

ORIGINAL

CITY COUNCIL OF THE CITY OF NOVATO

ORDINANCE NO. 1693

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NOVATO AMENDING NOVATO MUNICIPAL CODE CHAPTER XIX (ZONING) TO PROHIBIT THE CONSTRUCTION OF NEW GAS STATIONS AND THE EXPANSION OF EXISTING GAS STATIONS AND FINDING THE AMENDMENTS TO BE EXEMPT FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTIONS 15061(b)(3), 15307, AND 15308

WHEREAS, the City of Novato places a high value on environmental protection and General Plan 2035 includes goals, policies, and programs to reduce greenhouse gas (GHG) emissions and mitigate climate change, including the following:

Policy ES 24: Emission Reduction Targets. Establish reduction targets for greenhouse gas emissions and actively implement local strategies to reduce the effects of climate change.

- *Program ES 24a: Emission Reduction Goals.* Implement cost-effective strategies to achieve reductions in greenhouse gas emissions consistent with the City's goal of a 15% reduction below 2005 emission levels by 2020, and a 40% reduction in 2005 emissions by 2035.
- *Program ES 24b: Implementation.* Implement the Emission Reduction Measures contained in Appendix E to achieve projected reductions in greenhouse gas emissions as feasible.
- *Program ES 24c: Monitoring Emissions.* Periodically update the greenhouse gas emissions inventory for both community and City emissions and quantify success in meeting reduction measures to monitor achievement of emission reduction targets.

WHEREAS, on June 1, 2005, Governor Schwarzenegger issued Executive Order S-3-05 establishing statewide targets to reduce (GHG) emissions to 1990 levels by 2020 and 80 percent below 1990 levels by 2050; and

WHEREAS, on September 27, 2006, Assembly Bill 32 (Global Warming Solutions Act of 2006) was signed into law, requiring a statewide reduction in GHG emissions to 1990 levels by 2020; and

WHEREAS, on December 8, 2009, the Novato City Council adopted a Climate Change Action Plan with the goal of reducing GHG emissions by 15% below 2005 levels by the year 2020, and 40% below 2005 levels by 2035; and

WHEREAS, on March 3, 2015, the Novato City Council provided direction to staff on incorporating climate change-related goals, policies, programs, and GHG emissions reduction targets from the 2009 Climate Change Action Plan into General Plan 2035; and

WHEREAS, on September 8, 2016, Governor Brown signed Senate Bill 32, requiring a statewide reduction in GHG emissions of 40% below 1990 levels by 2030; and

WHEREAS, on January 26, 2018, Governor Brown issued Executive Order B-48-18, calling for an acceleration in the number of zero-emission vehicles (ZEVs) in California (targeting 5 million ZEVs 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 23, 2020, Governor Newsom issued Executive Order N-79-20 setting 2035 as the year when all new passenger cars and trucks sold in California must be zero-emission; and

WHEREAS, on October 27, 2020, the Novato City Council adopted General Plan 2035, which includes a comprehensive set of goals, policies, and programs to achieve a more sustainable future for Novato while contributing to regional and global sustainability initiatives; and

WHEREAS, on November 10, 2020, the Novato City Council adopted a Climate Emergency Resolution, herein incorporated by reference, joining a nationwide call for a community, regional, national, and international Just Transition and climate emergency mobilization at all levels of government to restore a safe climate and healthy environment; 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 August 16, 2022, the Inflation Reduction Act of 2022 was signed into law and is expected to accelerate the pace of transportation electrification; and

WHEREAS, on August 25, 2022, the California Air Resources Board approved the *Advanced Clean Cars II* rule setting California on a path to rapidly growing the ZEV market, while also improving air quality and reducing GHG emissions; and

WHEREAS, the transportation sector accounts for 62% of all GHG emissions generated within Novato according to Novato's 2020 GHG Emissions Inventory, with 79% of these emissions coming from passenger cars; and

WHEREAS, Novato's Strategic Plan 2021-2023 calls for the prioritization and implementation of sustainability actions that reduce GHG emissions and address the challenge of our changing climate; and

WHEREAS, the proposed Zoning Ordinance text amendments would reinforce, and be consistent with, existing City policies, General Plan 2035, and General Plan 2035 EIR; and

WHEREAS, the proposed Zoning Ordinance text amendments constitute a regulatory process to protect the environment because they would prohibit the construction of new gas stations and the expansion of existing gas stations in Novato; 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 action taken by a regulatory agency, as authorized by state law or local ordinance, to assure the maintenance, restoration, protection or enhancement of a natural resource and/or the environment, 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 and expanded gas stations; and

WHEREAS, on September 29, 2022, the Sustainability Commission received a presentation and staff facilitated a discussion regarding the Zoning Ordinance text amendments related to prohibiting new gas stations and the expansion of existing gas stations; and

WHEREAS, on October 10, 2022, the Planning Commission held a duly noticed public hearing on the proposed Zoning Ordinance text amendments prohibiting the construction of new gas stations and the expansion of existing gas stations and the recommended CEQA determination, at which time all interested persons were given an opportunity to be heard; and

WHEREAS, on October 10, 2022, the Planning Commission adopted Resolution No. 2022-011 recommending the City Council find the proposed Zoning Ordinance text amendments to be exempt from CEQA and adopt the amendments as presented in Exhibit A of the Resolution; and

WHEREAS, public notices describing the City Council's public hearing on the proposed Zoning Ordinance text amendments and their accompanying CEQA determinations were mailed to all affected gas station owners in Novato, the Marin County Clerk, and all persons requesting notice pursuant to Section 19.58.020 of the Novato Municipal Code, and published in a 1/8<sup>th</sup> page advertisement in the Marin Independent Journal, a newspaper of local circulation, on October 14, 2022; and

WHEREAS, the City Council conducted a public hearing on October 25, 2022, to consider the proposed Zoning Ordinance text amendments and the Planning Commission's recommendation thereon.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF NOVATO DOES FIND AND ORDAIN AS FOLLOWS:

**Section 1. Recitals**

The foregoing recitals are true and correct and are incorporated into the findings herein.

## **Section 2. Record**

The Record of Proceedings (“Record”) upon which the City Council bases its decision on the Zoning Ordinance text amendments and their accompanying CEQA determination includes, but is not limited to: (1) Novato General Plan 2035 and its Final EIR (2) the staff reports, City files and records and other documents, prepared for and/or submitted to the Planning Commission and City Council relating to Novato General Plan 2035, its Final EIR, the Zoning Ordinance text amendments, and their accompanying CEQA determination (3) the evidence, facts, findings and other determinations set forth in this resolution, (4) the Novato Municipal Code, (5) all studies, data and correspondence submitted to the City in connection with the Zoning Ordinance text amendments and their accompanying CEQA determination (6) all documentary and oral evidence received at public workshops, meetings, and hearings for the Zoning Ordinance text amendments and their accompanying CEQA determination (7) all other matters of common knowledge to the City Council including, but not limited to, City, state, and federal laws, policies, rules, regulations, reports, records and projections related to the regulation of land uses within the City of Novato and its surrounding areas.

The custodian of records is the City Clerk of the City of Novato, 922 Machin Avenue, Novato, CA 94945.

## **Section 3. CEQA Findings**

Based on the Record as described above and all matters deemed material and relevant prior to adopting this resolution, the City Council finds the proposed Zoning Ordinance text amendments to be exempt from the requirements of CEQA pursuant to CEQA Guidelines Sections 15061(b)(3), 15307, and 15308, based on the following findings.

CEQA Guidelines Section 15061(b)(3) exempts projects from environmental review where it can be seen with certainty there is no possibility the activity in question may have a significant effect on the environment. The proposed Zoning Ordinance text amendments at issue herein prohibit new gas stations in all zoning districts and uniformly ban the same on parcels zoned Planned District (PD). The amendments prohibit the expansion or relocation of existing gas stations but allow modifications to protect the environment as directed by regulatory agencies with jurisdiction over gas stations. As a result of the amendments, there will be no construction and operation of new gas stations thereby avoiding any direct or indirect physical change in the environment resulting from such activities. Where modifications to an existing gas station are required by regulatory agencies such modifications will be those necessary to protect natural resources and the environment and will occur on parcels already developed.

The proposed Zoning Ordinance text amendments acknowledge the City is currently considering complete applications for two new gas stations under existing zoning regulations and defers applying the prohibition on new gas stations to these applications pending the withdrawal, denial, or approval of such proposals. Each pending, complete application is subject to its own environmental review determination pursuant to CEQA and a discretionary review process. These circumstances are reflective of current zoning standards and review procedures. The amendments do not implicitly or explicitly sanction approval of any pending application to construct a new gas station. If any pending gas station is approved, then it will be subject to the nonconforming gas station provisions specified in the amendments that prohibit expansions and limit modifications of gas stations as described above.

Based on the observations above, the proposed Zoning Ordinance text amendments will not cause a significant direct or indirect physical effect on the environment.

CEQA Guidelines Section 15307 exempts projects undertaken by regulatory agencies, such as the City of Novato, to assure the maintenance, restoration, or enhancement of a natural resource(s) where the regulatory process involves procedures for protection of the environment. The amendments at issue herein represent an action of the City, consistent with the policies of the Novato General Plan 2035, to maintain and protect natural resources. Specifically, the amendments prohibit new gas stations and impose limitations on existing gas stations so as to reduce greenhouse gas emissions resulting from the burning of gasoline, diesel, and other fossil fuels and the ensuing impacts of climate change including, but not limited to increasing temperatures, changing weather patterns, drought conditions, and rising sea levels, all of which have a negative impact on the condition of natural resources. The amendments likewise minimize the potential for future groundwater, surface water, and/or soil contamination due to fuel spills and/or leaking underground tanks, and air pollutant emissions resulting from new gas stations. The amendments prohibit the expansion of existing gas stations to minimize the impacts noted above but permit the modification of such gas stations to implement measures to protect natural resources as directed by regulatory agencies with jurisdiction over gas stations.

CEQA Guidelines Section 15308 exempts projects undertaken by regulatory agencies, such as the City of Novato, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. The Zoning Ordinance text amendments at issue herein represent an action of the City, consistent with the policies of the Novato General Plan 2035, to protect the environment. Specifically, the amendments prohibit new gas stations and impose limitations on existing gas stations so as to reduce greenhouse gas emissions resulting from the burning of gasoline, diesel, and other fossil fuels and the ensuing impacts of climate change including, but not limited to increasing temperatures, changing weather patterns, drought conditions, and rising sea levels, all of which have a negative impact on the environment. The amendments likewise minimize the potential for future groundwater, surface water, and/or soil contamination due to fuel spills and/or leaking underground tanks, and air pollutant emissions resulting from new gas stations. The amendments prohibit the expansion of existing gas stations to minimize the impacts noted above but permit the modification of such gas stations to implement measures to protect the environment as directed by regulatory agencies with jurisdiction over gas stations.

#### **Section 4. Zoning Text Amendment Findings**

The City Council makes the following findings regarding the proposed Zoning Ordinance text amendments as described in Exhibit A, attached hereto and incorporated herein by reference, based on the requirements of Novato Municipal Code Section 19.56.070.C.1.a through c. and C.3.:

C.1.a.- The proposed amendment is consistent with the General Plan;

General Plan 2035 includes goals, policies, and programs to reduce greenhouse gas (GHG) emissions and mitigate climate change, including the following:

Policy ES 24: Emission Reduction Targets. Establish reduction targets for greenhouse gas emissions and actively implement local strategies to reduce the effects of climate change.

- *Program ES 24a: Emission Reduction Goals.* Implement cost-effective strategies to achieve reductions in greenhouse gas emissions consistent with the City's goal of a 15% reduction below 2005 emission levels by 2020, and a 40% reduction in 2005 emissions by 2035.
- *Program ES 24b: Implementation.* Implement the Emission Reduction Measures contained in Appendix E to achieve projected reductions in greenhouse gas emissions as feasible.
- *Program ES 24c: Monitoring Emissions.* Periodically update the greenhouse gas emissions inventory for both community and City emissions and quantify success in meeting reduction measures to monitor achievement of emission reduction targets.

Consistent with ES Policy 24 and its implementing programs, the proposed Zoning Ordinance text amendments represent a local strategy to reduce greenhouse gas emissions by phasing out the sale, storage, and dispensing of gasoline, diesel, and other fossil fuels for vehicles, the consumption of which contributes to the effects of climate change. As a result, the amendments are expected to help accelerate the transition to non-fossil fueled vehicles thereby further assisting the City in achieving its targeted greenhouse gas emissions reductions.

C.1.b.- The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City;

The proposed Zoning Ordinance text amendments, as applicable, will prohibit new and expanded gas stations, thereby avoiding or minimizing the potential for toxic soil, water, and air contamination resulting from the burning of fossil fuels, leaking underground fuel storage tanks, and fuel spills, all of which can negatively impact public health and safety. Further, the amendments include provisions requiring existing gas stations to implement modifications to protect public health and safety and the environment as required by regulatory agencies with jurisdiction over gas stations.

Novato is currently served by twelve existing gas stations, which are distributed throughout the community along Redwood Boulevard, Novato Boulevard, South Novato Boulevard, Rowland Boulevard, Ignacio Boulevard, and Nave Drive. These gas stations are conveniently located and offer Novato residents a variety of choices to purchase gasoline and diesel until such time as a larger transition to non-fossil fuel vehicles has occurred.

The amendments acknowledge and are not applicable to pending, complete applications to construct new gas stations in Novato. However, the amendments do not explicitly or implicitly guarantee approval of any pending application or otherwise limit the City's discretion in approving or denying such applications. Each pending application to develop a gas station will be considered on its own merits, including whether approving a given gas station will be detrimental to the public interest, health, safety, convenience, or welfare of the City. If any such application is approved by final action of the City and the gas station that is the subject of said approval is later established in accordance with such approval, said gas station shall be subject to the amendments specifying the restrictions and requirements applied to nonconforming gas stations.

Based on the observations above, the amendments will not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

C.1.c.- The proposed project [amendment] has been reviewed in compliance with the provisions of the California Environmental Quality Act (CEQA), and the Novato Environmental Review Guidelines; and

As discussed in Section 3 of this resolution and incorporated herein by reference, the proposed Zoning Ordinance text amendments have been considered against the requirements of CEQA and are determined to be exempt from environmental review pursuant to CEQA Guidelines Sections 15061(b)(3), 15307, and 15308.

C.3. - The proposed amendment is internally consistent with other applicable provisions of this Zoning Ordinance.

The proposed Zoning Ordinance text amendments are internally consistent with all other applicable provisions of the Zoning Ordinance as the amendments consist only of those changes necessary to: a) prohibit new and expanded gas stations; b) acknowledge pending, complete applications to develop new gas stations subject to current uniform permitting procedures, environmental review, and required findings of approval; and c) apply provisions addressing the continued operation, modification, and abandonment of existing gas stations rendered nonconforming by the proposed amendments. The amendments have been reviewed against all components of the Zoning Ordinance to ensure accuracy and consistency with the balance of regulations contained therein.

**Section 4: Decision**

The City Council hereby amends Novato Municipal Code Sections 19.12.030 (Commercial/Industrial District Land Uses and Permit Requirements), 19.14.030 (Special Purpose District Land Uses and Permit Requirements), and 19.60.020 (Definitions of Specialized Terms and Phrases) and adds Section 19.52.022 (Nonconforming Gas Stations) to Novato Municipal Code Division 19.52 (Nonconforming Uses, Structures, and Parcels) as set forth in *Exhibit A* attached hereto and incorporated herein by reference.

**Section 5: Severability**

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

The City Council hereby declares that it would have passed this and each section, subsection, phrase, or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

**Section 6: Publication and Effective Date**

This ordinance shall be published in accordance with applicable provisions of law, by either:

publishing the entire ordinance once in a newspaper of general circulation, published in the City of Novato, within fifteen (15) days after its passage and adoption, or

publishing the title or appropriate summary in a newspaper of general circulation, published in the City of Novato, at least five (5) days prior to adoption, and a second time within fifteen (15) days after its passage and adoption with the names of those City Councilmembers voting for and against the ordinance.

This ordinance shall become effective 30 days after the date of its passage and adoption.

\* \* \* \* \*

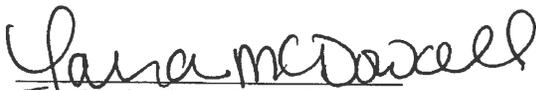
THE FOREGOING ORDINANCE was first read at a regular meeting of the Novato City Council on the 25th day of October, 2022, and was passed and adopted at a regular meeting of the Novato City Council on the 15th day of November, 2022.

AYES: Councilmembers Athas, Eklund, Milberg, Wernick, Lucan  
NOES: Councilmembers  
ABSTAIN: Councilmembers  
ABSENT: Councilmembers



\_\_\_\_\_  
Mayor of the City of Novato

Attest:

  
\_\_\_\_\_  
City Clerk of the City of Novato

Approved as to form:

  
\_\_\_\_\_  
City Attorney of the City of Novato  
*for Gary Bell*

Attachment: Exhibit A: Zoning Ordinance Text Amendments

publishing the entire ordinance once in a newspaper of general circulation, published in the City of Novato, within fifteen (15) days after its passage and adoption, or

publishing the title or appropriate summary in a newspaper of general circulation, published in the City of Novato, at least five (5) days prior to adoption, and a second time within fifteen (15) days after its passage and adoption with the names of those City Councilmembers voting for and against the ordinance.

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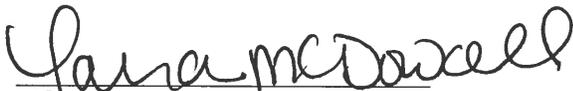
\* \* \* \* \*

THE FOREGOING ORDINANCE was first read at a regular meeting of the Novato City Council on the 25th day of October, 2022, and was passed and adopted at a regular meeting of the Novato City Council on the 15th day of November, 2022.

AYES: Councilmembers Athas, Eklund, Milberg, Wernick, Lucan  
NOES: Councilmembers  
ABSTAIN: Councilmembers  
ABSENT: Councilmembers

\_\_\_\_\_  
Mayor of the City of Novato

Attest:

  
\_\_\_\_\_  
City Clerk of the City of Novato

Approved as to form:

  
\_\_\_\_\_  
City Attorney of the City of Novato  
*For Gary Bell*

Attachment: Exhibit A: Zoning Ordinance Text Amendments

**EXHIBIT A  
PROPOSED ZONING ORDINANCE TEXT AMENDMENTS**

The adopted amendments are redlined in ~~strike-out~~ (deleted text) and underline (added text), as follows:

Section 19.12.030 is amended to read as follows:

**Chapter XIX, Article 2, Division 19.12, Section 19.12.030**

*Commercial/Industrial District Land Uses and Permit Requirements.*

Table 2-7 identifies the uses of land allowed by this Zoning Ordinance in the commercial and industrial zoning districts, and the land use permit required to establish each use, in compliance with Section 19.06.030 (Allowable Land Uses and Permit Requirements). In addition to the land use permit required by Table 2-7, special provisions related to certain land uses may apply, and Design Review may also be required for certain uses in compliance with Section 19.42.030 (Design Review). A Building Permit shall be required prior to any construction.

Note: Where the last column in the tables ("Specific Use Regulations") includes a section number, the regulations in the referenced section apply to the use. Provisions in other sections of this Zoning Ordinance may also apply.

TABLE 2-7 Allowed Uses and Permit Requirements for Commercial/Industrial Zoning Districts		PERMIT REQUIRED BY DISTRICT							Specific Use Regulations
		BPO	CN	CG	CDR	CDB	CI	LIO	
<p>P Permitted Use (2) UP Use Permit required (3) — Use not allowed</p>									
<b>SERVICE USES</b>									
Animal Grooming	—	UP	UP	UP (5)	UP	UP	UP		
Auto repair and maintenance - Major	—	—	—	—	—	UP	UP		
Auto repair and maintenance - Minor	—	—	UP	—	—	P	P		
Automated teller machines (ATMs) (non-drive through)	P	P	P	P	P	P	P		
Banks	P	P	P	UP (13)	P (13)	—	P		
Business support services	P	P	P	P (5)	UP (5)	P	P		
Car wash	—	—	UP	—	—	—	UP		

Check Cashing	—	—	UP	—	—	—	—	
Child/adult day care centers	UP	UP	UP	UP (5)	UP	—	UP	19.34.070
Congregate care/group facilities	UP	—	UP	—	—	—	—	
Contractor storage yard	—	—	—	—	—	UP	UP	
Drive-in and drive-through services, including ATM	—	UP	UP	UP	UP (11)	—	—	
Financial Services	P	P	P	P (5)	P (12)	—	P	
Gas stations	—	<del>UP</del> —	<del>UP</del> —	—	—	—	<del>UP</del> —	<del>19.34.050.F</del> <u>19.14.030.C.</u> <u>19.52.022</u>
Hotels and motels	UP	UP	UP	UP	UP	UP	UP	
Kennels & boarding	—	—	UP	—	—	UP	UP	
Massage Establishments	UP	UP	UP	UP	UP	UP	UP	19.34.190 see also Sec. 8-4
Massage establishments - small	P	P	P	P	P	P	P	see also Sec. 8-4
Medical - Clinics, offices, and laboratories	P	P	P	P (5)	P (6)	—	—	
Medical - Extended care	UP	—	UP	—	—	—	—	
Medical - Hospitals	UP	—	UP	—	—	—	—	
Mortuaries & funeral homes	UP (15)	—	UP (15)	—	—	—	UP (15)	
Offices	P	P	P	P (5)	P (6)	P	P	
Pawn Shops	—	—	UP	—	—	—	—	
Personal services	P	P	P	P	P	P	P	
Public utility facilities	UP	UP	UP	UP	UP	UP	UP	
Residential care facility for the elderly (RCFE)	—	UP	—	—	—	—	—	19.34.160
Real Estate Offices	P	P	P	P	P	P	P	
Storage Facilities - Indoor	—	—	UP	—	—	UP	UP	
Storage - Outdoor	—	—	UP	—	—	UP	UP	
Tattoo Parlor	—	—	—	—	—	—	UP	19.34.168
Travel Agency	P	P	P	P	P	P	P	
Upholstering shops	—	—	—	—	UP	P	P	

Veterinary clinics, outpatient treatment only	—	UP	UP	—	UP	UP	UP	
Veterinary clinics, animal hospitals	—	—	UP	—	UP	UP	UP	

**KEY TO ZONING DISTRICT SYMBOLS**

BPO	Business and Professional Office	CDB	Downtown Core Business
CN	Neighborhood Commercial	CI	Commercial/Industrial
CG	General Commercial	LIO	Light Industrial/Office
CDR	Downtown Core Retail		

**Chapter XIX, Article 2, Division 19.14, Section 19.14.030  
Special Purpose District Land Uses and Permit Requirements**

Amend Section 19.14.030 to add:

C. *Gas Stations Prohibited.* Unless exempt under Section 19.52.022.B.2, new gas stations shall be prohibited on any parcel zoned Planned District (PD); provided, however, that a gas station existing at the time Novato Ordinance No. \_\_\_\_\_ becomes effective and located on a parcel zoned PD shall be subject to the nonconforming use provisions set forth in Section 19.52.022.B.

**Chapter XIX, Article 3, Division 19.52  
Nonconforming Uses, Structures, and Parcels**

Add Section 19.52.022 to read as follows:

**Section 19.52.022 – Nonconforming Gas Stations**

A. *Purpose.* This section establishes uniform provisions for the regulation of nonconforming gas stations (namely, gas stations that were lawfully operating and in existence prior to [insert effective date of ordinance]), and is intended to:

1. Permit the continued operation of gas stations as a legal nonconforming use and detail the circumstances under which such use is deemed to have been abandoned;
2. Specify the modifications that can be made to a nonconforming gas station; and
3. Prohibit nonconforming gas stations from enlarging, increasing, extending, or moving any storage or dispensing infrastructure for gasoline, diesel, or any other fossil fuel.

B. Applicability.

1. This Section applies to all lawfully permitted, developed, and operating gas stations in existence prior to [insert effective date of ordinance].
2. Any gas station for which a complete application for a zoning and/or planning action has been submitted to the City prior to September 30, 2022, shall be exempt from the prohibition on new gas stations set forth in Sections 19.12.030 and 19.14.030 of this Title. However, if any such application is approved by final action of the City and the gas station that is the subject of said approval is later established in accordance with such approval, said gas station shall be subject to the balance of the provisions of this Section 19.52.022. The provisions of this Section shall not be construed to represent or imply the approval of any complete, pending application for a zoning and/or planning action related to establishing a new gas station or otherwise limit the City's discretion in approving or denying such application.

C. Prohibited Activities at a Nonconforming Gas Station. A nonconforming gas station can continue to be operated, transferred, sold, or modified only as follows:

1. Prohibited Activities for a Nonconforming Gas Station. An Owner and/or operator of a nonconforming gas station shall not:
  - a. Enlarge, increase, extend, or move any fossil fuel storage or dispensing infrastructure existing prior to [insert effective date of ordinance], except as provided herein or as required for compliance with state or federal law. Fossil fuel dispensing and storage infrastructure subject to this provision includes, but is not limited to structures, features, conveyances (e.g., pipelines, conduit, pumps, etc.) or other devices installed for the purpose of selling, storing, or dispensing a fossil fuel; or
  - b. Relocate to any other parcel within the City regardless of whether such parcel is located in the same zoning district as the existing use.

D. Permitted Modifications to Nonconforming Gas Stations.

1. Modifications to Improve or Protect Soil, Groundwater, Air, or Stormwater Quality. A nonconforming gas station shall be modified to conform to current or amended soil, groundwater, air, or stormwater quality regulations of a regulatory agency with authority to regulate such matters where that agency has ordered such modifications, or its regulations require such modifications. An owner and /or operator of a nonconforming gas station shall be subject to all applicable procedures and permit requirements of the Novato Municipal Code, including those of this Title, applicable to the modifications described in this Subsection prior to the commencement of such modifications.
2. Modifications to Site & Building Design. A nonconforming gas station may undergo building and site design modifications intended to improve or maintain the appearance of the station and the parcel on which it is located, such as building façade, sign, landscaping, and hardscape renovations. Such modifications shall be subject to all applicable procedures and permit requirements (e.g., design review) specified in the Novato Municipal Code,

including this Title, and shall not violate any of the limitations of Subsection C of this Section.

3. Modifications for Other Commercial Uses. A nonconforming gas station can be modified to accommodate any land use permitted in the zoning district within which the gas station is located, subject to all applicable standards and required permits specified in the Novato Municipal Code, including this Title; and provided the activity does not violate any of the limitations of Subsection C of this Section.
4. Modifications Required by Law. A nonconforming gas station shall be modified as required by law to comply with building safety requirements, such as seismic retrofitting, access for persons with disabilities, and similar modifications protecting public, health, safety, and welfare. An owner and /or operator of a nonconforming gas station shall be subject to all applicable procedures and permit requirements of the Novato Municipal Code, including those of this Title, applicable to the modifications described in this Subsection prior to the commencement of such modifications.
5. Maintenance, Repair, and Replacement. A nonconforming gas station can undergo normal maintenance and repairs, including, painting, re-roofing, sign replacement, and similar activities subject to all applicable standards and required permits specified in the Novato Municipal Code, including this Title; and provided the activity does not violate any of the limitations of Subsection C of this Section. Fossil fuel dispensing equipment can be maintained, repaired, and replaced as necessary subject to all applicable standards and required permits specified in the Novato Municipal Code, including this Title; and provided such actions do not violate any of the limitations of Subsection C of this Section.

F. Loss of Legal Nonconforming Status. Without any further action by the City, a nonconforming gas station shall not retain the benefits of this Section and its owner and/or operator shall be conclusively presumed to have abandoned the gas station's legal nonconforming status if and when:

1. The nonconforming gas station ceases selling, storing, or dispensing fossil fuels for a continuous period of 180-days or more; or
2. The nonconforming gas station is converted to or replaced by a permitted, non-gas station use.

G. Removal of Abandoned Nonconforming Gas Station. The owner and/or operator of a nonconforming gas station that loses its legal nonconforming status pursuant to Subsection F, above shall be deemed to have abandoned the nonconforming gas station and the gas station's nonconforming status. Accordingly, an abandoned gas station shall be physically removed from its site. Physical removal of the gas station shall mean demolition of all fossil fuel sale, storage, and dispensing infrastructure, including the removal of underground storage tanks pursuant to all applicable demolition regulations of the City and procedures and permits of all regulatory agencies with jurisdiction over gas stations. The physical removal of an abandoned gas station shall be completed within 180-days of abandonment of the use as determined by the Community Development Director under the provisions of Subsection F of this Section.

H. Destruction of a Nonconforming Gas Station. A nonconforming gas station that is destroyed by any means to more than 50% of its assessed value, excluding the value of the land on which it is located, as determined by the methodology utilized by the Marin County Assessor, shall not be reconstructed or replaced. A nonconforming gas station destroyed to 50% or less of its assessed value, excluding the value of the land on which it is located, as determined by the methodology utilized by the Marin County Assessor, may be restored or reconstructed as it existed immediately prior to its destruction.

**Chapter XIX, Article 2, Division 19.60, Section 19.60.020**

*Definitions of Specialized Terms and Phrases.*

Section 19.60.020 is amended to read as follows:

G. Definitions, "G."

*Gas Station (or Fueling Station).* A retail business selling, storing and/or dispensing gasoline, diesel, or any other fossil fuel-based motor vehicle fuels ~~which may also provide secondary services which are incidental to fuel sales. Secondary services may include minor auto repair and maintenance (see "Minor Auto Repair and Maintenance"), towing and trailer rental services. Does not include the storage or repair of wrecked or abandoned vehicles, vehicle painting, body or fender work, or the rental of vehicle storage or parking spaces.~~