



# TOWN OF FAIRFAX PLANNING COMMISSION STAFF REPORT October 27, 2022

**TO:** Fairfax Planning Commission

**FROM:** David Woltering, Interim Planning & Building Services Director

**SUBJECT:** Recommendation that Town Council Consider an Ordinance Amending the Town's Zoning Code to Prohibit New Gas Filling (Service) Stations and Prohibit Expansion of Fossil Fuel Infrastructure for Existing Gas Filling (Service) Stations

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## **RECOMMENDATION**

Adopt Resolution 2022-27 recommending that the Town Council consider an Ordinance amending the Town's Zoning Code to prohibit new gas filling (service) station land uses and expansion of fossil fuel infrastructure for existing gas filling (service) station land uses within the Town of Fairfax.

## **BACKGROUND**

The Town Council has expressed concern with the over-saturation of gasoline service station uses in the Town, given the existing gasoline service stations in the wider region, and a desire and actions statewide to move away from the use of fossil fuels to power residents' vehicles. It is Council's belief, based on review of the available evidence, that the Town's current zoning regulations do not adequately address oversaturation, use compatibility, support the transition to non-fossil fuels-based energy sources, and other potential impacts related to gas station land uses. By consensus, the Council directed that the Planning Commission return a recommendation on regulating future gas station uses within the Town. Taking action to reduce reliance on fossil fuels will help the Town meet its goal, as expressed in the Climate Action Plan 2030, of a "fossil fuel phase-out" by upgrading and replacing carbon-intensive, fossil fuel-based infrastructure in the transportation sector. Previously, in 2021, the Town Council adopted the goal to "[e]xplore the prohibition on new gas stations."

Over the past few years, cities including Petaluma, Jurupa Valley, Santa Rosa and Rancho Cucamonga have taken steps to limit or outright prohibit new or expanded gas station land uses within their boundaries, and the city of Los Angeles seems poised to follow. This proposed Ordinance seeks to follow those cities' leads by doing the following:

- Prohibiting development of new gas stations in all zoning districts;

- Establishing regulations for existing and any currently proposed gas stations as “nonconforming uses”;
- Update the Zoning Code definition of “filling (service) station” to clarify that such stations involve fossil fuels, and add a definition for “zero-emission vehicle.”

## **DISCUSSION**

Gasoline filling (service) stations meet the needs of residents, employees, and visitors by providing automotive services at convenient locations near freeway on/off-ramps, on major thoroughfares, and within reasonable distances from homes and businesses. Presently, service stations are only authorized as a conditional use in the Highway Commercial (“CH”) zone within the Town. (FMC § 17.096.050(B)(5). There are currently two active service stations in the Town.

The United States Environmental Protection Agency (EPA) has classified gas stations and fuel storage locations as uses that may result in a brownfield site, which are defined as properties whose expansion, redevelopment, or reuse may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.<sup>1</sup> Common contaminants found at gas station sites include gasoline, diesel, petroleum oil, volatile organic compounds and solvents, polycyclic aromatic hydrocarbons, and lead.<sup>2</sup> Exposure to these types of contaminants can threaten the public health, safety, and welfare of neighboring communities.<sup>3</sup> Also, underground tanks used for the storage of hazardous substances and wastes are potential sources of contamination of soil, surface water, and aquifers, and can pose other dangers to public health and the environment.<sup>4</sup>

On January 26, 2018, Governor Edmund G. Brown, Jr. issued Executive Order B-48-18<sup>5</sup> identifying the transportation sector as being responsible for emitting 50 percent of California's total greenhouse gas emissions (GHG) and 80 percent of the smog-forming oxides of nitrogen. Executive Order B-48-18 directed all state entities to work with local governments and the private sector to ensure at least 5 million zero-emission vehicles on California roads by 2030, and the creation of 250,000 zero emission vehicle charging stations to support such vehicles. On September 23, 2020, Governor Gavin 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.<sup>6</sup>

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<sup>1</sup> Environmental Protection Agency (EPA). “Petroleum Brownfields.” <https://www.epa.gov/ust/petroleum-brownfields>. Accessed 9.1.2022.

<sup>2</sup> EPA. “Contaminants of Concern (COC) at Underground Storage Tank Sites (UST).” <https://www.epa.gov/ust/contaminants-concern-coc-underground-storage-tank-ust-sites>. Accessed 9.1.2022.

<sup>3</sup> Scientific American. “Is it Safe to Live Near a Gas Station?” 2009. <https://www.scientificamerican.com/article/is-it-safe-to-live-near-gas-station/>. Accessed 9.1.2022.

<sup>4</sup> California Health and Safety Code Section 25280 via FindLaw <https://codes.findlaw.com/ca/health-and-safety-code/hsc-sect-25280.html>. Accessed 9.1.2022.

<sup>5</sup> <https://www.library.ca.gov/wp-content/uploads/GovernmentPublications/executive-order-proclamation/39-B-48-18.pdf>

<sup>6</sup> <https://www.gov.ca.gov/wp-content/uploads/2020/09/9.23.20-EO-N-79-20-Climate.pdf>

The Town Council has expressed it believes that the number of service stations currently existing in the Town are sufficient to meet the needs of its residents, and that it has concerns relating to the short and long-term social and environmental impacts of continued reliance on fossil fuels by allowing additional gas stations to transact business in Town limits. To accelerate the shift from fossil fuels to electric vehicles on a local level, the Town can adopt regulations to prohibit new fossil fuel-based gas stations and prohibit expansion of fossil fuel infrastructure at existing gas stations.

The Zoning Code currently allows new service stations with a Conditional Use Permit in the Highway Commercial zone. The attached proposed Ordinance provides recommended text amendments to Sections 17.008.020 (“Definitions”) and 17.096.050 (“Conditional Uses and Structures”). The change to Section 17.008.020 will add a definition for zero-emission vehicles and amend the definition of gas filling (service) stations to reference fossil fuels. The change to Section 17.096.050 will remove the reference to service stations as an allowable use (with a use permit) within the Highway Commercial zone. By removing this reference to service stations being allowed uses (with a use permit), new service stations will be prohibited pursuant to Section 17.096.020, which says that no premises in the CH zone may be used for any purpose or in any manner except as set forth in Chapter 17.096.

Upon adoption of the proposed Ordinance, existing service stations will become legal non-conforming uses. Under the Town’s current nonconforming use regulations (Chapter 17.016), and once the proposed Ordinance takes effect, this means that service stations may not be moved, altered, or enlarged unless required by law or to eliminate the nonconforming use altogether. If a legal non-conforming use of a gas filling (service) station or a gas station operating under an existing CUP is discontinued for a period of at least 12 months, the use will be considered terminated and will no longer be an allowed use (i.e., the gas filling (service) station would lose its right to continue to operate as such, and would not be able to obtain a new permit under the Town’s new zoning rules). Staff are suggesting one update to Chapter 17.016, however, to authorize an existing gas station to apply to the Planning Commission for a permit to modify the nonconforming gas station use to accommodate the addition of charging stations for zero emission vehicles and to apply to the Public Works Director for permits to improvement sidewalk and driveway access for public safety.

**FISCAL IMPACT**

This Ordinance is a Town initiative, and all associated staff and processing costs will be covered under the General Fund.

**CEQA**

Amending the Zoning Code to prohibit new gas stations and prohibit expansion of fossil fuel infrastructure for existing gas stations is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15307 and 15308 because this ordinance constitutes action taken by a regulatory agency to protect natural resources and the environment. The proposed Ordinance would establish a limit to infrastructure that directly supports or perpetuates the use of fossil fuels for vehicles,

which is the largest source of greenhouse gas emissions for the Town of Fairfax. Consistent with the Town Council's adopted Climate Action Plan, this step is necessary to advance the goal of a community that is substantially less dependent on fossil fuels and avoids exporting environmental damage and GHG emissions to other parts of the Bay Area, nation, or world. Further, to the extent the proposed Zoning Code amendments contemplate the ability of a current gas station to apply for a permit to make additions to the nonconforming facility consisting of charging stations for zero emission vehicles and driveway and sidewalk improvements for public safety, any such future applications will require the applicant and Town to undertake additional environmental analysis at the time of such application to analyze any potential environmental impacts associated with the proposal.

In addition, the proposed Ordinance is exempt from CEQA pursuant to the "common sense" exemption under CEQA Guidelines section 15061(b)(3), because there is no possibility that the Ordinance might have a significant effect on the environment. This ordinance will prohibit new gas stations and the expansion of fossil fuel infrastructure at existing gas stations, in turn, preventing future groundwater or surface water contamination, leaks from underground tanks, or improper disposal of gasoline. The City has further determined that no exceptions to the exemptions apply and there is no reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. (CEQA Guidelines section 15300.2.)

At the time of future development proposals, additional environmental analysis may be required to analyze the potential environmental impacts associated with specific development projects and uses proposed at specific locations.

#### **ATTACHMENTS**

- A. Resolution No. 2022-27, A Resolution of the Planning Commission of the Town of Fairfax Recommending Town Council Adoption of an Ordinance Amending the Town's Zoning Code to Prohibit New Gas Filling (Service) Stations and Prohibit Expansion of Fossil Fuel Infrastructure for Existing Gas Filling (Service) Stations.
- B. Ordinance No. \_\_\_\_\_, Amending Sections 17.008.020, "Definitions," and 17.096.050, "Conditional Uses And Structures," and Adding A New Section 17.016.080, "Regulation Of Non-Conforming Filling (Service) Station Uses and Structures," to Title 17 of the Fairfax Municipal Code, and Finding the Action A Exempt from CEQA.

**RESOLUTION NO. 2022-27**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF FAIRFAX  
RECOMMENDING TOWN COUNCIL ADOPTION OF AN ORDINANCE AMENDING  
THE TOWN'S ZONING CODE TO PROHIBIT NEW GAS FILLING (SERVICE)  
STATIONS AND PROHIBIT EXPANSION OF FOSSIL FUEL INFRASTRUCTURE  
FOR EXISTING GAS FILLING (SERVICE) STATIONS**

**WHEREAS**, in 2021 the Town's Climate Action Committee adopted the Climate Action Plan 2030, which includes a goal of "fossil fuel phase-out" through upgrading and replacing carbon-intensive, fossil fuel-based infrastructure in the transportation sector; and

**WHEREAS**, there are two gas filling (service) stations currently operating in Town limits, and the Town anticipates requests in the future for development of new gas stations; and

**WHEREAS**, the Town's Zoning Code presently allows new gas stations with a Conditional Use Permit in the Highway Commercial Zone; and

**WHEREAS**, over the past few years, a number of California cities, including Petaluma, Santa Rosa, and Rancho Cucamonga, have taken action to limit or prohibit new development of new gas stations and expansion of existing gas station uses; and

**WHEREAS**, the United States Environmental Protection Agency (EPA) has classified gas stations and fuel storage locations as uses that may result in a brownfield site, which are defined as properties whose expansion, redevelopment, or reuse may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant; and

**WHEREAS**, common contaminants found at gas station sites include gasoline, diesel, petroleum oil, volatile organic compounds and solvents, polycyclic aromatic hydrocarbons, and lead; and

**WHEREAS**, exposure to these types of contaminants can threaten the public health, safety, and welfare of neighboring communities; and

**WHEREAS**, underground tanks used for the storage of hazardous substances and wastes are potential sources of contamination of soil, surface water, and aquifers, and can pose other dangers to public health and the environment; and

**WHEREAS**, on September 23, 2020, Governor Gavin 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**, the Town has adopted a Climate Action Plan targeted at achieving carbon neutrality by the year 2030, and part of the strategy in implementing the Plan involves shifting away from individually-owned fossil fuel vehicles and replacing carbon-intensive infrastructure in that space with electric and other regenerative power sources; and

**WHEREAS**, to accelerate the shift from fossil fuels to electric vehicles on a local level, the Town can adopt regulations to prohibit new fossil fuel-based gas stations and expansion of fossil fuel infrastructure at existing gas stations; and

**WHEREAS**, the Planning Commission desires to take the first step toward meeting state and local climate-neutrality goals by recommending that the Town Council adopt such regulations; and

**WHEREAS**, prior to this meeting, staff gave notice of this public hearing of the Planning Commission as required under the law.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Commission of the Town of Fairfax that:

**SECTION 1. Proposed Amendments.** The proposed amendments to the Fairfax Municipal Code (as set forth in the attached Ordinance) would add a definition for zero-emission vehicles, amend the definition of service stations to reference fossil fuels, remove the reference to service stations as an allowable use within the Highway Commercial zone, and clarify the application of non-conforming use regulations to service stations.

**SECTION 2. CEQA.** The amendments have been reviewed in compliance with the California Environmental Quality Act (CEQA) and the Planning Commission has determined that this ordinance is exempt from CEQA review in accordance with Sections 15307 and 15308 because this ordinance constitutes action taken by a regulatory agency to protect natural resources and the environment. The proposed ordinance would establish a limit to infrastructure that directly supports or perpetuates the use of fossil fuels for vehicles. Consistent with the Town Council's adopted Climate Action Plan, this step is necessary to advance the goal of carbon neutrality by 2030. Pursuant to the "common sense" exemption under CEQA Guidelines section 15061(b)(3), there is no possibility that this ordinance might have a significant effect on the environment. This ordinance will prohibit new gas stations and the expansion of fossil fuel infrastructure at existing gas stations, in turn, preventing future groundwater or surface water contamination, leaks from underground tanks, or improper disposal of gasoline. The Town has further determined that no exceptions to the exemptions apply and there is no reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances (CEQA Guidelines section 15300.2). At the time of future development proposals, additional environmental analysis may be required to analyze the potential environmental impacts associated with specific development projects and uses proposed at specific locations.

### **SECTION 3. Findings.**

- A. After a public hearing held on October 27, 2022, the Planning Commission finds based on the evidence presented that amending Title 17 of the Fairfax Municipal Code to more clearly define zero-emission vehicles and reference fossil fuels with respect to service stations, prohibit the development of additional service stations in the future, and limit expansion of existing service stations is required for implementation of the Town's Climate Action Plan and protection of public health and general welfare.
- B. The proposed amendments are consistent with the goals and policies of the Fairfax General Plan and Climate Action Plan, i.e., reducing traffic congestion, greenhouse gas emissions, and air pollution in Fairfax. This ordinance furthers the Town's goals because businesses involving gasoline result in the creation of increased air pollution and greenhouse gases, increased traffic congestion, negative effects to community health outcomes, acceleration of climate change, impacts to water quality, and other negative environmental or indirect effects. The proposed ordinance would prohibit new gas stations and associated expansion, except in limited circumstances where the expansion was for the express purpose of improving public health and safety, or adding charging stations for zero emission vehicles.
- C. The proposed amendments to the Fairfax Municipal Code will not be detrimental to the public interest, health, safety, convenience, or welfare of the Town or its residents in that the amendments will prohibit the issuance of land use or development entitlements for new gas filling (service) stations and the expansion of fossil fuel infrastructure of existing gas filling (service) stations, which result in greenhouse gas emissions that create negative health, safety, and other impacts.
- D. The proposed amendments are internally consistent with other applicable provisions of the Municipal Code as this ordinance relates to the prohibition of new gas station land uses. Proposed modifications of existing nonconforming gas stations will continue to require an entitlement permit which will allow review for compatibility and consistency with surrounding uses and the Municipal Code, and all areas of the code have been thoroughly reviewed for accuracy.

**SECTION 4. Recommendation.** In accordance with the findings set forth above, the Planning Commission of the Town of Fairfax recommends that the Town Council approve and adopt an ordinance making text amendments to the Fairfax Municipal Code to prohibit new gas filling (service) station land uses and to prohibit the expansion of fossil fuel infrastructure at existing gas filling (service) station land uses.



**SECTION 5. Severability.** If any section, subsection, sentence, clause, phrase or portion of this Resolution or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution or its application to other persons and circumstances. The Planning Commission of the Town of Fairfax hereby declares that it would have adopted this Resolution and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

The foregoing Resolution was duly introduced and adopted at a Regular Meeting of the Planning Commission of the Town of Fairfax on the 27<sup>th</sup> day of October, 2022 by the following vote, to wit:

AYES:  
NOES:  
ABSENT:

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Norma Fragoso, Chair

Attest: \_\_\_\_\_  
David Woltering, Interim Planning Director



ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRFAX  
AMENDING SECTIONS 17.008.020, “DEFINITIONS,” AND 17.096.050,  
“CONDITIONAL USES AND STRUCTURES,” AND ADDING A NEW SECTION  
17.016.080, “REGULATION OF NON-CONFORMING FILLING (SERVICE) STATION  
USES AND STRUCTURES,” TO TITLE 17 OF THE FAIRFAX MUNICIPAL CODE,  
AND FINDING THE ACTION EXEMPT FROM CEQA**

**WHEREAS**, in 2021 the Town’s Climate Action Committee adopted the Climate Action Plan 2030, which includes a goal of “fossil fuel phase-out” through upgrading and replacing carbon-intensive, fossil fuel-based infrastructure in the transportation sector; and

**WHEREAS**, there are two gas filling (service) stations currently operating in Town limits, and the Town anticipates requests in the future for development of new gas filling (service) stations; and

**WHEREAS**, the Town’s Zoning Code presently allows new gas filling (service) stations with a Conditional Use Permit in the Highway Commercial Zone; and

**WHEREAS**, over the past few years, a number of California cities, including Petaluma, Santa Rosa, and Rancho Cucamonga, have taken action to limit or prohibit new development of new gas stations and expansion of existing gas station uses; and

**WHEREAS**, the United States Environmental Protection Agency (EPA) has classified gas stations and fuel storage locations as uses that may result in a brownfield site, which are defined as properties whose expansion, redevelopment, or reuse may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant; and

**WHEREAS**, common contaminants found at gas station sites include gasoline, diesel, petroleum oil, volatile organic compounds and solvents, polycyclic aromatic hydrocarbons, and lead; and

**WHEREAS**, exposure to these types of contaminants can threaten the public health, safety, and welfare of neighboring communities; and

**WHEREAS**, underground tanks used for the storage of hazardous substances and wastes are potential sources of contamination of soil, surface water, and aquifers, and can pose other dangers to public health and the environment; and

**WHEREAS**, on September 23, 2020, Governor Gavin 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**, the Town has adopted a Climate Action Plan targeted at achieving carbon neutrality by the year 2030, and part of the strategy in implementing the Plan involves shifting away from individually-owned fossil fuel vehicles and replacing carbon-intensive infrastructure in that space with electric and other regenerative power sources; and

**WHEREAS**, to accelerate the shift from fossil fuels to electric vehicles on a local level, the Town can adopt regulations to prohibit new fossil fuel-based gas stations and expansion of fossil fuel infrastructure at existing gas stations; and

**WHEREAS**, the Town Council wishes to adopt the recommendation of the Planning Commission to take the first step toward meeting state and local climate-neutrality goals by adopting regulations to prohibit development of new gasoline service stations in Town limits, and expansion of fossil fuel infrastructure for existing service station uses; and

**WHEREAS**, prior to this meeting, staff gave notice of this public hearing of the Town Council as required under the law.

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF FAIRFAX DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** Section 17.008.020 of Title 17 of the Fairfax Municipal Code, entitled “Definitions,” is hereby amended in part to read as follows (deletions shown in ~~strikethrough~~ and additions shown in underline)::

**“ § 17.008.020      DEFINITIONS.**

**FILLING (SERVICE) STATION.** A retail business selling gasoline and/or other motor vehicle fuels derived from fossil fuels (e.g., petroleum, coal, natural gas) and related products, and which may include facilities for washing, polishing, greasing, waxing or tire repairing. No vulcanizing or tire recapping or major mechanical repairs shall, however, be included in the operation of a filling station.

...

**ZERO EMISSION VEHICLE.** A vehicle that does not emit exhaust gas or other pollutants from the onboard source of power under any and all possible operational modes and conditions.

**ZERO EMISSION VEHICLE – CHARGING STATION.** An accessory use consisting of one or more electric vehicle charging spaces served by an electric vehicle charger or other charging equipment. This includes any level of electric vehicle supply equipment station that is designed and built-in compliance with Article 625 of the California Electrical Code and delivers electricity from a source outside an electric vehicle into a plug-in electric vehicle.”

**SECTION 2.** Section 17.096.050 of Title 17 of the Fairfax Municipal Code, entitled “Conditional Uses and Structures,” is hereby amended in part to read as follows (deletions shown in ~~strikethrough~~ and additions shown in underline):

**“ § 17.096.050      CONDITIONAL USES AND STRUCTURES.**

(A) The following uses may not be established, expanded, substantially modified or changed to another conditional use in the CH zone.

(B) A use permit must be obtained for:

...

~~(5) Filling (service) stations~~

...”

**SECTION 3.** Section 17.016.080 of Title 17 of the Fairfax Municipal Code, entitled “Regulation of Non-Conforming Filling (Service) Station Uses and Structures,” is hereby added to read in its entirety as follows:

**“ § 17.016.080      REGULATION OF NON-CONFORMING FILLING (SERVICE) STATION USES AND STRUCTURES**

(A) The purpose of this section is to provide for the continued operation of filling (service) station uses as legal non-conforming uses, and describe when they may be deemed abandoned; allow for alterations or enlargement of such uses when the alteration would provide greater protection for the environment, safeguard public health and safety, or facilitate the increased use of zero emission vehicles; and prohibit filling (service) station operators from increasing the storage and dispensing capacity of gasoline and other fossil fuels.

(B) This section applies to:

(1) All lawfully developed and operating filling (service) station uses in existence prior to January 1, 2023; and

(2) All filling (service) station uses not yet developed and/or operating but subject to an approved and unexpired land use permit.

(C) Except as provided below, filling (service) station uses and structures related thereto shall not be enlarged, extended, reconstructed or moved to a different portion of the lot or parcel of land occupied by such use. As determined by the Planning and Building Services Director, examples of features subject to this provision include, but are not limited to, those related to the sale, storage, conveyance, and dispensing of gasoline and any other fossil fuel (e.g., storage tanks, pumps, dispensers).

(D) Filling (service) station uses may be modified to conform to current stormwater quality control regulations or remediate contamination of the soil or groundwater.

(E) As determined by the Public Works Director or designee, the pedestrian and vehicular circulation features (e.g., curbing, sidewalks, traffic control devices) of a filling (service) station use may be modified to improve public safety.

(F) Filling (service) station uses may be modified to accommodate battery charging station(s) for zero emission vehicles, subject to compliance with Section 15.04.065 of this Code.

(G) Filling (service) station uses may be modified to accommodate commercial uses that are not related to fossil fuel sales and that are otherwise provided for in the regulations applicable to the Highway Commercial zoning district.

(H) A filling (service) station use shall not be re-established if such use has been discontinued for a continuous period of 180 days or more, or has been changed to, or replaced by, a conforming use. If the use has discontinued for reasons of construction under a valid building permit, the Public Works Director may extend the 180-day timeframe when presented with documentation demonstrating construction has been pursued diligently and timely.”

**SECTION 4. Compliance with CEQA.** This Ordinance was assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the Town. The Town Council finds and determines that the adoption of this Ordinance is exempt from CEQA in accordance with Sections 15307 and 15308 because this Ordinance constitutes action taken by a regulatory agency to protect natural resources and the environment. The Ordinance will establish a limit to infrastructure that directly supports or perpetuates the use of fossil fuels for vehicles. Consistent with the Town Council’s adopted Climate Action Plan, this step is necessary to advance the goal of carbon neutrality by 2030. Pursuant to the “common sense” exemption under CEQA Guidelines section 15061(b)(3), there is no possibility that this Ordinance might have a significant effect on the environment. This Ordinance will prohibit new gas stations and the expansion of fossil fuel infrastructure at existing gas stations, in turn, preventing future groundwater or surface water contamination, leaks from underground tanks, or improper disposal of gasoline. The Town has further determined that no exceptions to the exemptions apply and there is no reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances (CEQA Guidelines section 15300.2). At the time of future development proposals, additional environmental analysis may be required to analyze the potential environmental impacts associated with specific development projects and uses proposed at specific locations.

**SECTION 5. Severability.** If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by a court of competent

jurisdiction, such decision shall not affect the validity of the remainder of this Ordinance. The Town Council hereby declares that it would have adopted this Ordinance, and each and every section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

**SECTION 6. Effective Date and Posting.** This Ordinance shall take effect thirty (30) days after its adoption. Copies of this Ordinance shall, within fifteen days after its passage and adoption, be posted in three public places in the Town of Fairfax, to wit: 1. Bulletin Board, Town Hall Offices; 2. Bulletin Board, Fairfax Post Office; and 3. Bulletin Board, Fairfax Women’s Club Building, located at 46 Park Road.

The foregoing Ordinance was introduced at a regular meeting of the Town Council on the \_\_\_\_ day of \_\_\_\_\_, 2022, and duly adopted at the next regular meeting of the Town Council on the \_\_\_\_ day of \_\_\_\_\_, 2022, by the following vote, to wit:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

\_\_\_\_\_  
Stephanie Hellman, Mayor

Attest:

\_\_\_\_\_  
Michele Gardner, Town Clerk

\_\_\_\_\_  
Date