

**ORDINANCE NO. 2021-01**

**AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON, CALIFORNIA ENACTED PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 65858 ESTABLISHING A 45-DAY TEMPORARY MORATORIUM ON THE APPROVAL OF DISCRETIONARY APPLICATIONS FOR NEW FUEL STATIONS THAT ARE NOT COMPLETE AS OF THE EFFECTIVE DATE OF THE ORDINANCE IN ALL ZONING DISTRICTS IN THE CITY OF AMERICAN CANYON PENDING REVIEW AND POSSIBLE AMENDMENT OF MUNICIPAL CODE REGULATIONS; AND SETTING FORTH THE FACTS CONSTITUTING SUCH URGENCY**

**WHEREAS**, Article XI, Section 7 of the California Constitution authorizes cities to adopt local police, sanitary, and other ordinances not in conflict with general laws; and

**WHEREAS**, Government Code Section 65858, subdivision (a) provides: that city legislative bodies may, to protect public safety, health and welfare, adopt as an urgency measure an interim ordinance prohibiting any uses that may conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body is considering or studying or intends to study within a reasonable time; that adoption of such urgency measures requires a four-fifths vote of the legislative body; that such measures shall be of no effect 45 days from the date of adoption, and may be extended a maximum to two times and have a maximum total duration of two years; and

**WHEREAS**, Government Code Section 65858, subdivision (c) provides that legislative bodies may not adopt or extend such interim ordinances unless they contain findings that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional entitlements would result in that threat to public health, safety, or welfare; and

**WHEREAS**, Government Code Section 65858, subdivision (d) provides that ten days prior to the expiration of an interim ordinance or any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance; and

**WHEREAS**, the City of American Canyon (“City”) seeks to ensure that the City’s zoning laws are consistent with the goals, policies, and standards set forth in the City General Plan; and

**WHEREAS**, Governor Newsom’s Executive Order N-79-20, sets a goal to eliminate new gasoline-powered vehicle sales by 2035; and

**WHEREAS**, the City is an active member of the Napa County Climate Action Committee and this Committee is contemplating policy amendments to reduce greenhouse gas emissions in Napa County; and

**WHEREAS**, the City is in the process of updating the General Plan, which includes a Climate Action Plan component; and

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**WHEREAS**, Fuel Station approvals and construction may be inconsistent with the contemplated General Plan, Zoning Ordinance, and applicable Specific Plans; and

**WHEREAS**, on February 2, 2021, the City Council conducted a workshop to discuss impacts of discretionary development application processing and construction permit issuance for new Fuel Stations in all zoning districts in the City of American Canyon; and

**WHEREAS**, on February 16, 2021, the City Council conducted a public hearing to discuss impacts of discretionary development application processing and construction permit issuance for new Fuel Stations in all zoning districts in the City of American Canyon; and

**WHEREAS**, the City Council has considered all of the written and oral testimony presented at a public hearing on February 16, 2021 and March 2, 2021 in making its decision.

**NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1:** The above recitals are true and correct and are incorporated herein.

**SECTION 2:** Moratorium. In order to protect the public health, safety and welfare and pursuant to the provisions of Government Code section 65858, a moratorium is hereby placed on the following:

a. The approval of discretionary applications for Fuel Station uses that are not complete as of the effective date of this Ordinance in all zoning districts in the City of American Canyon that would allow the establishment, expansion, or relocation of a Fuel Station or business offering related services.

b. For the Purposes of this Ordinance, "Fuel Station" shall also mean a "Gas Station and Automobile Service Facility" and is defined as: an establishment engaged primarily in the retail sale of motor fuels and incidentally in the supplying of goods and services required in the operation and maintenance of motor vehicles. This classification includes incidental maintenance and repair of automobiles and light trucks.

**SECTION 3.** Declaration of Urgency. This urgency is based on the following facts:

a. The purpose of this Ordinance is to protect the public safety, health and welfare from the current and immediate threats posed by the establishment of new Fuel Stations and the possible modification and expansion of existing Fuel Stations.

b. Article XI, Section 7 of the California Constitution authorizes cities to adopt local police, sanitary, and other ordinances not in conflict with general laws.

c. The City Council finds that, in general, these types of businesses, as presently regulated in other jurisdictions, may result in serious harmful effects, including but not limited to damage to the community vision, climate change, air pollution, vehicle traffic congestion, and reduction in viability of existing Fuel Stations in American Canyon.

d. The City has concluded that the best method of protecting the public safety, health, and welfare is to explore regulations concerning the placement, establishment, and possible operation of Fuel Stations within the City.

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**SECTION 4.** Community Development Department. The Community Development Director is directed to provide a written report to the City Council at least ten (10) days prior to the expiration of this ordinance, describing the study conducted of the local conditions that led to the adoption of this ordinance.

**SECTION 5.** Effective Date. This ordinance shall become effective immediately upon the date of its adoption pursuant to Government Code section 65858.

**SECTION 6.** Expiration. This moratorium shall be of no further force or effect upon the expiration of forty-five (45) days from the date of adoption, unless extended in accordance with the provisions Government Code section 65858.

**SECTION 7.** Severability. If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**SECTION 8.** Compliance with California Environmental Quality Act. The City Council finds that this Ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15308 (regulatory action taken by the City pursuant to its policy power and in accordance with Government Code Section 65858 and Article XI, Section 7 of the California Constitution), 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations because it has no potential for resulting in physical change to the environment, directly or indirectly, as it prevents changes in the environment pending the completion of the contemplated possible review of City zoning regulations.

**SECTION 9.** Custodian of Records. The documents and materials that constitute the record of proceedings on which this Ordinance is based are located at the City Clerk's office located at 4831 Broadway, Suite 201, American Canyon, CA 94503. The custodian of these records is the City Clerk.

The foregoing Urgency Ordinance was adopted at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 2<sup>nd</sup> day of March, 2021 by the following vote:

AYES: Councilmembers Aboudamous, Oro; Vice Mayor Joseph; Mayor Garcia  
NOES: Councilmember Washington  
ABSTAIN: None  
ABSENT: None

DocuSigned by:  
*Leon Garcia*  
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Leon Garcia, Mayor

ATTEST:  
DocuSigned by:  
*Cherri Walton*  
86226950EAFE4FA...  
Cherri Walton, Interim City Clerk

APPROVED AS TO FORM:  
DocuSigned by:  
*William D. Ross*  
285D50133D93421...  
William D. Ross, City Attorney