

TOWN OF WINDSOR AGENDA REPORT

Town Council Meeting Date: September 7, 2022

To: Mayor and Town Council
From: Kim Voge, Planner III
Subject: Gas Station Ban

Recommendations to Council:

Hold a public hearing to:

1. Adopt a resolution to amend the 2040 General Plan revising definitions for the Service Commercial and Gateway Commercial land use designations.
2. Introduce and hold first reading, by title only, an ordinance amending the Town of Windsor Zoning Ordinance to ban the construction of new gas stations and the expansion of fossil-fuel infrastructure at existing gas stations.

Background:

On April 4, 2018, the Town Council adopted the 2040 General Plan, which states that the Town places a high value on environmental resources. The General Plan includes numerous policies to reduce greenhouse gas (GHG) emissions and promote energy efficiency to curtail the impacts of climate change.

On September 4, 2019, the Town Council declared a Climate Emergency and directed staff to update and prioritize implementation of the General Plan and GHG Emissions Reduction Action Plan to attain GHG emissions reductions and zero net carbon emissions by the year 2030 pursuant to Resolution No. 3548-19 (Attachment 7).

On September 23, 2020, the Governor of California signed Executive Order N-79-20, initiating a phase-out of gas-powered vehicles, and setting a target for all new passenger cars and trucks sold in California to be zero-emission vehicles (ZEV) by the year 2035.

On March 1, 2021, the City of Petaluma became the first municipal government in the country to adopt a prohibition on new gas station land uses within the city's boundaries.

On September 13, 2021, the Sonoma County Regional Climate Protection Authority (RCPA) recommended that all local jurisdictions in Sonoma County stop accepting applications for new gas stations and expansion of existing fossil fuel infrastructure, pursuant to Resolution No. 2021-003 (Attachment 4). The RCPA slideshow presentation and staff report are provided in Attachments 5 and 6.

On November 3, 2021, the Town Council considered RCPA's recommendations and directed staff to bring forward policy amendments for a Town-wide ban on the construction of new gas stations and expansion of fossil-fuel infrastructure at existing gas stations.

On May 24, 2022, the Planning Commission considered the potential gas station ban at a public hearing. On a vote of 3-1-0, the Planning Commission adopted Resolution No. 711-22 (Attachment 3), recommending the Town Council amend the General Plan and Zoning Ordinance to enact a gas station ban, subject to several changes in the draft Zoning Ordinance text amendments, including the following:

1. Allow existing gas stations to relocate fuel pumps on site for the purposes of maintenance, efficiency improvements, etc., (but not to add pumps).
2. Extend the period for which an existing gas station could be discontinued without voiding its use permit from six months to 12 months with the possibility of an additional 12-month extension.
3. Allow non-conforming gas stations to rebuild in the event of fire, flood, or act of God, even if there is damage exceeding 50% of the existing facility's value.

Ordinances to ban the construction of new gas stations and/or the expansion of fossil fuel infrastructure have been adopted in Petaluma, Rohnert Park, Cotati, Sebastopol, Calistoga, and American Canyon. Similar legislation is under consideration in the City of Santa Rosa and other jurisdictions in Sonoma County and beyond.

On August 17, 2022, a public hearing was scheduled for the Town Council to consider the Town's gas station ban ordinance, but the item was continued pending a full Council at the subsequent meeting.

Discussion:

A ban on new gas stations and expansion of fossil fuel infrastructure at existing gas stations in Windsor requires amendments to the General Plan and Zoning Ordinance. In Windsor, gas stations are currently allowed with a use permit in the Community Commercial (CC), Service Commercial (SC), and Gateway Commercial (GC) zoning districts, subject to specific standards for service stations (Zoning Ordinance Section 27.34.190). The Zoning Ordinance uses the terms “gas station” and “service station” interchangeably, defined as follows: “A retail business selling gasoline or other motor vehicle fuels, which may also provide services which are incidental to fuel services.” The status of the four existing gas stations in Windsor is shown in Table 1, below.

TABLE 1. EXISTING GAS STATIONS IN WINDSOR

Name	Address	Status
Chevron	9120/9200 Old Redwood Highway	Remodel/expansion approved 9/14/21 (Adding 2 fuel pumps)
Shell (1)	9033 Old Redwood Highway	Remodel application scheduled for Planning Commission decision on 9/13/22 (Removing 2 fuel pumps)
Shell (2)	6301 Hembree Lane	500-gallon propane tank installed in 2020. No current applications.
Valero	705 Shiloh Road	Remodel application in process (No change to fuel pumps; adding carwash)

General Plan Amendment

The General Plan currently specifies that gas stations are compatible with the Service Commercial and Gateway Commercial land use designations. The draft resolution (Attachment 1) would amend the definitions of these two General Plan land use designations to support a gas station ban. The gas station ban would advance the following General Plan policies:

M-10.6 Coordination on Transportation GHG Reduction. *The Town shall coordinate with the Sonoma County Transportation Authority (SCTA) and Regional Climate Protection Authority [RCPA] on regional transportation initiatives that help the Town and County achieve its greenhouse gas emission reduction goals.*

Staff comment: The Town’s adoption of a gas station ban is an important part of a regional strategy to combat climate change led by RCPA, of which the Town is a member. The proposed gas station ban was initiated in response to RCPA’s Resolution No. 2021-003, which recommended that all jurisdictions in Sonoma County stop accepting applications for new gas stations and expansions of fossil fuel infrastructure at existing gas stations. RCPA has found that new gas stations are not consistent with its Climate Emergency Resolution (adopted on September 9, 2019). The proposed gas station ban in Windsor is based upon evidence and findings provided by RCPA.

ER-5.1 Community Greenhouse Gas Reduction. *The Town shall strive to reduce emissions by 40% below the 1990 community emissions level by 2030.*

Staff comment: In RCPA’s 2018 Greenhouse Gas Inventory, the transportation sector was the source of 60% of greenhouse gas emissions in Sonoma County. In addition to being the largest source of greenhouse gas emissions, transportation was the only sector with increased greenhouse emissions from 1990 to 2018 (the other major sectors included buildings, fertilizer/livestock, solid waste, and water/wastewater). The proposed gas station ban would enable the Town to support the essential transition to zero-emission vehicles that is currently underway at the State and Federal levels. While there is no demonstrated need for additional gas stations in Windsor, there is a growing need for electric vehicle charging infrastructure. Government policies at the state and national levels, as well as market forces (i.e., sustained high gas prices), appear to be aligned to move consumers toward purchasing more electric vehicles. The gas station ban would advance General Plan Policy ER-5.1 by prioritizing ZEVs, including the installation of battery charging infrastructure and related improvements. The gas station ban also would be consistent with Town policies for Town-centered development and enhanced alternative transportation options.

ER-5.11 Zero Net Energy Goals. *The Town shall strive to implement the State goal of zero net energy (ZNE) in all new residential construction by 2020 and ZNE in all new commercial construction by 2030.*

Staff comment: The proposed gas station ban would not allow new construction

of traditional gas stations, but it would allow expansions for electric vehicle charging infrastructure. Also refer to the discussion above, under Policy ER-5.1.

ER-5.23 Update Energy Policies and Programs. *The Town shall regularly update and strengthen Town energy-related policies and programs for new and existing construction to reflect advances in technologies and practices.*

Staff comment: The proposed gas station ban would allow existing, non-conforming gas stations to add electric vehicle charging stations, reflecting the growing need for ZEV infrastructure.

Zoning Ordinance Amendment

The draft Zoning Ordinance Amendment (Attachment 2) includes all Planning Commission recommendations. The Zoning Ordinance text amendments include the following:

- 1) Removal of gas stations as an allowed use in Zoning Ordinance Table 2-4, Allowed Uses and Permit Requirements for Commercial Districts, rendering all existing gas stations in Windsor as legal non-conforming uses. Valid entitlements for new construction (i.e., Chevron) and applications currently in process (i.e., Shell-Old Redwood Highway) would not be subject to the gas station ban.
- 2) Adding specific standards to allow non-conforming gas stations to expand the portions of the business that are not fossil-fuel related and to encourage the transition to Zero Emission Vehicle (ZEV) fueling options.
- 3) Eliminating Zoning Ordinance Section 27.34.190, Standards for Specific Land Uses - Service Stations. The service station is generally an outdated land use from when gas station businesses used to include mechanics' bays. Electric vehicle charging facilities are typically associated with an existing business and located in that business' parking lot. These facilities can be allowed as an accessory use when they are incidental to, related, and clearly subordinate to a principal use established on the same parcel.
- 4) Clarifying definitions as needed.

Fiscal Impact:

The four existing gas stations in Windsor generate substantial sales tax revenues for the Town. In total, gas station sales tax revenues are projected to average nearly \$400,000 per year, or approximately 7% of the Town's overall sales tax revenues, for the years 2020 through 2024. These projections reflect the recent inflationary pressures on gas and other commodities.

The recommended action will not result in any direct fiscal impacts since the Town's existing gas station would be permitted to continue operating. The Planning Commission's recommended changes to the draft ordinance would allow gas stations to rebuild, even in the event of major damage during a natural disaster. In addition, the Planning Commission's revisions will allow an existing gas station to remain vacant for up to two years, while retaining its use permit and legal

non-conforming status. Gas stations tend to be long-held businesses, so it can be expected that the Town's gas stations would continue operating as long as there is demand.

The gas station ban would cause the Town to forgo any new tax revenues that potentially could result from the development of new gas stations and/or gas station expansions. However, the Community Development Department is not aware of any interest in developing a new gas station in Windsor within the past 10 years or more.

Environmental Review:

The proposed General Plan and Zoning Ordinance text amendments are exempt from environmental review because the proposed changes would reinforce, and be consistent with, the Town's Climate Action Resolution, General Plan policies, and the 2040 General Plan EIR; and therefore, would not have a negative effect on the physical environment. In addition, the proposed amendments would be exempt from the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Sections 15307 and 15308, because the amendments constitute actions taken by a regulatory agency, as authorized by state law or local ordinance, to assure the maintenance, restoration, or enhancement of a natural resource, where the regulatory process involves procedures for protection of the environment; and Section 15061(b)(3), because it can be seen with certainty that there is no possibility that the amendments would have a significant negative effect on the environment in that they would prevent environmental impacts resulting from new gas station uses.

Applications to install electric vehicle charging stations are generally ministerial projects that are exempt from CEQA review, pursuant to Section 21080 of the Public Resources Code and Section 65850.7 of the Government Code. Applications to install electric vehicle charging stations must be approved through the 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 it is not feasible to mitigate or avoid the adverse impact.

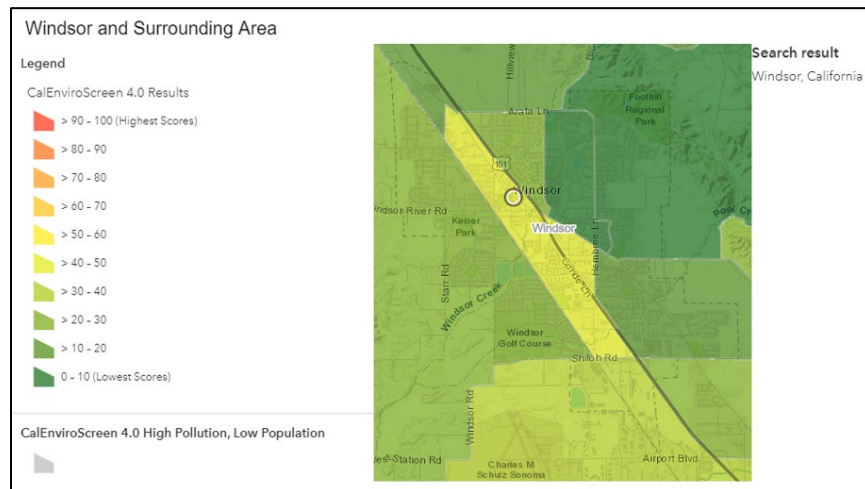
Vehicle Miles Traveled. Consideration has been given as to whether a gas station ban would result in unintended Vehicle Miles Traveled (VMT) impacts by forcing some residents to drive longer distances than necessary to get gas. Figure 1, below, shows that the entire Town is within two miles of an existing gas stations. Because all areas of town are within two miles (or approximately five minutes' drive) of an existing gas station, and since future new car sales will be increasingly non-gas powered, there would be no significant VMT impacts or related cumulative impacts.

FIGURE 1. GAS STATION LOCATIONS IN WINDSOR



Disadvantaged Communities. Staff reviewed the potential for impacts to disadvantaged communities, which may have difficulty purchasing new electric vehicles. The California Environmental Protection Agency (CalEPA) and its Office of Environmental Health Hazard Assessment (OEHHA) have developed a tool to help guide equitable decision-making. This is a map-based tool that is available online called CalEnviroScreen. This tool is a science-based method to assess impacted communities, considering pollution exposure, health, and socioeconomic status at the census tract level. CalEPA typically designates the top 25th percentile as disadvantaged communities (these areas would be shown in red and orange on the map below). As shown in Figure 2, below, there are no census tracts in Windsor that are currently defined as disadvantaged communities.

FIGURE 2. DISADVANTAGED COMMUNITIES



Source: CalEnviroScreen 4.0, accessed online April 9, 2022

Attachment(s):

1. Draft Resolution – Gas Station Ban General Plan Text Amendments
2. Draft Ordinance – Gas Station Ban Zoning Ordinance Text Amendments
3. Planning Commission Resolution No. 711-22 Recommending Gas Station Ban
4. Sonoma County Regional Climate Protection Authority (RCPA) Resolution No. 2021-003
5. RCPA Power Point, September 13, 2021
6. RCPA Staff Report, September 13, 2021
7. Town of Windsor Climate Emergency Resolution No. 3548-19

Prepared by:

Kim Voge
Planner III

Reviewed by:

Patrick Streeter
Community Development Director

Recommended by:

Jon Davis
Town Manager

RESOLUTION NO.**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF WINDSOR
APPROVING AN AMENDMENT TO THE 2040 GENERAL PLAN ELIMINATING GAS
STATIONS AS A SUITABLE USE**

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

WHEREAS, the Town of Windsor places a high value on environmental resources and the 2040 General Plan includes policies to reduce greenhouse gas emissions and promote energy efficiency to curtail the impacts of climate change, including the following:

- ER-5.1 Community Greenhouse Gas Reduction: *The Town shall strive to reduce emissions by 40% below the 1990 community emissions level by 2030.*
- ER-5.11 Zero Net Energy Goals: *The Town shall strive to implement the State goal of zero net energy (ZNE) in all new residential construction by 2020 and ZNE in all new commercial construction by 2030.*
- ER-5.23 Update Energy Policies and Programs: *The Town shall regularly update and strengthen Town energy-related policies and programs for new and existing construction to reflect advances in technologies and practices.*

WHEREAS, on June 1, 2005, Governor Schwarzenegger signed Executive Order S-3-05 establishing statewide targets for reducing greenhouse gas emissions; and

WHEREAS, through the adoption of SB32, the State of California set a target to reduce greenhouse gas emissions to 40% below 1990 levels by 2030; and

WHEREAS, on December 6, 2017, the Town Council adopted Resolution 3415-17, reaffirming the Town's intent to reduce greenhouse gas emissions through the implementation of measures identified in a coordinated effort led by the Sonoma County Regional Climate Protection Authority (RCPA); and

WHEREAS, on January 26, 2018, Governor Brown signed Executive Order B-48-18, stating that the transportation sector accounts for 50% of the state's greenhouse gas emissions and 80% of smog-forming pollutants; calling for a major increase in Zero Emission Vehicles (ZEVs) in California (targeting 5 million ZEVs in California by 2030); and investing \$2.5 billion to increase the availability of electric vehicle charging stations and other ZEV infrastructure; and

WHEREAS, on September 10, 2018, Governor Brown issued, and Governor Newsom has since affirmed, Executive Order B-55-18, calling for the State of California to achieve carbon neutrality no later than 2045; and

WHEREAS, on September 4, 2019, the Town Council adopted Climate Emergency Resolution No. 3548-19, herein incorporated by reference, stating that emergency mobilization is required to reach zero greenhouse gas emissions across all sectors to protect people and species from the

consequences of a rapidly warming climate; joining a nationwide call for a transition away from fossil fuels; and directing staff to integrate climate change considerations into all policies; and

WHEREAS, on September 23, 2020, the Governor of California signed Executive Order N-79-20, initiating a phase-out of gas-powered vehicles and setting a target for all new passenger cars and trucks sold in California to be ZEVs by the year 2035; and

WHEREAS, on September 25, 2020, RCPA published its 2018 Sonoma County Greenhouse Gas Inventory, which showed that the transportation sector accounts for 60% of the greenhouse gas emissions in Sonoma County. In addition to being the largest source of greenhouse gas emissions in Sonoma County, the transportation sector was the only sector that increased its greenhouse emissions from 1990 to 2018 (the other major sectors are buildings, fertilizer/livestock, solid waste, and water/wastewater); and

WHEREAS, on March 8, 2021, RCPA adopted a Climate Mobilization Strategy, prioritizing a goal to accelerate the transition to 100% electric vehicles for all transportation needs not otherwise met by biking or walking, including the installation of over 10,000 public and workplace charging stations in Sonoma County, addressing barriers for installing charging equipment, and limiting fossil fuel infrastructure; and

WHEREAS, on August 5, 2021, President Biden signed Executive Order 14037 Strengthening American Leadership in Clean Cars and Trucks, setting a goal that 50% of all new passenger cars and light trucks sold in the United States be ZEVs by the year 2030; and

WHEREAS, on September 13, 2021, RCPA adopted Resolution No. 2021-003, herein incorporated by reference, which recommended that all jurisdictions in Sonoma County stop accepting applications for new gas stations and expansions of fossil fuel infrastructure at existing gas stations; and

WHEREAS, General Plan Policy M-10.6 specifies that, “The Town shall coordinate with the Sonoma County Transportation Authority (SCTA) and Regional Climate Protection Authority (RCPA) on regional transportation initiatives that help the Town and County achieve its greenhouse gas emission reduction goals;” and

WHEREAS, because fossil-fuel based transportation remains the largest contributor of greenhouse gas and criteria pollutant emissions in California, reducing greenhouse gas emissions to improve the environment and human health requires a massive transition from internal combustion engines to ZEVs; and

WHEREAS, with approximately 10,000 electric vehicles in Sonoma County already, and government and market forces (i.e., sustained high gas prices) aligned to motivate consumers to purchase more electric vehicles, there is a growing need for electric vehicle charging infrastructure, while there is no demonstrated need for additional gas stations in Windsor; and

WHEREAS, there are four existing gas stations within the Town of Windsor’s incorporated limits, resulting in multiple gas stations being located within a five-minute drive

(approximately two miles at 25 miles per hour) of all properties in Windsor, including areas planned for future development by the 2040 General Plan; and accordingly, there are adequate gas stations in Windsor to serve the existing and planned population; and

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

WHEREAS, on November 3, 2021, the Town Council held a public meeting to consider a potential gas station ban, and directed staff to bring forward policy amendments to implement said ban; and

WHEREAS, on May 10, 2022, the Planning Commission held a duly noticed public hearing to consider a General Plan amendment (“Amendment”) that would prohibit new or expanded gas station uses in the Town, and, prior to acting to recommend the Amendment for adoption to the Town Council, the Planning Commission reviewed and considered the environmental analysis prepared for the proposed Amendment in accordance with the California Environmental Quality Act (“CEQA”); and

WHEREAS, following the May 10, 2022, public hearing, the Planning Commission adopted Resolution No. 711-22, recommending that the Town Council enact a General Plan text amendment to revise the 2040 General Plan, striking the words “gasoline stations” as follows:

- Page 2-9 Service Commercial (SC). This land use designation provides locations for personal, business, and travel services that are often land intensive (as opposed to labor intensive). Examples of uses allowable within this classification include landscape contractors, retail outlets for building/ construction materials, construction equipment sales and rentals, automobile repair and wrecking operations. Other uses compatible with this classification include office uses as well as travel-oriented land uses such as ~~gasoline stations~~, transient lodging, and outdoor recreation/ amusement parks.
- Page 2-9 Gateway Commercial (GC). The Gateway Commercial designation is applied in areas at key gateway points throughout town where special consideration in the design and appearance of new public and private improvements is warranted. This designation provides areas for commercial activities oriented to serve the traveling public near freeway interchanges and major arterials in such a fashion as to provide safe and convenient access. Compatible uses include tourist-serving uses, transient lodging, conference/ recreation facilities, ~~gasoline stations~~, and restaurants. Regional-serving retail uses may also be considered in this designation. Gateway Commercial areas located at the edge of Windsor must be designed to create an attractive and aesthetically pleasing entry into town, consistent with Policy LU-3.5.

WHEREAS, on August 4, 2022, public notice of the August 17, 2022, Town Council hearing to consider the Amendment as recommended by the Planning Commission was published in the Press Democrat and mailed to all property owners of existing gas stations in compliance with state and local law; and

WHEREAS, the Town Council continued the public hearing to September 7, 2022, pending the attendance of a full Council at the September 7, 2022, meeting; and

WHEREAS, the text amendments to eliminate “gasoline stations” from two land use designations is not a substantial change to the 2040 General Plan overall, and therefore no additional noticing was required for agencies listed in Government Code Section 65352; and

WHEREAS, on September 7, 2022, the Town 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 September 7, 2022, the Town Council reviewed the environmental analysis prepared concerning the Amendment in accordance with 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 Section 15061(b)(3), the proposed Amendment is exempt from environmental review because it has no potential to cause a significant effect on the environment; and the Amendment prevents environmental impacts that would result from the construction and operation of new gas stations or the expansion of fossil-fuel facilities at existing gas stations; 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 that are exempt from CEQA review in accordance with Section 21080 of the Public Resources Code, because AB1236 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, 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 limiting increases in greenhouse gas emissions that would have resulted from new or expanded gas station uses related to fossil fuels, while accommodating modifications to fuel ZEVs.

NOW, THEREFORE BE IT RESOLVED by the Town Council of the Town of Windsor as follows:

1. The above recitals are hereby declared to be true and correct and are incorporated into the resolution as findings of the Windsor Town Council.

2. The proposed Amendment is not a project subject to CEQA review in accordance with Sections 15378 and 15061(b)(3) of the CEQA Guidelines because it has no potential for resulting in physical change in the environment, directly or indirectly, 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 or expanded gas station uses.
3. For purposes of Section 65850.7 of the Government Code, enacted pursuant to AB1236 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 AB1236 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 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.
5. The Town of Windsor 2040 General Plan is hereby amended to read as follows:
 - Page 2-9 Service Commercial (SC). This land use designation provides locations for personal, business, and travel services that are often land intensive (as opposed to labor intensive). Examples of uses allowable within this classification include landscape contractors, retail outlets for building/ construction materials, construction equipment sales and rentals, automobile repair and wrecking operations. Other uses compatible with this classification include office uses as well as travel-oriented land uses such as transient lodging, and outdoor recreation/ amusement parks.
 - Page 2-9 Gateway Commercial (GC). The Gateway Commercial designation is applied in areas at key gateway points throughout town where special consideration in the design and appearance of new public and private improvements is warranted. This designation provides areas for commercial activities oriented to serve the traveling public near freeway interchanges and major arterials in such a fashion as to provide safe and convenient access. Compatible uses include tourist-serving uses, transient lodging, conference/ recreation facilities, and restaurants. Regional-serving retail uses may also be considered in this designation. Gateway Commercial areas located at the edge of Windsor must be designed to create an attractive and aesthetically pleasing entry into town, consistent with Policy LU-3.5.

6. The Community Development Director and Town Clerk are hereby authorized and directed to incorporate the amendment described in item 8, above, into the 2040 General Plan document and to publish the amended General Plan on the Town's website upon this resolution taking effect.
7. 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 Town Council of the Town of Windsor 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.
8. As a legislative act, this resolution shall become effective 30 days after the date of its adoption by the Town Council.

PASSED, APPROVED, AND ADOPTED this 7th day of September 2022, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

SAM SALMON, MAYOR

ATTEST:

IRENE CAMACHO-WERBY, TOWN CLERK

ORDINANCE NO.

**AN ORDINANCE OF THE TOWN OF WINDSOR AMENDING THE TEXT
OF THE ZONING ORDINANCE TO BAN THE CONSTRUCTION OF NEW GAS
STATIONS AND THE EXPANSION OF FOSSIL-FUEL INFRASTRUCTURE AT
EXISTING GAS STATIONS
(FILE NO. 21-29)**

WHEREAS, the Town of Windsor places a high value on environmental resources and the 2040 General Plan includes numerous policies to reduce greenhouse gas emissions and promote energy efficiency to curtail the impacts of climate change, including the following:

- ER-5.1 Community Greenhouse Gas Reduction: *The Town shall strive to reduce emissions by 40% below the 1990 community emissions level by 2030.*
- ER-5.11 Zero Net Energy Goals: *The Town shall strive to implement the State goal of zero net energy (ZNE) in all new residential construction by 2020 and ZNE in all new commercial construction by 2030.*
- ER-5.23 Update Energy Policies and Programs: *The Town shall regularly update and strengthen Town energy-related policies and programs for new and existing construction to reflect advances in technologies and practices.*

WHEREAS, on June 1, 2005, Governor Schwarzenegger signed Executive Order S-3-05 establishing statewide targets for reducing greenhouse gas emissions; and

WHEREAS, through the adoption of SB32, the State of California set a target to reduce greenhouse gas emissions to 40% below 1990 levels by 2030; and

WHEREAS, on December 6, 2017, the Town Council adopted Resolution 3415-17, reaffirming the Town's intent to reduce greenhouse gas emissions through the implementation of measures identified in a coordinated effort led by the Sonoma County Regional Climate Protection Authority (RCPA); and

WHEREAS, on January 26, 2018, Governor Brown signed Executive Order B-48-18, stating that the transportation sector accounts for 50% of the state's greenhouse gas emissions and 80% of smog-forming pollutants; calling for a major increase in Zero Emission Vehicles (ZEVs) in California (targeting 5 million ZEVs in California by 2030); and investing \$2.5 billion to increase the availability of electric vehicle charging stations and other ZEV infrastructure; and

WHEREAS, because fossil-fuel based transportation remains the largest contributor of greenhouse gas emissions and criteria pollutant emissions in California, reducing greenhouse gas emissions to improve environmental and human health will require a massive transition away from internal combustion engines to ZEVs; and

WHEREAS, on September 10, 2018, Governor Brown issued, and Governor Newsom has since affirmed, Executive Order B-55-18, calling for the State of California to achieve carbon neutrality no later than 2045; and

WHEREAS, on September 4, 2019, the Town Council adopted Climate Emergency Resolution No. 3548-19, herein incorporated by reference, stating that emergency mobilization is required to reach zero greenhouse gas emissions across all sectors to protect people and species from the consequences of a rapidly warming climate; joining a nationwide call for a transition away from fossil fuels; and directing staff to integrate climate change considerations into all policies; and

WHEREAS, on September 23, 2020, the Governor of California signed Executive Order N-79-20, initiating a phase-out of gas-powered vehicles and setting a target for all new passenger cars and trucks sold in California to be ZEVs by the year 2035; and

WHEREAS, on September 25, 2020, RCPA published its 2018 Sonoma County Greenhouse Gas Inventory, which showed that the transportation sector accounts for 60% of the greenhouse gas emissions in Sonoma County. In addition to being the largest source of greenhouse gas emissions in Sonoma County, the transportation sector was the only sector that increased its greenhouse emissions from 1990 to 2018 (the other major sectors included buildings, fertilizer/livestock, solid waste, and water/wastewater); and

WHEREAS, on March 8, 2021, RCPA adopted a Climate Mobilization Strategy, prioritizing a goal to accelerate the transition to 100% electric vehicles for all transportation needs not otherwise met by biking or walking, including the installation of over 10,000 public and workplace charging stations in Sonoma County, addressing barriers for installing charging equipment, and limiting fossil fuel infrastructure; and

WHEREAS, on August 5, 2021, President Biden signed Executive Order 14037 Strengthening American Leadership in Clean Cars and Trucks, setting a goal that 50% of all new passenger cars and light trucks sold in the United States be ZEVs by the year 2030; and

WHEREAS, on September 13, 2021, RCPA adopted Resolution No. 2021-003, herein incorporated by reference, which recommended that all jurisdictions in Sonoma County stop accepting applications for new gas stations and expansions of fossil fuel infrastructure at existing gas stations; and

WHEREAS, General Plan Policy M-10.6 specifies that, “The Town shall coordinate with the Sonoma County Transportation Authority (SCTA) and Regional Climate Protection Authority (RCPA) on regional transportation initiatives that help the Town and County achieve its greenhouse gas emission reduction goals;” and

WHEREAS, with approximately 10,000 electric vehicles in Sonoma County already, and government and market forces (i.e., sustained high gas prices) aligned to move consumers toward purchasing more electric vehicles, there is a growing need for electric vehicle charging infrastructure, while there is no demonstrated need for additional gas stations in Windsor; and

WHEREAS, on November 3, 2021, the Town Council held a public meeting to consider a potential gas station ban, and directed staff to bring forward policy amendments to implement said ban; and

WHEREAS, in accordance with the provisions of State law, the Planning Commission held a duly noticed public hearing on the proposed gas station ban on May 24, 2022, at which time all interested persons were given an opportunity to be heard; the Planning Commission considered all public comments; and the Planning Commission forwarded Resolution No. 711-22 to the Town Council, recommending the Town Council amend the Zoning Ordinance to enact a gas station ban; and

WHEREAS, on September 7, 2022, the Town Council conducted a duly noticed public hearing on the proposed amendments, at which time all interested parties had an opportunity to be heard; and

WHEREAS, the proposed Zoning Ordinance text amendments would reinforce, and be consistent with, existing Town policies and the 2040 General Plan EIR; and

WHEREAS, the proposed Zoning Ordinance text amendments constitute a regulatory process to protect the environment, because they would prohibit the expansion of fossil-fuel based gas stations in Windsor, while allowing for the possibility of alternative fueling options to be constructed in Windsor; and

WHEREAS, the proposed Zoning Ordinance text amendments are exempt from CEQA review in accordance with CEQA Guidelines Sections 15307 and 15308, because the amendments constitute actions taken by a regulatory agency, as authorized by state law or local ordinance, to assure the maintenance, restoration, or enhancement of a natural resource, where the regulatory process involves procedures for protection of the environment; and

WHEREAS, the proposed Zoning Ordinance text amendments are exempt from CEQA review in accordance with CEQA Guidelines Section 15061(b)(3), because it can be seen with certainty that there is no possibility that the amendments would have a significant effect on the environment in that they would prevent environmental impacts resulting from new or expanded gas station uses.

NOW, THEREFORE, the Town Council of the Town of Windsor does ordain as follows:

SECTION 1. Recitals.

The above recitals are true and correct and adopted as findings.

SECTION 2. Findings.

The Town Council finds that:

- A. A duly noticed public hearing, in accordance with California Government Code Section 65856, regarding the proposed amendments to the Zoning Ordinance was held by the Town Council on September 7, 2022.
- B. The proposed Zoning Ordinance text amendments are consistent with the 2040 General Plan, which strives to reduce greenhouse gas emissions (Policy ER-5.1); encourages energy conservation (Policy ER-5.11); requires regular updates to the Town's energy-

related policies to reflect advances in technologies and practices (Policy ER-5.23); and requires coordination with the Regional Climate Protection Authority to achieve GHG emission reduction goals (Policy M-10.6), as substantiated in the Town Council agenda report.

- C. The proposed Zoning Ordinance text amendments would not be detrimental to the public interest, health, safety, convenience, or welfare of the Town in that the gas station ban would help address the climate emergency; the amendments would not result in additional Vehicle Miles Traveled, because the entire Town is within two miles of an existing gas station, and the ordinance includes provisions to allow existing gas stations to remain; and they would not cause hardship for disadvantaged communities, since there are no disadvantaged communities in the Town of Windsor, as documented in the Town Council agenda report.
- D. The proposed Zoning Ordinance text amendments are internally consistent with other applicable provisions of the Zoning Ordinance, because the proposed Zoning Ordinance text amendments are designed to update all sections of the Zoning Ordinance pertaining to the gas station ban.
- E. The Town Council finds that this Ordinance is exempt from environmental review pursuant to CEQA Guidelines Sections 15307 and 15308, because the amendments constitute actions taken by a regulatory agency, as authorized by state law or local ordinance, to assure the maintenance, restoration, or enhancement of a natural resource, where the regulatory process involves procedures for protection of the environment; and pursuant to CEQA Guidelines Section 15061(b)(3), the commonsense exemption that CEQA applies only to projects that have the potential for causing a significant effect on the environment; and because the Zoning Ordinance text amendments are consistent with the 2040 General Plan and 2040 General Plan EIR.

SECTION 3. Amendments.

The Town of Windsor Zoning Ordinance is hereby amended pursuant to Exhibit A, with Planning Commission additions shown in bold and underlined, and Planning Commission deletions shown in strikethrough.

SECTION 4. Severability.

If any section, subsection, sentence, clause or phrase or word in this Ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

The Town Council hereby declares that it would have passed and adopted this Ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions may be declared unconstitutional, unlawful or otherwise invalid.

SECTION 5. Effective Date and Publication.

This Ordinance shall take effect and be in force 30 days following its passage. Before the

expiration of fifteen (15) days after its passage, this Ordinance, or a summary thereof, as provided in California Government Code Section 36933, shall be published at least once in a newspaper of general circulation published and circulated in the Town of Windsor.

PASSED, APPROVED, AND ADOPTED this 7th day of September 2022, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

SAM SALMON, MAYOR

ATTEST:

IRENE CAMACHO-WERBY, TOWN CLERK

Attachment:

- **Exhibit A - Zoning Ordinance Text Amendments**