condominiums, motels, resorts and inns.
16. Commercial amusements, such as arcades and fortune tellers.
17. Live entertainment and/or dancing.
18. Theaters and places of public assembly, such as halls, lodges, fraternal organizations and clubs.
19. Dance studios and schools.
20. Off-site parking for businesses.
21. Live-work units and resident caretaker and manager quarters; provided, that the following requirements have been met:
 - a. The required off-street parking for the exclusive use of dwelling units is provided pursuant to Chapter 17.36 CMC.
 - b. The commercial use shall be compatible with the health and safety of persons residing on the property (lighting, noise, fumes and hours of operation, etc.).

22. Multifamily dwellings above the first floor.
 23. Storage when associated with a resident-serving business located on an adjacent parcel.
 24. Religious institutions, such as churches and mosques.
 25. Public and private schools.
 26. Public utility substations.
 27. Geothermal uses.
 28. Uses determined by the Planning Commission to be similar in nature, as provided for in Chapter 17.03 CMC.
- B. The following uses require an administrative use permit in the DC district, pursuant to Chapter 17.40 CMC:
1. Outdoor bicycle rentals in conjunction with an established retail sales operation.
 2. Outdoor dining in conjunction with an established restaurant operation.
 3. Outdoor live entertainment with non-amplified instruments in conjunction with an established business operation on an ongoing basis.
- C. The following uses require a temporary use permit in the DC district, pursuant to Chapter 17.40 CMC:
1. One-time events held in conjunction with an established business operation, limited to four events per year. Use of public right-of-way as part of an event also requires approval of an encroachment permit.
 2. Outdoor holiday and other seasonal events and sales that do not involve the use of public property or right-of-way.

Exhibit 3

17.21.050 Prohibited uses.

- A. The following uses are prohibited in the DC district:
 - 1. Uses not specified in CMC 17.21.020 through 17.21.040.
 - 2. Formula restaurants.
 - 3. Formula visitor accommodations.
 - 4. Drive-up facilities associated with a food service establishment.
 - 5. Gas station facilities, automobile repair, and car washes.
 - 6. Timeshare projects, programs or occupancies.
 - 7. Manufacturers' outlet stores.
 - 8. Establishments serving customers food and/or beverages within their automobiles on the premises or preparing food and/or beverages intended for consumption within their automobiles on the premises.
 - 9. Objectionable and hazardous uses, such as businesses that present noxious odors or fumes, noise, vibration, glare, dust, and materials which have a potential for hazard and explosion.
 - 10. The conversion or demolition of existing dwelling units, except under one of the following circumstances:
 - a. Replacement housing will be provided. A housing agreement shall be required to ensure compliance with the conditions of a permit authorizing the demolition or conversion.
 - b. A fee will be paid subject to the provisions contained in Chapter 17.08 CMC, to be used by the City to provide replacement housing.

Exhibit 4

17.22.030 Conditionally permitted uses.

A. The following uses require a conditional use permit in the CC district, pursuant to Chapter 17.40 CMC:

1. Wine shops, including tasting facilities.
2. Wine, beer and liquor sales.
3. Tasting rooms.
 - a. Seventy-five percent of the wines poured for tasting in a winery tasting room without charge shall comply with one of the following:
 - i. Are labeled Napa County, Napa Valley or other legally recognized American viticultural area within the County of Napa; or
 - ii. Are made with at least 75 percent fruit grown within the 94515 zip code area.

A combination of wines meeting the criteria stated in the subsections above may be allowed if collectively the combination represents at least 75 percent of the wines being poured for tasting in the winery tasting room.

- b. The use shall meet the standards of the City's tasting room policy, adopted by resolution.
4. Antique stores.
5. Sale of used or secondhand goods, excluding books and magazines.
6. Thrift and discount stores, not including manufacturers' outlet stores.
7. Firearm and ammunition sales.
8. Walkaway businesses.
9. Outdoor sales establishments, such as plant nurseries and garden supplies, and storage associated with a primary use, such as hardware and home improvement stores.
10. Sexually oriented retail businesses.
11. Automobile, boat, recreational vehicle and agricultural equipment sales, rentals and repair.
12. Cottage industries, such as carpenters, when ancillary to retail sales of products or merchandise made on the premises.
13. Car wash facilities.
14. Banks and financial institutions with drive-up facilities.
15. Veterinarian clinics with boarding facilities, subject to the provisions of CMC 17.14.020(B)(3).
16. Restaurants, bakeries, bars, cafes, and similar uses, with or without outdoor dining.
17. Formula businesses otherwise allowed in CMC 17.22.020, but not including formula restaurants or formula visitor accommodations.
18. Hotels, hotel-condominiums, motels, resorts and inns. New visitor accommodations shall generally be allowed where they are part of a mixed-use project that provides tangible benefits to the community.
19. Live entertainment and/or dancing.
20. Theaters and places of public assembly such as halls, lodges, fraternal organizations and clubs.
21. Stand-alone parking lots.
22. Off-site parking for businesses.

23. Wineries, including public tours and tastings, winery events and private wine marketing events.
 24. Temporary storage or warehousing of nontoxic/nonhazardous material substances, subject to the following requirements:
 - a. The use shall be entirely enclosed within an existing structure as of the effective date of the ordinance codified herein. New structures or expansion of more than 10 percent of an existing structure shall be prohibited for such uses.
 - b. The use shall primarily serve the permanent resident population of Calistoga.
 - c. The use shall be allowed for up to two years. The use may only be extended upon the review and approval of the Planning Commission; provided, that a needs assessment is prepared indicating a demand for the use.
 - d. The use is prohibited within an entry corridor designated in the General Plan.
 - e. Public storage uses are prohibited.
 - f. Warehousing or storage of products for regional distribution are prohibited.
 - g. Outdoor storage of goods and materials are prohibited.
 25. Live-work units and caretaker's quarters; provided, that the following guidelines have been considered:
 - a. The required off-street parking for the exclusive use of dwelling units is provided pursuant to Chapter 17.36 CMC.
 - b. A screened yard area of not less than 300 square feet is provided per dwelling unit, except in cases where due to the location of existing structures there is no land available for said yard.
 - c. In the case of shared residential and commercial uses, the commercial use is compatible with the health and safety of persons residing on the property (lighting, noise, fumes and hours of operation, etc.).
 26. Multifamily dwellings.
 27. Childcare facilities.
 28. Large residential care facilities for the elderly.
 29. Skilled nursing facilities.
 30. Religious institutions, such as churches and mosques.
 31. Public utility substations.
 32. Public and private schools.
 33. Geothermal uses.
 34. New structures, and additions to existing structures resulting in an increase in floor area of 10 percent or more.
 35. Storage when associated with a resident-serving business located on an adjacent parcel.
 36. Uses determined by the Planning Commission to be similar in nature, as provided for in Chapter 17.03 CMC.
- B. The following uses require an administrative use permit in the CC district, pursuant to Chapter 17.40 CMC:
1. Outdoor bicycle rentals in conjunction with an established retail sales operation.
 2. Outdoor dining in conjunction with an established restaurant operation.
 3. Outdoor live entertainment with non-amplified instruments in conjunction with an established business operation on an ongoing basis.
- C. The following uses require a temporary use permit in the CC district, pursuant to Chapter 17.40 CMC:

1. One-time events held in conjunction with an established business operation that do not involve the use of public property or right-of-way.
2. Outdoor holiday and other seasonal events and sales that do not involve the use of public property or right-of-way.

Exhibit 5

17.22.050 Prohibited uses.

- A. The following uses are prohibited in the CC district:
 - 1. Uses not specified in CMC 17.22.020 through 17.22.040.
 - 2. Formula restaurants.
 - 3. Formula visitor accommodations.
 - 4. Drive-up facilities when associated with a food service establishment.
 - 5. Gas station facilities.
 - 6. Timeshare projects, programs and occupancies.
 - 7. Manufacturers' outlet stores.
 - 8. Souvenir shops, unless associated with and ancillary to a visitor accommodation.
 - 9. Establishments serving customers food and/or beverages within their automobiles on the premises or preparing food and/or beverages intended for consumption within their automobiles on the premises.
 - 10. Objectionable and hazardous businesses, such as uses which present odors, fumes, noise, vibration, glare, dust, and materials which have a potential for hazard and explosion.
 - 11. The conversion or demolition of existing dwelling units, except under one of the following circumstances:
 - a. Replacement housing will be provided. A housing agreement shall be required to ensure compliance with the conditions of a permit authorizing the demolition or conversion.
 - b. A fee will be paid subject to the provisions contained in Chapter 17.08 CMC, to be used by the City to provide replacement housing.

Exhibit 6

17.36.140 Off-street parking – Commercial and industrial uses.

Land Use	Parking Ratio
Automobile Services	
repair only	1 space per 100 square feet
with repair	2 spaces per bay (plus island requirement)
w/convenience store	1 space per 200 square feet (plus island requirement)
Auto or Vehicle Sales	
sales area	1 space per 1,000 square feet
w/service	1 space per service bay
Barber/Beauty/Nail Salons	2 spaces per operator station
Contractor's Storage Yard	1 space per 3,000 square feet plus 1 space for each vehicle
Contractor's Service (Office, Shop Area)	1 space per 500 square feet
Convalescent Homes	1 space per each two beds
Clubs or Lodges, Private	1 space per 500 square feet of largest single area
Day Care	
adult	same as single-family – 2 spaces
children	
less than 7	same as single-family – 2 spaces
12+ children	1 space per employee plus 1 per 500 square feet and safe loading area
(preschool: see Schools)	
Home Occupations	
resident only	2 spaces
one employee	2 spaces for owner plus 1 space
Hospital	
human services	1 space per two beds plus 1 space per employee
animal services	1 space per 300 square feet
Kennel	
boarding	1 space per three kennels
boarding w/grooming	1 space per 300 square feet
Manufacturing or Production	1 space per 500 square feet
Mini Storage	
storage area	4 space minimum plus
office area	1 space per 200 square feet plus
resident manager	2 spaces
Offices	
law, real estate, and general	1 space per 250 square feet
medical, dental	1 space per 200 square feet

Land Use	Parking Ratio
Outdoor Sales/Rentals	
bicycles	1 space per 500 square feet of display area
plant nursery	1 space per 1,000 square feet of display area
building materials	1 space per 2,000 square feet of display area
Personal Services (Massage, Facials, etc.; Not Spas)	1 space per treatment area, plus 1 space per employee
Places of Assembly	
fixed seats	1 space per 5 seats or 10 feet of bench length
open seating	1 space per 35 square feet of largest assembly area
Recreational Uses	
stadium, ballfield	1 space per 4 seats or 10 feet of bench length
theaters	1 space per 5 seats
bowling alley	
w/o restaurant	6 spaces per alley
with other principal uses	shall provide additional parking spaces as required by this chapter for each use
sports courts	2 spaces per court
skating rink	1 space per 100 square feet plus 1 space per 2 employees
public swimming (not in conjunction with other uses)	1 space per 100 square feet of pool area
golf course	
regular	6 spaces per hole
miniature	3 spaces per hole
driving range	1 space per tee
with other uses	shall provide additional parking spaces as required by this chapter for each use
game room/amusement arcade	1 space per 200 square feet
commercial stable/riding academy	1 parking space per stall
recreational vehicle park/campground	2 spaces per space or campsite
Resident-Serving Businesses	25 percent credit against spaces as required by this chapter
Restaurants	1 space per 100 square feet
Retail Sales, General	1 space per 200 square feet
Retail Sales, Bulk	1 space per 500 square feet
Schools	
preschool	2 spaces per teacher plus 1 space per five students
elementary/junior high	2 spaces per classroom plus 1 space per administrative employee
high school	10 spaces per classroom plus 1 space per administrative employee

Land Use	Parking Ratio
private and trade	5 spaces plus 20 per classroom
Spa, Health Resorts	
w/o tourist units	1 space per 400 square feet
w/tourist units	1.1 space per unit, additional
Theater	1 space per 5 seats
Tourist/Visitor Accommodations	1.1 space per unit plus 1 space for manager
Walkaway Businesses	
w/o seating	1 space per 500 square feet
w/seating	1 space per 3 seats
Warehouse and Bulk Storage	
w/manufacturing	1 space per 500 square feet
w/storage only	1 space per 2,000 square feet

Exhibit 7

17.38.070 Zero Emission Vehicles – Battery Charging Station and Hydrogen Fuel Cell Station.

- A. The purpose of this section is to promote the public health, safety, and welfare through the regulation of placement and servicing of zero emission vehicle stations.
- B. Zero Emission Vehicles – Battery Charging Station shall be an allowed accessory use in any zoning district.
- C. Zero Emission Vehicles – Hydrogen Fuel Cell Station shall be an allowed use at existing gas stations as an accessory or primary use.
- D. Every zero emission vehicle station shall be maintained in a clean and neat condition and in good repair at all times.

Exhibit 8

Sections:

17.44.010	Regulation of nonconforming uses and structures.
17.44.015	Continuation, alterations and extensions.
17.44.020	Discontinuance.
17.44.030	Replacement following destruction.
17.44.040	Completion of nonconforming structure.
17.44.050	Prohibited nonconforming uses.
17.44.060	Nonconforming lots.
17.44.070	Regulation of nonconforming gas station uses and structures.

Chapter 17.44 NONCONFORMING LOTS, STRUCTURES AND USES

17.44.010 Regulation of nonconforming uses and structures.

Except as otherwise provided in Section 17.44.070, nonconforming uses and structures shall be subject to the following regulations.

17.44.015 Continuation, alterations and extensions.

Subject to the provisions of this section, a nonconforming use or structure may be continued and maintained in reasonable repair but shall not be altered or extended, except that:

- A. The extension of a nonconforming use to a portion of a structure that was provided for the nonconforming use at the time the ordinance codified in this title was adopted shall be permitted provided the parking requirements pursuant to Chapter 17.36 CMC, Off-Street Parking and Loading, are met.
- B. A structure conforming as to use but nonconforming with respect to height, setback or coverage may be altered or extended if the alteration or extension does not further deviate from the standards of this title.
- C. Any structure or use for which parking facilities do not meet the requirements of Chapter 17.36 CMC shall be considered a nonconforming use. Such nonconforming uses may continue, but no enlargement, expansion or increase in the number of businesses shall be made on the lot or within existing structures unless the entire parking requirements of Chapter 17.36 CMC for the expanded floor area or use intensification are met or an in-lieu parking fee can be applied in accordance with such title.

17.44.020 Discontinuance.

- A. If a nonconforming use is replaced by another use, the new use shall conform to this title.
- B. If a nonconforming use is discontinued for a period of 180 days, all future use shall conform to the current provisions of this title.

17.44.030 Replacement following destruction.

- A. If a nonconforming structure or a structure containing a nonconforming use is destroyed by any cause to an extent exceeding 60 percent of fair market value as indicated by the records of the County Assessor, a future structure or use on the site shall conform to this title.
- B. Notwithstanding the above, a nonconforming residential structure may be replaced, provided that:
 1. The number of dwelling units is not decreased.

2. The replacement structure complies with all applicable development standards, unless a variance is approved.
3. A building permit for the replacement structure shall be applied for within two years of the former structure's destruction and construction shall be diligently pursued.

17.44.040 Completion of nonconforming structure.

Nothing contained in this title shall require any change in the plans, construction, alteration, or designated use of a structure for which a permit has been issued and construction work has commenced prior to the adoption of this title, or any amendment thereto, that caused the structure or use to become nonconforming. However, such structure shall be completed and in use within two years from the time the permit was issued.

17.44.050 Prohibited nonconforming uses.

The following nonconforming uses are prohibited:

- A. A nonconforming use not involving a structure.
- B. A nonconforming use involving a structure having an assessed value of less than \$1,000.

17.44.060 Nonconforming lots.

The minimum lot area and minimum lot dimensions prescribed for each zoning district apply to applications for new land subdivisions and lot line adjustments. They are not intended to prevent the development, subject to compliance with other provisions of this title, of a preexisting lot which was legally created but does not meet the minimum required lot area or dimensions applicable to the zoning district for such lot.

17.44.070 Regulation of nonconforming gas station uses and structures.

- A. **Purpose.** To support implementation of General Plan OSC Goals 6 and 7 and Policy P1.3-3 through regulations that:
 1. Provide for the continued operation of Gas Station uses as legal non-conforming uses and describe when they may be deemed abandoned.
 2. Allow alterations to Gas 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 Gas 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 Gas Station uses in existence prior to [insert ordinance effective date; e.g., Month Date, 2021].
 2. All Gas Station uses not yet developed and/or operating but subject to an approved and unexpired land use permit.
- C. **Modifications to Gas Station Uses, Generally.** Except as provided below, 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 Director of Planning and Building, 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.** 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 Gas Station use may be modified to improve public safety.
- F. **Modifications to Enable Zero Emission Vehicles (Battery Charging Station).** Gas Station uses may be modified to accommodate battery charging station(s) for zero emission vehicles. Pursuant to Government Code Section 65850.7, no permit is required to install Battery Charging Stations.
- G. **Modifications to Enable Zero Emission Vehicles (Hydrogen Fuel Cell 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.** 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. **Modifications to Ensure Compliance with the General Plan.** Gas station uses may be altered to ensure compliance with General Plan policies and regulations, including overlay designations, such as entry corridor overlays, character areas, and gateway designations.
- J. **Discontinuation of a Gas Station Uses or Structures.** A Gas Station use shall not be re-established if such use has been discontinued for a continuous period of 180-days 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 180-day timeframe when presented with documentation demonstrating construction has been pursued diligently and timely.
- K. **Applicability of Chapter 17.44 Requirements to Gas Station Uses and Structures.** Sections 17.44.020, 17.44.030.A, and 17.44.040 of Chapter 17.44 also apply to gas station uses and structures regulated pursuant to this section. The requirements of sections 17.44.015, 17.44.030.B, 17.44.050, and 17.44.060 of Chapter 17.44 do not apply to gas station uses and structures regulated pursuant to this section. Nothing in this section shall be deemed to prevent normal maintenance and repair of any use or structure of 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.

RESOLUTION NO. 2021-063

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA, DECLARING A CLIMATE EMERGENCY

WHEREAS, there is broad scientific consensus that climate change caused by human activity represents a growing danger to human health, safety, and economic prosperity, and that the window of opportunity for long term climate preservation is rapidly closing; and

WHEREAS, 195 countries have signed the "Paris Agreement" acknowledging the threat of climate change and the urgent need to combat it, agreeing to keep global mean temperature "well below 2°C above pre-industrial levels" and to "pursue efforts to limit temperature increase to 1.5°C;" and

WHEREAS, the 2018 Intergovernmental Panel on Climate Change (IPCC) report, "Global Warming of 1.5°C," affirmed that "Limiting global warming to 1.5°C would require rapid, far-reaching and unprecedented changes in all aspects of society," and further projected that the earth could reach and exceed this temperature threshold as soon as 2030, far earlier than previously anticipated; and

WHEREAS, the 2018 US government report, "Fourth National Climate Assessment," detailed the massive threat to the American economy posed by climate change and underscored the need for immediate climate emergency action at all levels of government; and

WHEREAS, California, Napa County and their residents, economy, and environment have already experienced dramatic adverse effects from climate change, including prolonged wildfire seasons, firestorms, rising temperatures, mudslides, severe droughts, property destruction, damage to infrastructure, and loss of life; and

WHEREAS, climate breakdown, while endangering all people, disproportionately impacts the young and the most vulnerable, exacerbating existing social justice and other inequities.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF CALISTOGA DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

1. That a climate emergency exists, and that it threatens our city, state, country, and world.
2. That the City of Calistoga joins a growing list of communities committed to a goal of net zero climate pollution, measured in terms of net contribution to excess trapped heat, by or before 2030, and further commits to evaluate all planning and policy decisions through the lens of this pledge, and to implement both immediate and sustained actions in support of its achievement.
3. That the Calistoga City Council, recognizing the need for full community participation and support, commits to providing leadership and services in working with community organizations, businesses, schools, and regional partners and jurisdictions to educate, mobilize, expand, and accelerate local, regional and statewide support for comprehensive, immediate, and sustained action to achieve its goal of net zero climate pollution by or before 2030.
4. That the City of Calistoga will, at the earliest opportunity, amend the City's General Plan to prioritize climate goals and practices that support the provisions herein.

PASSED, APPROVED AND ADOPTED this 3rd day of August 2021. I, **MARNI RITTBURG, CITY CLERK OF THE CITY OF CALISTOGA**, HEREBY CERTIFY the foregoing resolution was introduced and passed at a regular meeting of the Calistoga City Council by the following roll call vote:

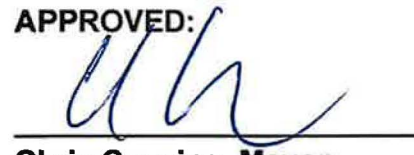
AYES: Councilmembers Gift, Kraus, and Williams, Vice Mayor Lopez-Ortega, and Mayor Canning
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST:



Marni Rittburg, CMC, City Clerk

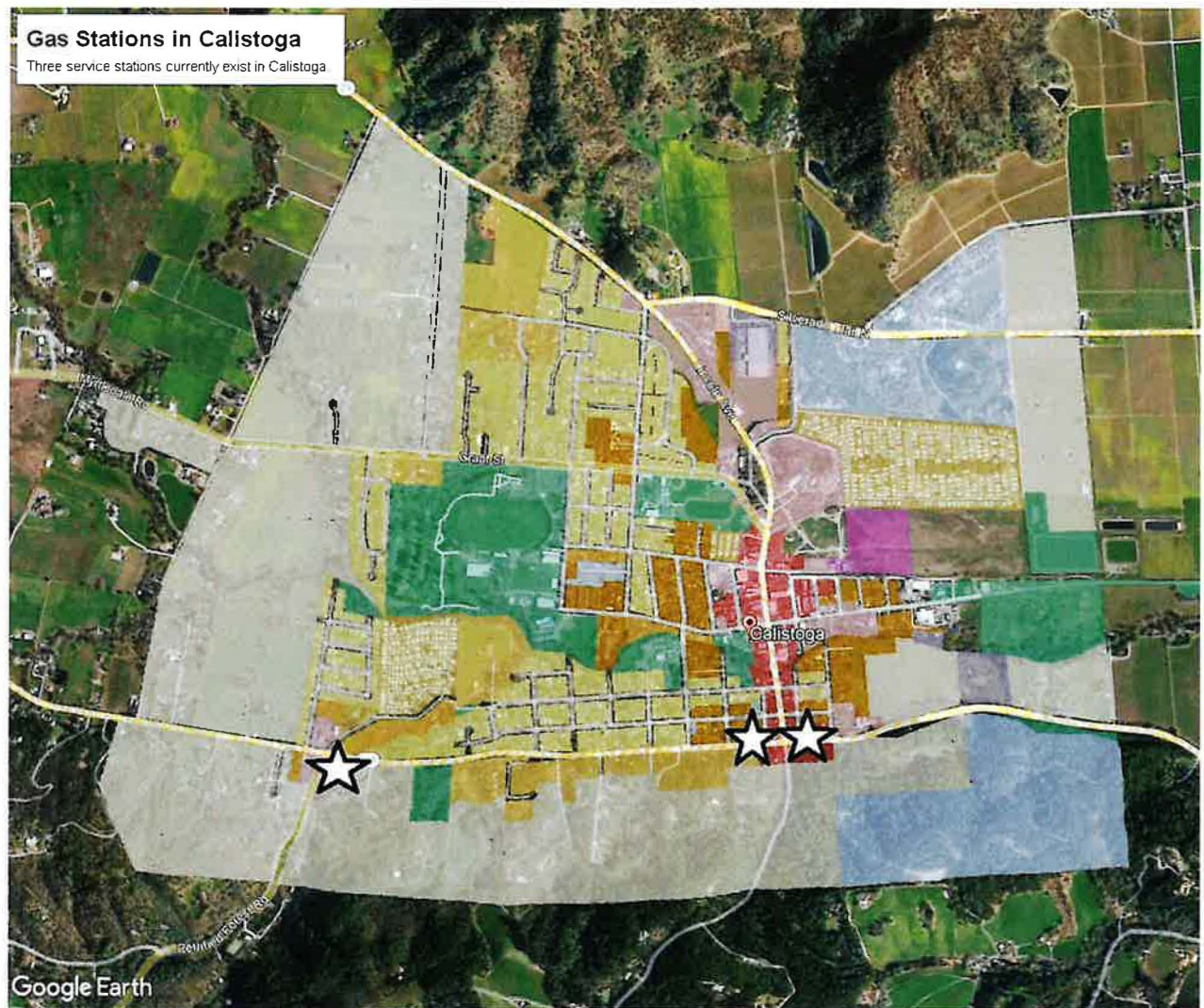
APPROVED:



Chris Canning, Mayor

Gas Station Location Map

City of Calistoga



**CITY OF CALISTOGA
PLANNING COMMISSION
RESOLUTION PC 2021-22**

**RESOLUTION OF THE CITY OF CALISTOGA PLANNING
COMMISSION RECOMMENDING TO THE CITY COUNCIL
AMENDMENTS TO CALISTOGA MUNICIPAL CODE CHAPTER 17.04
(DEFINITIONS); CHAPTER 17.21 (DC DOWNTOWN COMMERCIAL),
CHAPTER 17.22 (CC COMMUNITY COMMERCIAL), CHAPTER 17.36
(OFF-STREET PARKING AND LOADING), CHAPTER 17.38 (GENERAL
PROVISIONS AND EXCEPTIONS), AND CHAPTER 17.44 (NON-
CONFORMING LOTS, STRUCTURES AND USES) TO PROHIBIT NEW
GAS STATION LAND USES (ZOA 2021-1) AND INCENTIVIZE ZERO
EMISSION VEHICLE CHARGING STATION USES IN THE CITY OF
CALISTOGA**

WHEREAS, transportation remains the largest contributor to greenhouse gas and criteria pollutant emissions in California;

WHEREAS, to combat the increasing rate of greenhouse gas emissions and to improve environmental and human health, society must transition from internal combustion engines to Zero Emission Vehicles ("ZEV") as the predominant method of transportation; and

WHEREAS, an inventory of current and approved gas stations in the City shows they are adequate to serve existing and planned residential developments whose residents may be dependent upon internal combustion engines; and

WHEREAS, on August 3, 2021, the City Council of the City of Calistoga adopted Resolution No. 2021-063 Declaring a Climate Emergency and committing the City to net zero emissions goals by 2030; and

WHEREAS, this Resolution 2021-063 furthers the 2014 City's Climate Action Plan ("CAP"), which seeks to reduce the City's greenhouse gas emissions by 15 percent from a 2005 baseline level; and

WHEREAS, the City's Green Committee has recommended that the City amend Title 17 of the City of Calistoga Municipal Code to prohibit new gas station development in all zoning districts and to provide uniform and comprehensive regulations and development standards for modifications, maintenance, operation, and discontinuation of gas station uses and facilities in the City; and

WHEREAS, a prohibition on new gas station land uses in the City of Calistoga is desirable, and consistent with the goals, policies, and implementation measures of the General Plan; and

WHEREAS, the Land Use Element and the Open Space and Conservation Element of the City's General Plan illustrate the City's commitment to reducing greenhouse gas emissions; and

WHEREAS, a prohibition on new gas station land uses in the City of Calistoga

would further support the goals of the City's CAP and Resolution No. 2021-063 Declaring a Climate Emergency adopted by Calistoga City Council; and

WHEREAS, in accordance with Section 17.02.040 of the Calistoga Municipal Code, amendments to Title 17, Zoning, of the City's Municipal Code may be initiated by the City Council, a property owner or interested party; and

WHEREAS, the amendments modify the City's Zoning Code to prohibit new gas station uses, enact new non-conformity regulations specific to existing gas station uses, and enact new regulations to incentivize the creation of ZEV charging stations; and

WHEREAS, on October 1, 2021, public notice of the October 13, 2021 Planning Commission meeting to consider the text amendments was posted on the City's website and bulletin boards, published in the Calistoga Tribune, mailed to all property owners of existing gas stations and those property owners within 300 feet of all existing gas stations in compliance with state and local law; and

WHEREAS, the Planning Commission considered this amendment at its regular meeting of October 13, 2021. Prior to taking action on the amendment, the Planning Commission received written and oral reports by the staff, and received public testimony. Due to technical difficulties with Zoom, the Planning Commission continued the item to a future date; and

WHEREAS, on October 29, 2021, public notice of the November 10, 2021 Planning Commission meeting to consider the text amendments was posted on the City's website and bulletin boards, published in the Calistoga Tribune, mailed to all property owners of existing gas stations and those property owners within 300 feet of all existing gas stations in compliance with state and local law; and

WHEREAS, the Planning Commission considered this amendment at its regular meeting of November 10, 2021. Prior to taking action on the amendment, the Planning Commission received written and oral reports by the staff, and received public testimony; and

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

1. **Section 1.** The above recitals are hereby declared to be true and correct and are incorporated into the resolution as findings of the City of Calistoga Planning Commission.
2. **Section 2.** The Planning Commission hereby recommends that Chapter 17.04 be amended to add new definitions, as set forth in Exhibit 1.
3. **Section 3.** The Planning Commission hereby recommends that subsection (A)(11) of Section 17.21.030 be repealed, as set forth in Exhibit 2, attached hereto, and incorporated herein by reference.
4. **Section 4.** The Planning Commission hereby recommends that subsection (A)(5) be added to Section 17.21.050, as set forth in Exhibit 3 attached hereto, and incorporated herein by reference.

5. **Section 5.** The Planning Commission hereby recommends that subsection (A)(13) of Section 17.22.030 be repealed, as set forth in Exhibit 4, attached hereto, and incorporated herein by reference, attached hereto, and incorporated herein by reference.
6. **Section 6.** The Planning Commission hereby recommends that subsection (A)(5) be added to Section 17.22.050, as set forth in Exhibit 5, attached hereto, and incorporated herein by reference.
7. **Section 7.** The Planning Commission hereby recommends that the required parking ratio for Auto Service Stations in Section 17.36.140 be repealed to reflect that Auto Service Stations, which include gas stations, are a prohibited use, as set forth in Exhibit 6, attached hereto, and incorporated herein by reference.
8. **Section 8.** The Planning Commission hereby recommends that Section 17.38.070 is added to Section 17.38, as set forth in Exhibit 7, attached hereto and incorporated herein.
9. **Section 9.** The Planning Commission hereby recommends that Section 17.44 be repealed and replaced with a new Section 17.44, which is set forth in Exhibit 8, attached hereto, and incorporated herein by reference.
10. **Section 10.** Compliance with the California Environmental Quality Act (CEQA) is demonstrated as follows:
 - a. Actions Relating to Gas Station Prohibition. The Zoning Code 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.
 - b. Actions Relating to New Non-Conformity Regulations for Gas Stations. These amendments would apply to three already-developed properties which have 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 ZEVs; and (4) those to install facilities for the storage, conveyance and dispensing of hydrogen to ZEVs. The latter two categories of modifications (i.e., battery charging stations, hydrogen) are addressed separately below.

The Zoning Code 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 Code 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.

- c. Actions Relating to Land Use – Zero Emission Vehicles (Battery Charging Station). The Zoning Code amendments pertaining to battery charging standards for ZEVs 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.

- d. Actions Relating to Land Use – Zero Emission Vehicles (Hydrogen Fuel Cell Station). The Zoning Code amendments would allow for hydrogen fuel stations at existing gas stations. As described, there are three already-developed gas stations which have already demonstrated, separately compliance with CEQA. Presently, there are no retail hydrogen stations in the City of Calistoga.

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 station 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 to 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 Code amendments pertaining to hydrogen fuel cell station standards for ZEVs 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).

11. Section 11. The proposed Zoning Code amendments to prohibit new fueling station/gas station land uses in the City of Calistoga is desirable, and consistent with the following goals, policies, and implementation measures of the City's 2003 General Plan:

- Land Use Element Goal LU 1: Protect the smalltown qualities of Calistoga, which include walkability, vineyards, orchards, natural habitats and open space.
- Land Use Element Objective LU 1.3: Ensure that commercial and industrial development is designed, located and operated so as to not disturb Calistoga's quality of life, and approved at a rate and scale that retains Calistoga's small-town character.
- Land Use Element Policy P1.3-3: "Commercial and industrial land shall be developed in an environmentally-sensitive manner and shall be compatible with any adjacent residential and commercial uses."
- Land Use Element Goal LU 3: Ensure that new development mitigates significant environmental, design, and infrastructure impacts.
- Land Use Element Objective LU 3.2: Ensure that new development complements Calistoga's small town rural character and minimizes impacts on the environment.
- Open Space and Conservation Element Goal 6: Protect and improve Calistoga's existing high standard of air quality.
- Open Space and Conservation Element Policy P6.1-1: "The City should support efforts to reduce vehicular emissions in the Calistoga Planning area by reducing congestion and dependence on automobile related forms of transportation."
- Open Space and Conservation Element Policy P6.1-2: "Growth and development types that can inhibit air quality goals should be monitored and controlled, and the approval of development should be conditional on the mitigation of significant adverse impacts to air quality."
- Open Space and Conservation Element Goal 7: Work to Preserve the Global Environment.
- Open Space and Conservation Element Objective OSC 7.1: Minimize Calistoga's contribution to impacts on the global environment such as dependence on fossil fuels, consumption of non-renewable resources and discharge of toxins and pollutants.

- Open Space and Conservation Element Policy P7.1-1: "The City shall promote the conservation of non-renewable energy resources and encourage the use of solar energy."
- Open Space and Conservation Element Policy P7.1-3: "The City shall promote decreased reliance on motor vehicle travel through effective land use policies, improved public transit and facilities to accommodate bicycle and pedestrian modes of travel."
- Open Space and Conservation Element Policy P7.1-5: "The City shall encourage new development to minimize impact on the environment."

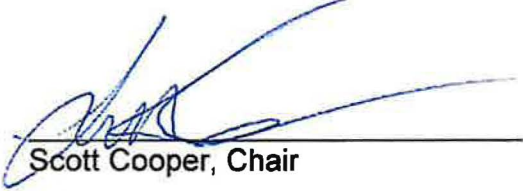
12. **Section 12.** Pursuant to Resolution No. 2021-063 (Declaring a Climate Emergency) the City Council has, among other things, committed to evaluate all planning and policy decisions to implement both immediate and sustainable actions in support of net zero climate pollution by or before 2030, measured in terms of net contribution to excess trapped heat.

The proposed 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 proposed amendments' components facilitating the use of ZEVs support the use of transportation technologies without the aforementioned adverse effects.

13. The proposed amendments attached hereto at Exhibits 1 through 8, are hereby recommended to the Calistoga City Council for consideration.

ADOPTED on November 10, 2021, by the following vote of the Calistoga Planning Commission:

AYES: Cooper, Wilkes, Allan, Berquist
NOES: McNair
ABSENT: None
ABSTAIN: None


Scott Cooper, Chair

ATTEST: 

Claudia Aceves, Secretary