

**EFFECTIVE DATE  
OF ORDINANCE**

August 10, 2022

**ORDINANCE NO. 2819 N.C.S.**

Introduced by: Mike Healy

Seconded by: D’Lynda Fischer

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PETALUMA AMENDING TABLE 4.3 (ALLOWED LAND USES AND PERMIT REQUIREMENTS FOR MIXED USE ZONES) OF THE IMPLEMENTING ZONING ORDINANCE TO INCREASE FLEXIBILITY FOR RESIDENTIAL IN MIXED USE BUILDINGS TO MEET NEWLY ADOPTED VISITABILITY AND UNIVERSAL DESIGN STANDARDS WITHIN THE CITY’S MIXED USE ZONING DISTRICTS**

**WHEREAS**, on March 21, 2022 the Petaluma City Council adopted Ordinance No. 2802 N.C.S. enacting local visitability and universal design requirements for new residential construction; and

**WHEREAS**, adoption of the City’s visitability and universal design requirements implement Policy 6.5 of the Petaluma General Plan Housing Element which states “Promote the provisions of disabled-accessible units and housing for the developmentally, mentally and physically disabled;” and

**WHEREAS**, adoption of the City’s visitability and universal design requirements further Goal 7 (Fair Housing) of the Petaluma General Plan Housing Element which calls for the City to “Promote a choice of housing types and locations available to all persons, regardless of race, color, religion, sex, sexual orientation, national origin, ancestry, familial status, source of income, age, marital status, medical condition or disability;” and

**WHEREAS**, adoption of the City’s visitability and universal design requirements respond to the forecasted increase in persons over 65 years of age by requiring the development of residential dwelling units with design features that support aging in place and address the prevalence of persons with disabilities by ensuring the development of residential dwelling units that enhance residents’ ability to remain in their homes during periods of temporary, developing, or permanent disabilities or frailties and accommodates a wide range of individual preferences and functional abilities; and

**WHEREAS**, as part of their consideration both the Planning Commission and City Council expressed concern that compliance with visitability and universal design requirements may compete with ground floor activity generating uses in certain situations; and

**WHEREAS**, both regulatory and policy documents adopted by the City of Petaluma envision ground floor activity generating uses in specific mixed use areas of the City to create a lively ground floor presence; and

**WHEREAS**, the City desires to facilitate appropriate flexibility to accommodate visitability and universal design requirements without requiring the addition of an elevator in multi-story buildings when not otherwise required by building code; and

**WHEREAS**, at their March 21, 2022 hearing the City Council directed staff to initiate a zoning text amendment to allow flexibility for residential construction on the ground floor in the MU1A zoning district to accommodate visitability and universal design requirements; and

**WHEREAS**, City staff has prepared the attached Zoning Text Amendment to respond to City Council direction; 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 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 25.010 and 25.050(B) of the IZO; and

**WHEREAS**, the text amendments contained in this Ordinance modify the City’s Implementing Zoning Ordinance Table 4.3; and

**WHEREAS**, the text amendments would allow residential in a mixed use building to be on the ground floor with the issuance of a Conditional Use Permit to provide the desired flexibility to accommodate the City’s visitability and universal design requirements and incorporate ground floor activity generating uses to implement the Mixed User land use designation and associated zoning standards; and

**WHEREAS**, on April 15, 2022, public notice of the April 26, 2022 Planning Commission meeting to consider the amendments was published in the Argus Courier in an eighth page ad; ad

**WHEREAS**, at the April 26, 2022 Planning Commission meeting the item was continued to a date certain of May 10, 2022; and

**WHEREAS**, on May 10, 2022, the Planning Commission held a duly noticed public hearing in accordance with Chapter 25 of the Implementing Zoning Ordinance to consider the amendments.

**WHEREAS**, after the conclusion of said public hearing, the Planning Commission adopted Resolution No. 2022-08, recommending the City Council adopt the amendments and making findings as required by IZO Sections 25.010 and 25.050(B); and

**WHEREAS**, on June 10, 2022, the public notice of the June 20, 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 June 20, 2022, the City Council of the City of Petaluma held a duly noticed public hearing to consider the amendments, including the Planning Commission’s recommendation and all public comments and approved the proposed 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 the resolution as findings of the City Council.
2. The text amendments contained in Section 2 below are exempt from the California Environmental Quality Act (CEQA) for the following reasons:
  - a. This ordinance is not a “project” within the meaning of Section 15378 of the CEQA Guidelines, because it is an administrative activity has no potential for resulting in physical change in the environment as the amendments address the process by how development applications are processed and reviewed and does not itself encourage physical development; and

- b. If this ordinance was a “project” under CEQA, this ordinance is categorically exempt from CEQA under Section 15308 of the CEQA Guidelines as a regulatory action taken by the City pursuant to its policy power and in accordance with Government Code Section 65858 to provide flexibility on a case by case basis to facilitate new residential units in the Mixed Use zones that both comply with the City’s visitability and universal design requirements, and incorporate ground floor activity generating uses. Each project would be subject to and reviewed under applicable CEQA requirements; and
  - c. 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 (1) and (2) above, it can be seen with certainty that there is no possibility that this ordinance will have a significant effect on the environment.
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 contained in Section 2 are in general conformity with the Petaluma General Plan 2025 in that these amendments do not change the general character or impacts of current zoning regulations, but provide needed flexibility facilitate residential development that meets visitability and universal design requirements, and achieves a mixed use land use pattern that implements the General Plan as outlined in the May 10, 2022 Planning Commission staff report.
  4. In accordance with Section 25.050(B) of the IZO, the proposed amendments as outlined in Section 2 below are consistent with the public necessity, convenience, and welfare in that they update and clarify existing regulations, provide greater flexibility for accommodating residential, meeting visitability and universal design standards, and achieving a mixed use land use patterns in the mixed use zoning districts.

**Section 2.** Table 4.3 entitled “Allowed Land Uses and Permit Requirements for Mixed Use Zones” is hereby amended 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	
<b>Residential in Mixed Use Building</b>	<b>P (6)</b>	<b>P(6)</b>	<b>P(6)</b>	<b>P(6)</b>	

(6): Use allowed only on an upper floor or behind a ground floor street fronting use; use in other locations allowed subject to a CUP.

**Section 3.** 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 4. 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 5. Effective Date.** This ordinance shall become effective thirty (30) days after the date of its adoption by the Petaluma City Council.

**Section 6. 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 20<sup>th</sup> day of June 2022.

**ADOPTED** this 11th day of July 2022 by the following vote:


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

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 Teresa Barrett, Mayor

ATTEST:

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 Kendall Rose, CMC, City Clerk

APPROVED AS TO FORM:

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 Eric Danly, City Attorney