

CITY OF CALISTOGA
PLANNING COMMISSION
RESOLUTION PC 2021-XX

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

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

3
4 **WHEREAS**, to combat the increasing rate of greenhouse gas emissions and to
5 improve environmental and human health, society must transition from internal
6 combustion engines to Zero Emission Vehicles (“ZEV”) as the predominant method of
7 transportation; and

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

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

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

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

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

25 **WHEREAS**, the Land Use Element and the Open Space and Conservation
26 Element of the City’s General Plan illustrate the City’s commitment to reducing
27 greenhouse gas emissions; and

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

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

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

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

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

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

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

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

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

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

- 69 5. **Section 5.** The Planning Commission hereby recommends that subsection
70 (A)(13) of Section 17.22.030 be repealed, as set forth in Exhibit 4, attached hereto,
71 and incorporated herein by reference, attached hereto, and incorporated herein by
72 reference.
- 73 6. **Section 6.** The Planning Commission hereby recommends that subsection
74 (A)(5) be added to Section 17.22.050, as set forth in Exhibit 5, attached hereto,
75 and incorporated herein by reference.
- 76 7. **Section 7.** The Planning Commission hereby recommends that the required
77 parking ratio for Auto Service Stations in Section 17.36.140 be repealed to reflect
78 that Auto Service Stations, which include gas stations, are a prohibited use, as set
79 forth in Exhibit 6, attached hereto, and incorporated herein by reference.
- 80 8. **Section 8.** The Planning Commission hereby recommends that Section
81 17.38.070 is added to Section 17.38, as set forth in Exhibit 7, attached hereto and
82 incorporated herein.
- 83 9. **Section 9.** The Planning Commission hereby recommends that Section 17.44
84 be repealed and replaced with a new Section 17.44, which is set forth in Exhibit 8,
85 attached hereto, and incorporated herein by reference.
- 86 10. **Section 10.** Compliance with the California Environmental Quality Act (CEQA) is
87 demonstrated as follows:
- 88 a. Actions Relating to Gas Station Prohibition. The Zoning Code amendments
89 resulting in the prohibition of new gas stations is not a project within the
90 meaning of CEQA Guidelines Section 15378, because it has no potential
91 for resulting in physical change in the environment, directly or ultimately; it
92 prevents changes in the environment related to new gas station use
93 applications. Moreover, such amendments are, pursuant to CEQA
94 Guidelines 15061(b)(3), not subject to CEQA under the general rule that
95 CEQA applies only to projects which have the potential for causing a
96 significant effect on the environment. As the amendments will prohibit new
97 gas stations and, in turn, prevent physical changes to the environment, it
98 can be seen with certainty that there is no possibility that the amendments
99 on this topic will have a significant effect on the environment.
- 100 b. Actions Relating to New Non-Conformity Regulations for Gas Stations.
101 These amendments would apply to three already-developed properties
102 which have already demonstrated, separately compliance with CEQA.
103 These amendments prohibit the enlargement, extension, reconstruction or
104 moving of gas station uses and define four specific categories of permitted
105 modifications, as follows: (1) those to improve soil, groundwater, and
106 stormwater quality; (2) those necessary to improve traffic safety; (3) those
107 to enable battery charging stations for ZEVs; and (4) those to install facilities
108 for the storage, conveyance and dispensing of hydrogen to ZEVs. The latter
109 two categories of modifications (i.e., battery charging stations, hydrogen)
110 are addressed separately below.

111 The Zoning Code amendments resulting in new non-conformity regulations
112 for gas stations, and which prohibit their enlargement, extension,
113 reconstruction or relocation are categorically exempt from CEQA under
114 CEQA Guidelines Section 15301 (Existing Facilities). Section 15301 applies
115 to the operation, repair, maintenance, permitting, leasing, licensing, or
116 minor alteration of existing public or private structures, facilities, mechanical
117 equipment, or topographical features, involving negligible or no expansion
118 of existing or former use.

119 The Zoning Code amendments resulting in new non-conformity regulations
120 for gas stations and allowing modifications to improve soil, groundwater and
121 stormwater quality and traffic safety, are categorically exempt from CEQA
122 under the following categories:

- 123 • CEQA Guidelines Section 15301 (Existing Facilities) applies to the
124 operation, repair, maintenance, permitting, leasing, licensing, or
125 minor alteration of existing public or private structures, facilities,
126 mechanical equipment, or topographical features, involving
127 negligible or no expansion of existing or former use.
- 128 • CEQA Guidelines Section 15303 (Small Structures) applies to the
129 construction and location of limited numbers of new, small facilities
130 or structures; installation of small new equipment and facilities in
131 small structures; and the conversion of existing small structures from
132 one use to another where only minor modifications are made in the
133 exterior of the structure.
- 134 • CEQA Guidelines Section 15304 (Minor Alterations to Land) applies
135 to minor public or private alterations in the condition of land, water,
136 and/or vegetation (e.g., new gardening or landscaping, including the
137 replacement of existing conventional landscaping with water efficient
138 or fire-resistant landscaping, minor trenching and backfilling where
139 the surface is restored).
- 140 • CEQA Guidelines Section 15308 (Actions by Regulatory Agencies
141 for Protection of the Environment) applies to actions taken by
142 regulatory agencies, as authorized by state or local ordinance, to
143 assure the maintenance, restoration, enhancement, or protection of
144 the environment where the regulatory process involves procedures
145 for protection of the environment.

146 c. Actions Relating to Land Use – Zero Emission Vehicles (Battery Charging
147 Station). The Zoning Code amendments pertaining to battery charging
148 standards for ZEVs is not a project within the meaning of CEQA Guidelines
149 Section 15378, because, pursuant to Government Code Section 65850.7
150 (i.e., AB 1236), all permit requests for such charging stations shall be
151 administratively reviewed through a building permit or similar
152 nondiscretionary permit. Therefore, because ZEV charging station projects

153 are not subject to discretionary review, these amendments are not a
154 “project” within the meaning of CEQA.

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

161 This analysis uses the “Hydrogen Station Permitting Guidebook, California
162 Governor’s Office of Business and Economic Development (GO-Biz),
163 September 2020” as a basis to determine reasonably foreseeable changes
164 to the environment that may result from the installation of retail hydrogen
165 stations at existing gas stations. Based on that Guidebook (namely Pages
166 13 to 18, and Pages 49 to 53), it is anticipated that hydrogen will be
167 integrated into an existing gas station with minor physical changes to sites
168 that are already substantially disturbed, paved and/or with existing
169 structures.

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

178 Based on the above, proposed Zoning Code amendments pertaining to
179 hydrogen fuel cell station standards for ZEVs are categorically exempt from
180 CEQA under the following categories:

- 181 • CEQA Guidelines Section 15301 (Existing Facilities) applies to the
182 operation, repair, maintenance, permitting, leasing, licensing, or
183 minor alteration of existing public or private structures, facilities,
184 mechanical equipment, or topographical features, involving
185 negligible or no expansion of existing or former use.
- 186 • CEQA Guidelines Section 15303 (Small Structures) applies to the
187 construction and location of limited numbers of new, small facilities
188 or structures; installation of small new equipment and facilities in
189 small structures; and the conversion of existing small structures from
190 one use to another where only minor modifications are made in the
191 exterior of the structure.
- 192 • CEQA Guidelines Section 15304 (Minor Alterations to Land) applies
193 to minor public or private alterations in the condition of land, water,
194 and/or vegetation (e.g., new gardening or landscaping, including the

195 replacement of existing conventional landscaping with water efficient
196 or fire-resistant landscaping, minor trenching and backfilling where
197 the surface is restored).

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

- 202 • Land Use Element Goal LU 1: Protect the smalltown qualities of
203 Calistoga, which include walkability, vineyards, orchards, natural
204 habitats and open space.
- 205 • Land Use Element Objective LU 1.3: Ensure that commercial and
206 industrial development is designed, located and operated so as to
207 not disturb Calistoga’s quality of life, and approved at a rate and
208 scale that retains Calistoga’s small-town character.
- 209 • Land Use Element Policy P1.3-3: “Commercial and industrial land
210 shall be developed in an environmentally-sensitive manner and shall
211 be compatible with any adjacent residential and commercial uses.”
- 212 • Land Use Element Goal LU 3: Ensure that new development
213 mitigates significant environmental, design, and infrastructure
214 impacts.
- 215 • Land Use Element Objective LU 3.2: Ensure that new development
216 complements Calistoga’s small town rural character and minimizes
217 impacts on the environment.
- 218 • Open Space and Conservation Element Goal 6: Protect and improve
219 Calistoga’s existing high standard of air quality.
- 220 • Open Space and Conservation Element Policy P6.1-1: “The City
221 should support efforts to reduce vehicular emissions in the Calistoga
222 Planning area by reducing congestion and dependence on
223 automobile related forms of transportation.”
- 224 • Open Space and Conservation Element Policy P6.1-2: “Growth and
225 development types that can inhibit air quality goals should be
226 monitored and controlled, and the approval of development should
227 be conditional on the mitigation of significant adverse impacts to air
228 quality.”
- 229 • Open Space and Conservation Element Goal 7: Work to Preserve
230 the Global Environment.
- 231 • Open Space and Conservation Element Objective OSC 7.1:
232 Minimize Calistoga’s contribution to impacts on the global
233 environment such as dependence on fossil fuels, consumption of
234 non-renewable resources and discharge of toxins and pollutants.

- 235 • Open Space and Conservation Element Policy P7.1-1: “The City
236 shall promote the conservation of non-renewable energy resources
237 and encourage the use of solar energy.”
- 238 • Open Space and Conservation Element Policy P7.1-3: “The City
239 shall promote decreased reliance on motor vehicle travel through
240 effective land use policies, improved public transit and facilities to
241 accommodate bicycle and pedestrian modes of travel.”
- 242 • Open Space and Conservation Element Policy P7.1-5: “The City
243 shall encourage new development to minimize impact on the
244 environment.”

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

250 The proposed amendments effect related to the prohibition of fossil fuel gas
251 stations and regulations on potential future changes to such uses constitute a
252 public necessity and promotes the general welfare by preventing the future
253 expansion of a fuel type resulting in the primary form of greenhouse emissions
254 (i.e., transportation sector) and, in doing so, put in place regulations that support
255 the goal of carbon neutrality. Moreover, the prohibition serves to prevent future
256 sources of environmental pollution through, for example, the transmission of fossil
257 fuels into the soil, groundwater, and surface waters, and serves to prevent future
258 sources of air pollution harmful to public health. At the same time, the proposed
259 amendments’ components facilitating the use of ZEVs support the use of
260 transportation technologies without the aforementioned adverse effects.

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

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

AYES:
NOES:
ABSENT:
ABSTAIN:

Scott Cooper, Chair

ATTEST: _____
Claudia Aceves, Secretary