

ORDINANCE O2023-___

AN ORDINANCE EXTENDING FOR 22 MONTHS AND 15 DAYS URGENCY INTERIM ORDINANCE NO. O2023-004 OF THE CITY COUNCIL OF THE CITY OF NAPA, STATE OF CALIFORNIA, IMPLEMENTING THE CITY'S OCTOBER 2022 GENERAL PLAN UPDATE, COMMONLY KNOWN AS THE CITY OF NAPA 2040 GENERAL PLAN, BY AMENDING TITLE 17 OF THE NAPA MUNICIPAL CODE TO (1) ADD INTERIM ZONING DISTRICTS AND ASSOCIATED INTERIM ZONING REGULATIONS, (2) AMEND THE ZONING MAP TO REZONE CERTAIN PROPERTIES TO THE NEW INTERIM ZONING DISTRICTS, (3) ESTABLISH INTERIM PROCEDURES FOR REVIEW OF PERMIT APPLICATIONS, PENDING THE ADOPTION OF A COMPREHENSIVE UPDATE TO THE ZONING CODE, AND (4) IMPOSE A TEMPORARY MORATORIUM ON NEW OR EXPANDED SERVICE STATIONS, AND DETERMINING THAT THE ACTIONS AUTHORIZED BY THIS ORDINANCE ARE EITHER EXEMPT FROM CEQA OR HAVE BEEN ADEQUATELY ANALYZED AND ADDRESSED BY A PREVIOUS CEQA ACTION.

WHEREAS, on September 20, 2022, by City Council Resolution 2022-085, the City Council certified that certain Environmental Impact Report for the City of Napa 2040 General Plan, and on October 18, 2022, by City Council Resolution R2022-098, the City Council approved and adopted an Addendum to the certified Environmental Impact Report for the City of Napa 2040 General Plan, which together are referred to herein as the "General Plan EIR"; and

WHEREAS, on October 18, 2022, by the same City Council Resolution R2022-098, the City Council adopted the City of Napa 2040 General Plan ("2040 General Plan"). The 2040 General Plan is the culmination of a three-year long process to identify, formulate and establish long-term goals, objectives and policies for the operation, maintenance, and development of the City and the City government through the year 2040; and

WHEREAS, the 2040 General Plan reflects the community's vision for its growth and evolution, addressing a wide range of topics that affect the character and quality of life in Napa; and

WHEREAS, the 2040 General Plan addresses future land uses and new development, and includes policies for sustainable development by, among other things, making more efficient use of available land by allowing higher density development and minimizing the adverse effects of new development on the environment to ensure that it does not unduly contribute to global warming and climate change; and

WHEREAS, to implement and promote the community vision for new development across the City, the 2040 General Plan establishes several new general plan land use designations and "Focus Areas" for which there are currently no applicable, corresponding zoning districts and development standards in Napa Municipal Code Title 17, the City's existing zoning ordinance ("Existing Zoning Ordinance"); and

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WHEREAS, beyond the fact that the Existing Zoning Ordinance does not recognize and implement the 2040 General Plan's new land use designations and Focus Areas, many of the development standards and regulations in the Existing Zoning Ordinance that would apply outside the new land use designations and Focus Areas were adopted to implement outdated policies intended to promote lower density development in a manner that is inconsistent with the goals and policies of the 2040 General Plan;

WHEREAS, the 2040 General Plan also establishes new City policies regarding the establishment of new zoning regulations limiting the construction of new fossil fuel stations, with the goal of promoting compact, walkable development patterns that are integrated with a sustainable mobility system that emphasizes walking, biking, and using public transit, which new policies are not yet implemented by the City's Existing Zoning Ordinance;

WHEREAS, On April 18, 2023, pursuant to Government Code Sections 36937 and 65858, the City Council adopted Urgency Interim Ordinance No. O2023-004 that amended NMC Title 17 to (1) add interim zoning districts and associated interim zoning regulations, (2) amend the zoning map to rezone certain properties to the new interim zoning districts, (3) establish interim procedures for review of permit applications pending the adoption of a comprehensive update to the zoning code, and (4) impose a temporary moratorium on new or expanded service stations;

WHEREAS, Ordinance No. O2023-004 took effect immediately for a period of 45 days and will expire by operation of law on June 2, 2023 unless extended by the City Council;

WHEREAS, pursuant to Government Code Sections 36937 and 65858, no less than 10 days prior to the expiration of Urgency Interim Ordinance No. O2023-004, the City published the required notice and held a public hearing on May 16, 2023 at which the City Council considered an extension to Urgency Interim Ordinance No. O2023-004, and acknowledged measures taken by City Staff to alleviate conditions which led to the adoption of the Ordinance which are described in the City's written report, and

WHEREAS, at a noticed public hearing held on May 16, 2023, the City Council determined that an extension of Urgency Interim Ordinance No. O2023-004 for 22 months and 15 days is required to complete the measures initiated during the 45 days.

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

SECTION 1. FINDINGS.

The City Council hereby finds and determines, based on the consideration of all information related to this matter, including without limitation all information and testimony presented at all the public meetings and hearings conducted on the 2040 General Plan, and including any supporting reports by City staff, and any other information or evidence (in writing or oral testimony) as follows:

- A. The recitals to this Ordinance, set forth above, are true and correct and provide bases for the City Council's adoption of this Ordinance.
- B. The actions authorized by this Ordinance, extending the temporary moratorium on new or expanded Service Stations established on April 18, 2023, are exempt from the requirements of CEQA pursuant to Section 15160 of Chapter 3, Title 14, of the California Code of Regulations because it can be seen with certainty that there is no possibility that the moratorium may have a significant effect on the environment, and the actions authorized by this Ordinance, extending the term of the new zoning districts and zoning

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regulations to implement the 2040 General Plan established on April 18, 2023, were adequately analyzed by the General Plan EIR certified by the City Council on September 20, 2022, by City Council Resolution R2022-085.

- C. It is the policy of both the State of California and the City of Napa that all new development approved by the City be consistent with the approved 2040 General Plan and the City's approved Zoning Ordinance, and that the applicable zoning regulations for new development be consistent with the 2040 General Plan.
- D. Significant and substantial evidence was presented to the City Council in the months leading up to the adoption of the 2040 General Plan that many of the new goals, objectives and policies of the 2040 General Plan, including the new land use designations and Focus Areas and the new policies intended to limit the construction of new or expanded fossil fuel stations, are not implemented by the City's Existing Zoning Ordinance, and the City's continued use of the Existing Zoning Ordinance to review and approve new permit applications would not adequately promote or implement the 2040 General Plan and could lead to development that is inconsistent with or contrary to the goals, objectives and policies of the 2040 General Plan.
- E. Ample and substantial evidence exists in the record to support the determination that updates to the Existing Zoning Ordinance are warranted and necessary to implement the goals, objectives and policies of the 2040 General Plan relating to the new land use designations and Focus Areas and new policies regarding fossil fuel stations, and the current absence of zoning regulations relating to the new land use designations, Focus Areas, and new policies regarding fossil fuel stations creates the possibility of new development or uses that may be inconsistent, or in conflict, with the 2040 General Plan, which constitutes a current and immediate threat to the public health, safety and welfare.
- F. Consistent with Goal CCS-2 and Policy CCS 2-1 of the 2040 General Plan, the City Council has directed City staff to study and develop new regulations for the City Council's consideration to (i) limit the construction of new fossil fuel stations and limit the addition of new fossil fuel pumps at existing fossil fuel stations; and (ii) encourage the accommodation of alternative fuels and alternative modes of transportation at new and existing businesses.
- G. The approval of any application that proposes new fossil fuel pumps, prior to the City Council's consideration of and action on new regulations consistent with Goal CCS-2 and Policy CCS 2-1 of the 2040 General Plan would constitute a substantial threat to the public health, safety and welfare, and therefore the adoption of this ordinance temporarily prohibiting the approval or development of any new fossil fuel pumps is necessary for the immediate preservation thereof, as identified herein.
- H. The City Council previously directed City staff to take steps to implement the new land use designations and Focus Areas described in Sections 2.3 (Land Use Framework) and 2.5 (Focus Areas) of the 2040 General Plan and ensure that all new development in the City is consistent with the 2040 General Plan, and pursuant to such direction, City staff has developed and presented to the City Council the Interim Zoning Regulations set forth in this ordinance.
- I. Because the areas that are the subject of the new 2040 General Plan land use designations and Focus Areas are addressed in the Existing Zoning Ordinance and are subject to regulations in the Existing Zoning Ordinance that are inconsistent with the goals, objectives and policies of the 2040 General Plan, the approval of any application submitted in conformance with the Existing Zoning Ordinance could result in land use approvals and

development that is inconsistent with the 2040 General Plan, and thereby represent an immediate threat to the public health, safety and welfare, as indicated herein.

- J. This ordinance is supported by (i) Section 62 of the City Charter of the City of Napa, in that it is an emergency ordinance necessary for the immediate preservation of public peace, property, health or safety and supported by an affirmative vote of at least four (4) members of the City Council; and (ii) California Government Code Sections 36937 and 65858, in that it is an interim ordinance adopted as an urgency measure for the immediate preservation of and to protect the public health, safety and welfare by prohibiting uses that may be in conflict with the 2040 General Plan, in the absence of this ordinance there is a current and immediate threat to the public health, safety and welfare, and it is supported by four-fifths (4/5) of the City Council.
- K. This ordinance is adopted in accordance with Article XI, section 7 of the Constitution of the State of California, by which the City is authorized to make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws; and in accordance with Article XI, section 5 of said Constitution, which authorizes charter cities, such as the City of Napa, to make and enforce all ordinances and regulations respecting municipal affairs.

SECTION 2. EXTENSION.

Interim Urgency Ordinance No. O2023-004 adopted on April 18, 2023, and effective for an initial 45-day period ending on June 2, 2023, is hereby extended for an additional 22 months and 15 days commencing on June 3, 2023.

SECTION 3. SEVERABILITY.

If any section, sub-section, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, sub-section, subdivision, paragraph, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more sections, sub-sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

SECTION 4. EFFECTIVE DATE.

This Ordinance is declared to be an urgency ordinance for the preservation of the public health, safety and welfare, and shall take effect and be enforced immediately upon adoption pursuant to California Government Code Sections 36937 and 65858 and City Charter Section 62.

City of Napa, a municipal corporation

MAYOR: _____

ATTEST:

CITY CLERK OF THE CITY OF NAPA

STATE OF CALIFORNIA }
COUNTY OF NAPA } SS:
CITY OF NAPA }

I, Tiffany Carranza, City Clerk of the City of Napa, do hereby certify that the foregoing Ordinance had its first reading and was introduced during the public regular meeting of the City Council on the 16th day of May, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

CITY CLERK OF THE CITY OF NAPA

Approved as to Form:

Michael W. Barrett
City Attorney