

**EFFECTIVE DATE
OF ORDINANCE**

August 31, 2022

ORDINANCE NO. 2820 N.C.S.

Introduced by: D’Lynda Fischer

Seconded by: Kevin McDonnell

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PETALUMA APPROVING ZONING TEXT AMENDMENTS TO MODIFY TABLE 4.3 AND TABLE 4.4 (ALLOWED LAND USES AND PERMIT REQUIREMENTS) IN THE IMPLEMENTING ZONING ORDINANCE TO PROVIDE FOR DISCRETIONARY REVIEW FOR GENERAL RETAIL, GROCERY, AND BUILDING AND LANDSCAPE MATERIALS SALES LAND USES OVER 25,000 SQUARE FEET AND ASSOCIATED MODIFICATIONS TO CHAPTER 28 (GLOSSARY) TO CLARIFY AND IMPLEMENT THESE CHANGES

WHEREAS, the 2021 Citywide Goals and Priorities include workplan item #56, “Update Implementing Zoning Ordinance (IZO) to ensure the City’s ability to provide full environmental review for all discretionary projects”; and

WHEREAS, in May 2022 the City Council adopted a Zoning Text Amendment to modify Chapter 24 of the IZO to provide greater environmental review for projects that require discretionary review through Site Plan and Architectural Review; and

WHEREAS, when a specific land use is permitted by right the City has minimized discretion to analyze potential impacts from the operations of that use unless a discretionary review is triggered by the scope of the proposed project; and

WHEREAS, the City has previously identified that the potential impacts of a use can increase in relation to the square footage of the proposed use; and

WHEREAS, Goal 9-G-1 of the City’s General Plan is to “establish a diverse and sustainable local economy that meets the needs of the community’s residents and employers;” and

WHEREAS, Policy 9-P-2 of the General Plan seeks to “ensure new commercial development will have a net positive impact on Petaluma’s economy, existing businesses, city finances, and quality of life”; and

WHEREAS, Program “A” of General Plan Policy 9-P-2 recommends that the City “consider the need when reviewing commercial development proposals over a specific size in building area per occupant to obtain a fiscal/economic analysis, as a component of the project’s entitlement process, of the impacts on Petaluma’s economy, existing business, local workforce and city finances”; and

WHEREAS, on October 6, 2008, City Council adopted Resolution No. 2008-189 N.C.S. which established a policy and procedure for the preparation, review and use of “fiscal and economic impact assessments” (FEIA) for specified land uses in the City of Petaluma; and

WHEREAS, more specifically Resolution No. 2008-189 N.C.S. requires the preparation of a Fiscal and Economic Impact Assessment for the following uses when more than 25,000 square feet, “General Retail,”

“Grocery,” and “Building and Landscape Materials”, and for all “Hotel” projects for consideration by the City Council and specifically to inform a finding of consistency with General Plan Policy 9-P-2; and

WHEREAS, on August 15, 2019 the City Council approved Resolution No. 2019-136 N.C.S. eliminating the requirement of the FEIA for hotel projects but maintaining the requirement for “General Retail”, “Grocery”, and “Building and Landscape Materials” land uses when more than 25,000 square feet; and

WHEREAS, as these land uses increase in size they are typically associated with a more automobile intensive development pattern, generate more automobile trips, and thereby potentially impact the traffic patterns and roadway congestion within the City; and

WHEREAS, by creating more congestion these larger stores potentially exacerbate local air quality problems, increase greenhouse gas emissions, and contribute to climate change;¹ and

WHEREAS, the additional automobile trips caused by these land uses as they increase in size cause more noise which can depress property values in adjacent neighborhoods;² and

WHEREAS, large stores are often used by national chain “superstores” which have been found to negatively impact the aesthetic and historical culture of neighborhoods; and

WHEREAS, large stores can pose a risk to the economic viability of local and regional businesses by drawing market share away from such businesses, thereby threatening the continued operations of such businesses and their ability to provide services to the community and jobs to their workers; and

WHEREAS, after the initial tenant leaves a large single occupant store there may be long term vacancy which may impose a high public cost due to empty stores become magnets for crime and vandalism, lowering adjacent property values, undermining the surrounding businesses, creates a negative image of the city, and deters new business and investment;³ and

WHEREAS, the proposed Zoning Text Amendment differentiates existing land use types of “General Retail”, “Grocery”, and “Building and Landscape Materials Sales – Indoor” by square footage to track with the requirement of increased review when over 25,000 square feet as outlined in City Council Resolution No. 2019-136 N.C.S.; and

WHEREAS, the proposed Zoning Text Amendment does not prohibit these uses in any zoning districts where currently permitted but rather requires issuance of a Conditional Use Permit at the discretion of the Planning Commission for “General Retail”, “Grocery”, and “Building and Landscape Materials Sales – Indoor” land uses when more than 25,000 square feet; and

WHEREAS, the proposed Zoning Text Amendment provides the City with greater discretion to review the appropriateness of these three land use types when more than 25,000 square feet to ensure new commercial development will have a net positive impact on Petaluma’s economy, existing businesses, city finances, and quality of life and be consistent with General Plan policy 9-P-2; and

¹ <https://ilsr.org/wp-content/uploads/2008/12/bbtk-factsheet-traffic.pdf>

² Id.

³ https://cdn.ilsr.org/wp-content/uploads/2008/12/bbtk-factsheet-blight.pdf?_gl=1*r322yq*_ga*MTc3MDg5MTk1My4xNjUyNTM3MDA1*_ga_M3134750WM*MTY1NTMwNzUzNy41LjEuMTY1NTMwNzU2Mi4w&_ga=2.234519965.2017298670.1655248619-1770891953.1652537005

WHEREAS, pursuant to Section 15001 of the California Environmental Quality Act (CEQA) 13 Guidelines, this ordinance is exempt from CEQA based on the following:

- 1) This ordinance is not a “project” within the meaning of Section 15378 of the CEQA Guidelines, because it is administrative activity with no potential for resulting in direct or indirect physical change in the environment, as the amendments address the process for review and approval of development applications in Petaluma and do not change the land uses that are permitted in the City or the locations where permitted uses may occur;
- 2) If the ordinance was a “project” under CEQA, they would be categorically exempt from CEQA under Section 15308 of the CEQA Guidelines as a regulatory action taken by the City pursuant to its police power to assure maintenance, restoration, enhancement, and protection of the environment where the regulatory process involves procedures for protection of the environment. The proposed amendments provide for protection of the environment by granting City approving bodies discretionary authority to condition projects to mitigate their potential environmental impacts;
- 3) The proposed ordinance is also exempt from CEQA requirements pursuant to Section 15183 of the CEQA Guidelines as the proposed amendments are consistent with the City’s General Plan, including General Plan Goal 9-G-1, Policy 9-P-2, and Program 9-P-2-A, and there are no reasonably foreseeable environmental effects peculiar to the amendments as they do not discontinue any currently approved uses or limit the locations of any uses (See, *Wal-Mart Stores, Inc., et al v. City of Turlock* (2006) 138 Cal.App.4th);
- 4) This ordinance is not subject to CEQA under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment, and for the reasons set forth in subparagraphs (a), (b), and (c) above, it can be seen with certainty that there is no possibility that this ordinance will have a significant effect on the environment. Furthermore, any application that is subject to the proposed amendments will be subject to review in accordance with CEQA requirements; and

WHEREAS, Section 25.010 of the City of Petaluma Implementing Zoning Ordinance (IZO) provides in pertinent part that no amendment that regulates matters listed in Government Code Section 65850, which matters include the use and construction of buildings and structures, shall be made to the IZO unless the Planning Commission and City Council find the amendments to be in conformity with the General Plan and consistent with the public necessity, convenience, and general welfare in accordance with Section 25.050(B) of the IZO; and

WHEREAS, the text amendment contained below modifies Table 4.3, Table 4.4, and Chapter 28 (Glossary) of the City’s Implementing Zoning Ordinance; and

WHEREAS, the City has complied with the noticing and procedures for zoning text amendments governed by Chapter 25 of the Implementing Zoning Ordinance and by California Government Code Section 65853; and

WHEREAS, on June 28, 2022 the Petaluma Planning Commission considered the proposed Zoning Text Amendment at a duly noticed public meeting at which time all interested members of the public were provided the opportunity to provide public comment; and

WHEREAS, at the conclusion of said public hearing, the Planning Commission adopted Resolution No. 2022-010, recommending the City Council adopt the amendments; and

WHEREAS, on July 8, 2022 the public notice of the July 18, 2022 public hearing before the City Council to consider the amendments was published in the Argus Courier as an eighth page ad; and

WHEREAS, on July 18, 2022 the City Council of Petaluma held a duly noticed public hearing to consider the amendments.

NOW THEREFORE BE IT ORDAINED by the City Council of the City of Petaluma, as follows:

Section 1. Findings. The City Council of the City of Petaluma hereby finds:

1. The above recitals are hereby declared to be true and correct and are incorporated into this resolution as findings of the City Council.
2. The Zoning Text Amendments outlined below are exempt from the California Environmental Quality Act (CEQA) based on the following:
 - a. This ordinance is not a “project” within the meaning of Section 15378 of the CEQA Guidelines, because it is administrative activity with no potential for resulting in direct or indirect physical change in the environment, as the amendments address the process for review and approval of development applications in Petaluma and do not change the land uses that are permitted in the City or the locations where permitted uses may occur.
 - b. If the ordinance was a “project” under CEQA, they would be categorically exempt from CEQA under Section 15308 of the CEQA Guidelines as a regulatory action taken by the City pursuant to its police power to assure maintenance, restoration, enhancement, and protection of the environment where the regulatory process involves procedures for protection of the environment. The proposed amendments provide for protection of the environment by granting City approving bodies discretionary authority to condition projects to mitigate their potential environmental impacts.
 - c. The proposed ordinance is also exempt from CEQA requirements pursuant to Section 15183 of the CEQA Guidelines as the proposed amendments are consistent with the City’s General Plan, including General Plan Goal 9-G-1, Policy 9-P-2, and Program 9-P-2-A, and there are no reasonably foreseeable environmental effects peculiar to the amendments as they do not discontinue any currently approved uses or limit the locations of any uses (See, *Wal-Mart Stores, Inc., et al v. City of Turlock* (2006) 138 Cal.App.4th).
 - d. This ordinance is not subject to CEQA under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment, and for the reasons set forth in subparagraphs (a), (b), and (c) above, it can be seen with certainty that there is no possibility that this ordinance will have a significant effect on the environment. Furthermore, any application that is subject to the proposed amendments will be subject to review in accordance with CEQA requirements.
3. In accordance with Sections 25.010 and 25.050(B) of the City’s Implementing Zoning Ordinance, Ordinance No 2300 N.C.S., (“IZO”), the proposed amendments to the IZO as contain below are in general conformity with the General Plan 2025 in that these amendments do not change the general character or impacts of current zoning regulations and implement the General Plan as outlined in the June 21, 2022 Planning Commission staff report.

4. In accordance with Section 25.050(B) of the IZO, the proposed amendments are consistent with the public necessity, convenience, and welfare in that they update and clarify existing land use regulations to provide greater discretion to review specific commercial land use types when more than 25,000 square feet in order to evaluate potential impacts and ensure that new commercial development has a net positive impact for the community and implements the policies of the General Plan and Resolution No. 2019-136 N.C.S.

Section 2. Table 4.3 entitled “Allowed Land Uses and Permit Requirements for Mixed Use Zones” is hereby amended to differentiate the Building and Landscape Materials Sales Indoor, General Retail, and Groceries/Specialty Foods land uses between those that are 25,000 square feet and less and those that are more than 25,000 square feet and add footnote 20 to read as follows:

Table 4.3 Allowed Land Uses and Permit Requirements for Mixed Use Zones

Land Use Type (1)	Permit Required by Zone				Specific Use Regulations
	MU1A	MU1B	MU1C	MU2	
Building and Landscape Materials Sales Indoor – 25,000 sf or less	P	P	--	P	
Building and Landscape Materials Sales Indoor – More than 25,000 sf	CUP(20)	CUP(20)	--	CUP(20)	
General Retail – 25,000 sf or less	P	P	--	P	
General Retail – More than 25,000 sf	CUP(20)	CUP(20)	--	CUP(20)	
Groceries/Specialty Foods – 25,000 sf or less	P	P	--	P	
Groceries/Specialty Foods – More than 25,000 sf	CUP(20)	CUP(20)	--	CUP(20)	

20 To be processed as a Major Conditional Use Permit at the discretion of the Planning Commission.

Section 3. Table 4.4 entitled “Allowed Land Uses and Permit Requirements for Commercial, Business Park, and Industrial Zones” is hereby amended to differentiate the Building and Landscape Materials Sales Indoor, General Retail, and Groceries/Specialty Foods land uses between those that are 25,000 square feet and less and those that are more than 25,000 square feet and add footnote 20 to read as follows:

Table 4.4 Allowed Land uses and Permit Requirements for Commercial, Business Park, and Industrial Zones

Land Use Type (1)	Permit Required by Zone				Specific Use Regulations
	C1	C2	BP	I	
Building and Landscape Materials Sales Indoor – 25,000 sf or less	P	P	--	--	
Building and Landscape Materials Sales Indoor – More than 25,000 sf	CUP(20)	CUP(20)	--	--	
General Retail – 25,000 sf or less	P	P	--	--	
General Retail – More than 25,000 sf	CUP(20)	CUP(20)	--	--	
Groceries/Specialty Foods – 25,000 sf or less	P	P	--	--	
Groceries/Specialty Foods – More than 25,000 sf	CUP(20)	CUP(20)	--	--	

20 To be processed as a Major Conditional Use Permit at the discretion of the Planning Commission.

Section 4. The definition of “Building and Landscape Materials Sales – Indoor” in Chapter 28 (Glossary) is hereby amended to read as follows:

Building and Landscape Materials Sales – Indoor. Retail establishments selling hardware, lumber and other large building materials. Includes paint, wallpaper, glass, fixtures. Includes all these stores selling to the general public, even if contractor sales account for a major proportion of total sales. Establishments primarily selling electrical, plumbing, heating, and air conditioning equipment and supplies are classified in “Warehouse, Wholesaling and Distribution.”

Section 5. The definition of “General Retail” in Chapter 28 (Glossary) is hereby amended to delete the reference to “Building and Landscape Materials Indoor” from the list of example uses that fall under General Retail.

Section 6. Except as amended by Section 2 and Section 3 above, all other provisions of Tables 4.3 and 4.4 remain unchanged and in full force and effect.

Section 7. Except as amended by Section 4 and Section 5 above, all other provisions of Chapter 28 (Glossary) remain unchanged and in full force and effect.

Section 8. Except as amended herein, the City of Petaluma Implementing Zoning Ordinance, Ordinance No. 2300 N.C.S. remains unchanged and in full force and effect.

Section 9. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance 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 ordinance. The City Council of the City of Petaluma 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 be declared unconstitutional, unlawful, or otherwise invalid.


Section 10. Effective Date. This ordinance shall become effective thirty (30) days after the date of its adoption by the Petaluma City Council.

Section 11. Posting/Publishing of Notice. The City Clerk is hereby directed to publish or post this ordinance or a synopsis for the period and in a manner provided by the City Charter and other applicable law.

INTRODUCED and ordered published and posted this 18th day of July 2022 by the following vote:

ADOPTED this 1st day of August 2022 by the following vote:

Ayes: Mayor Barrett, Vice Mayor Pocekay, Barnacle, Fischer, King, McDonnell
Noes: Healy
Abstain: None
Absent: None


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Teresa Barrett, Mayor

ATTEST:

APPROVED AS TO FORM:

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Kendall Rose, CMC, City Clerk

DocuSigned by:

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Eric Danly, City Attorney