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[DATE]

**DRAFT ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA, STATE OF CALIFORNIA, IMPOSING LIMITATIONS ON THE ACCEPTANCE OF APPLICATIONS FOR NEW GASOLINE STATIONS**

WHEREAS, Abrupt anthropogenic climate change is a real and increasingly urgent threat to public health and safety that demands action at every level of government, and Sonoma County has a well-established commitment to taking local action in order to do the County's part in helping to address the global climate crisis; and

WHEREAS, On September 23, 2020, Governor Newsom issued Executive Order N-79-20<sup>1</sup> setting 2035 as the year by which all new vehicles sold in California must be zero-emission; and

WHEREAS, On December 10, 2019 the County Board of Supervisors adopted an ordinance on Socially Responsible Investment that includes a prohibition on investments in fossil fuels; and

WHEREAS, On September 17, 2019, the County Board of Supervisors formally joined cities, counties, and countries across the world in declaring a global climate emergency, establishing this issue as a top priority; and

WHEREAS, On May 8, 2018, the Sonoma County Board of Supervisors adopted a "Climate Change Action Ordinance" to support a countywide framework for reducing greenhouse gases (GHGs) and to pursue local actions that support the identified goals therein. Commitments and goals in the Ordinance include:

- Work toward the Regional Climate Protection Authority's countywide target to reduce GHG emissions by 40% below 1990 levels by 2030 and 80% below 1990 levels by 2050;
- Continue efforts to increase the health and resilience of social, natural, and built resources to withstand the impacts of climate change;
- Increase resilience by promoting healthy, safe communities, protecting water resources, promoting a sustainable, climate-resilient economy, and mainstreaming the use of climate change projections;
- Encourage a shift toward low-carbon transportation options and toward low-carbon fuels in vehicles and equipment;
- Switch equipment from fossil fuel to electricity and increase renewable energy use;
- Reduce travel demand through focused growth and reduce emissions from the consumption of goods and services

WHEREAS, Prior to the May 8, 2018 Climate Change Action Ordinance, the County made the following commitments:

- 2012 – Voted to create the Sonoma Clean Power Community Choice Aggregation agency with reductions of GHGs attributable to Sonoma County as its primary goal;

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<sup>1</sup> <https://www.gov.ca.gov/wp-content/uploads/2020/09/9.23.20-EO-N-79-20-Climate.pdf>

- 2009 – Formed, in collaboration with the nine cities in the County, the Regional Climate Protection Authority, to coordinate countywide climate protection efforts;
- 2008 – Approved development of a Regional Climate Protection Coordination Plan;
- 2006 – Approved the Climate Protection Action Plan as the roadmap to create certain specific GHG reductions;
- 2005 – Committed to a countywide goal of a 25 percent reduction in GHG emissions from 1990 levels by 2015, along with all other jurisdictions in the County;
- 2002 – Approved an Ordinance committing the County to set a target to reduce the County's internal operations' GHG emissions by 20% of year 2000 baseline levels to approximately 30,000 tons per year by the year 2010; and

WHEREAS, On September 12, 2018, Governor Brown issued, and Governor Newsom has since affirmed, Executive Order B-55-18, calling for the State to achieve carbon neutrality by 2045. This very ambitious goal means that local governments need to start changing the way they do things, like permitting new fossil fuel infrastructure, now; and

WHEREAS, In January 2018, Governor Brown issued Executive Order B-48-18 calling for five million zero-emission vehicles by 2030 and the installation of 250,000 electric vehicle (EV) charging stations in the State; and

WHEREAS, Consequences of anthropogenic climate disruption have already severely impacted the lives, health, and livelihoods of nearly every family and business in Sonoma County, driven by a devastating increase in wildfire, flooding, evacuation, and power-shutoff episodes; and

WHEREAS, Similar disruptions are increasing globally with July 2019 now on record as the hottest recorded month ever for global average temperature, the Australian and Amazon forests burning out of control, and Greenland's icecap melting at an unprecedented rate; and

WHEREAS, Transportation accounts for about 60 percent of Sonoma County's GHG emissions with the burning of gasoline and diesel fuel for that transportation as the leading cause of GHG emissions in this sector; and

WHEREAS, Currently there are ~730,000 EVs in California and ~10,000 in Sonoma County. With the rapid rise of practical and affordable EVs, and many new models becoming available on a regular basis, the need for charging infrastructure will inevitably grow as the need for gasoline stations diminishes. The County should encourage and support private sector investments based on clear trends that indicate that any new gasoline or diesel capacity added in 2020 is likely to be abandoned as unprofitable in a few short years; and

WHEREAS, New gasoline stations have been and are continuing to be proposed in Sonoma County; and

WHEREAS, Outdated permitting rules have recently enabled new gasoline stations to be permitted despite countervailing State and County GHG policy and energetic community opposition; and

WHEREAS, Pursuant to Section 15001 of the California Environmental Quality Act (CEQA) 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 has no potential for resulting in physical change in the environment, directly or ultimately; it prevents changes in the environment related to new gasoline station use applications pending consideration of possible amendments to the County's Zoning Code or other land use regulations;
- 2) This Ordinance is categorically exempt from CEQA under Section 15308 of the CEQA Guidelines as a regulatory action taken by the County pursuant to its policy power and in accordance with Government Code Section 65858 to ensure maintenance and protection of the environment pending the evaluation and possible adoption of contemplated local legislation, regulation and policies, which local legislation, if adopted, will be subject to CEQA requirements;
- 3) 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 and common sense that there is no possibility that this Ordinance will have a significant impact on the environment;

NOW THEREFORE BE IT ORDAINED by the County of Sonoma as follows:

Section 1. The above recitals are hereby declared to be true and correct and findings of the County of Sonoma.

Section 2. A MORATORIUM is hereby imposed on the acceptance of any new Use Permit applications relating to new or expanded capacity gasoline or diesel fueling equipment at gasoline sales, diesel sales, truck terminals, service stations, or associated uses<sup>2</sup> in the County of Sonoma that are not received as of the effective date of this Ordinance, in accordance with the County's powers under Cal. Government Code Section 23005 as follows:

- A. Applications for land use or development entitlements relating to new or expanded capacity gasoline or diesel fueling equipment in the County of Sonoma not received in full as of the effective date of this Ordinance shall not be accepted or processed by Permit Sonoma during the moratorium period.
- B. This Ordinance is declared to be an interim Ordinance as defined under California Government Code § 65858.
- C. For existing permitted uses, the replacement or repair of existing gasoline or diesel equipment or any reductions in fueling capacity would be unaffected by this moratorium.

Section 3. The moratorium shall remain in effect until such time that the County shall have reviewed and revised permitting requirements for gasoline stations such that they align with County climate policy.

This Ordinance is deemed necessary for the following reasons:

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<sup>2</sup> per Sec. 26-32-020 for C2 Retail Services and Businesses, Sec. 26-34-020 for C3 General Commercial Districts, and Sec. 26-36-020 for LC Limited Commercial Districts, 26-38-020 for CR Commercial Rural Districts

1. Purpose. The purpose of this Ordinance is to address new imperatives imposed by the global climate crisis, and to protect the public health, safety, and welfare from the current and immediate threat posed by the issuance of new land use or development entitlements for gasoline or diesel-related uses that would expand fossil fuel infrastructure and could result in negative health, safety or other local and global impacts.

2. Need. New gasoline or diesel sales uses have been and may continue to be proposed for construction in the County, and unless a moratorium is imposed on the receipt of even more applications for new gasoline or diesel sales uses in the County, under current codes, such development may be permitted in conflict with current State and County GHG reduction policy goals. Such permitting under antiquated codes may also result in negative health, safety, or other impacts on adjacent or nearby existing uses or neighborhoods with which new gasoline or diesel sales uses may not be compatible. This is particularly true regarding County zoning districts where currently new gasoline stations are permitted uses and approval of applications for such proposed new uses is subject only to site plan and architectural review, which review does not take into account such consideration as project local and global emissions and other health impacts unrelated to aesthetics, siting and traffic circulation. It is therefore necessary to impose a moratorium on receipt of land use or development entitlements for new gasoline or diesel sales uses in the County that are not submitted as of the effective date of this Ordinance to provide time to evaluate and adopt legislation, guidelines and/or policies as required to address negative health, safety, or other impacts of proposed new gasoline or diesel sales uses.

3. Applicability. This Ordinance applies to acceptance or receipt of applications for land use or development entitlements for new gasoline or diesel sales uses in the County that are not submitted as of the effective date of this Ordinance. This Ordinance has no effect on the processing of previously submitted (currently active) applications for land use or development entitlements for new gasoline or diesel sales uses in the County. Current applications for such entitlements will continue to be processed, and may be permitted, during the moratorium period in accordance with applicable law.

4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The County hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

5. Effective Date and Duration. This ordinance shall become effective immediately upon passage and adoption if passed and adopted by a majority of the County Supervisors and shall be in effect for 180 days therefrom unless extended by the County in accordance with Government Code Section 65858.