

INTERIM URGENCY ORDINANCE NO. ____

AN INTERIM URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA ENACTED PURSUANT TO GOVERNMENT CODE SECTION 65858 EXTENDING FOR AN ADDITIONAL 10 MONTHS AND 15 DAYS, THROUGH APRIL 20, 2022, AN EXISTING MORATORIUM ON THE APPROVAL OF APPLICATIONS FOR BUILDING PERMITS OR OTHER ENTITLEMENTS FOR NEW SERVICE STATION USES OR THE EXPANSION OF EXISTING SERVICE STATION USES IN THE CITY OF RANCHO CUCAMONGA, DECLARING THE URGENCY THEREOF AND MAKING A DETERMINATION OF EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

THE CITY COUNCIL OF THE CITY OF RANCHO CUCAMONGA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Legislative Findings.

A. Subsection F(9) of Section 17.32.020 of the Rancho Cucamonga Municipal Code defines a “service station” as a “retail business selling gasoline or other motor vehicle fuels.” For the purpose of this Interim Urgency Ordinance, a service station shall be limited to those retail businesses selling motor vehicle fuels derived from liquid fossil fuels. In this context, a service station is commonly referred to as a gas station.

B. The Environmental Protection Agency (EPA) has classified service stations and fuel storage locations as uses that may result in a brownfield site. Brownfield sites are properties, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.

C. Common contaminants found at service station sites include gasoline, diesel, and petroleum oil, volatile organic compounds and solvents, polycyclic aromatic hydrocarbons, and lead. Exposure to the types of contaminants present, or potentially present, at service stations threatens the public health, safety or welfare of neighboring communities.

D. There are thirty-two service stations currently in operation in the City of Rancho Cucamonga. There are an additional two more service stations that are currently in plan check review for building permit or under construction. Many of the existing service stations are located near sensitive receptors. The close proximity of service stations to these areas increases the risk of contaminant exposure to vulnerable populations. This problem is exacerbated in situations where the service station may become a brownfield site.

D. A disproportionate amount of the City’s existing service stations are concentrated in the southwest and central areas of the City. Thirteen service stations are located in District 2 and eleven are located in District 3. In contrast, Districts 1 and 4 have only five service stations each. The proliferation of service stations in Districts 2 and 3 inequitably increases health risks for the residents of these districts due to the potential contaminants present at service stations. As a matter of environmental justice, the City Council must carefully consider how such uses are zoned under the City’s General Plan and Development Code in order to avoid an undue concentration of service stations in any one part of the City.

E. Based on data provided by the Sheriff's Department, the amount of criminal activity that occurs specifically at service stations necessitates that police services be routinely deployed to service stations. Over the past five years, the number of calls for service at service stations has steadily increased. In 2020, a total of 1,059 calls for service were made at service stations in the City, resulting in approximately 2,455 hours of police time spent policing and protecting service stations. The development of additional service stations within the City would result in additional strains on police services to counter the potential for increased criminal activity.

G. The increased criminal activity associated with service stations threatens the health, safety and welfare of all residents, but particularly those within the southwest and central areas of the City, due to the inequitable concentration of service stations in those areas. The City Council believes the location and proliferation of service stations in certain areas of the City requires further regulation to ensure that the negative effects of service stations can be curtailed in order to better protect the public.

H. Altogether, the existing location and concentration of service stations in the City mean that drivers need only drive approximately five minutes in order to reach most existing service stations in the City. Applications for additional service stations continue to be submitted to the City despite the already high concentration of service stations in the City and declining demand.

I. The declining demand for gasoline is partly demonstrated by the decline in annual service station revenues in the City. According to revenue estimates reported to the City by existing service stations, such revenues have declined by over half a million dollars from 2019 to 2020, echoing global trends, which have seen the decline in service stations over the past ten years due to a variety of factors, including the proliferation of electric vehicles, shared mobility solutions, and alternative fuel options.

J. Furthermore, vehicle technology is rapidly evolving such that reliance on gas is steadily declining. According to a report from the Boston Consulting Group, it is estimated that by 2030, more than one third of all new vehicles will be fully or partially electric. Charging for electric vehicles can take place in a variety of locations such as at home, work and in parking lots. Ride-sharing solutions further reduce demand for gasoline as car ownership becomes more obsolete. By 2035, shared mobility solutions such as Uber, Lyft, and Zipcar are expected to account for nearly 20% of on-road passenger miles. Meanwhile, alternative fuel options such as hydrogen fuel, liquefied petroleum gas (LPG), compressed natural gas, and biofuels are increasing their share in the gasoline and diesel markets.

K. The declining demand for gasoline may increase competition amongst the existing service stations in the City such that closures may occur over time. Due to their propensity to become brownfield sites, service stations require significant investment to remediate any potential ground contamination prior to redevelopment. Closed sites may be abandoned and left unused for years and removal of contaminants may present health risks for neighboring communities and sensitive receptors. Additional closures could result in increased blight and dangerous conditions throughout the City, thereby threatening public health, safety and welfare. The City Council wishes to assess the appropriate concentration and locations of service stations given declining demand.

L. There are thirty-two service stations currently in operation in the City of Rancho Cucamonga. The City has received applications for additional service stations to be constructed at the corner of 9th Street and Archibald Avenue and at the northeast corner of Arrow Route and Grove Avenue. The proposed service station at the corner of 9th Street and Archibald Avenue

was approved by the Planning Commission, but has since been appealed to the City Council. An additional service station to be redeveloped and expanded two blocks north at the corner of Archibald Avenue and Arrow Route and another to be redeveloped at Foothill Boulevard and Red Hill Country Club Drive have previously been approved by the Planning Commission, but have not yet completed plan check and no building permits have been issued. These service station projects would be located within the southwest part of the City, an area with an already high concentration of service stations. Based on all of the foregoing impacts associated with the development of service stations, the City Council therefore finds there is a current and immediate threat to the public health, safety and welfare that is presented by pending applications for land use entitlements and building permits to develop new service stations and expand or remodel existing service stations within the City, and that a moratorium is necessary.

M. The City is responsible for adopting and implementing land use regulations within its boundaries. The Rancho Cucamonga Municipal Code generally regulates the entitlement and establishment of service stations within the City, but it does not specify development or operational standards such that the City can mitigate the impacts caused by service stations.

N. On April 21, 2021, the City Council approved Interim Urgency Ordinance No. 980, which imposed an initial 45-day moratorium on the approval of applications for building permits or other entitlements for new service station uses or the expansion of existing service station uses during the pendency of the City's review and adoption of permanent regulations governing service stations. The initial 45-day moratorium is scheduled to expire on June 5, 2021.

O. The City Council continues to believe that the time provided by the moratorium will allow for a comprehensive analysis on how to manage and reduce the impact of additional service stations in the City, or if additional service stations or the expansion of existing service stations should be permitted. During the extended period of the moratorium, the City will continue to analyze their potential impacts on the public health such as the potential for contaminant exposure near sensitive receptors and residential areas; impacts on public safety related to the provision of police services to service stations; and impacts on the public welfare due to the disproportionate concentration of service stations in certain residential areas of the City and potential for blight in connection with declining demand for gas. The City Council finds that these studies will help the Council and the City's Planning Department determine how best to prevent impacts to the public health, safety and welfare. The City Council further finds that this extension will allow time to evaluate the General Plan, the Development Code, and the Zoning map and develop appropriate regulations and/or appropriate zones for service stations in the City to achieve a reasonable level of assurance that there will not be serious negative impacts to the overall community and ensure positive outcomes for the City's residents, business community, property owners, and developers.

P. Based on the foregoing, the City Council ultimately finds that if the City fails to extend the moratorium adopted pursuant to Interim Urgency Ordinance No. 980, then new service stations may be allowed to develop within the City or be redeveloped or expanded within the City that do not reflect the demand for such services, are incompatible with neighboring residential areas and sensitive receptors, and exacerbate existing public safety issues at service stations. Therefore, a current and immediate threat to the public safety, health and welfare remains in existence.

Q. A written report describing the measures taken to alleviate the conditions which led to the adoption of the aforementioned Interim Urgency Ordinance was issued by the City Council on May 5, 2021, which was at least ten (10) days prior to the expiration of the Interim Urgency Ordinance on June 5, 2021, in compliance with State law.

R. Pursuant to Government Code Sections 65858 and 65090, the City Council conducted a duly noticed public hearing on June 2, 2021, at which time the City Council considered this Interim Urgency Ordinance to extend the existing 45-day moratorium on the establishment or expansion of service stations for an additional 10 months and 15 days.

SECTION 2. Authority.

Pursuant to Government Code Section 65858, the City Council may adopt, as an urgency measure, an interim ordinance that prohibits any uses that may be in conflict with a contemplated zoning proposal that the City Council is considering, studying, or intends to study within a reasonable period of time. The City Council may also extend a moratorium adopted pursuant to such an interim ordinance for up to 10 months and 15 days, and subsequently for up to one year, pursuant to Government Code Section 65858(a).

SECTION 3. Urgency Findings.

The City Council finds and determines that there is an immediate threat to the public health, safety, or welfare, and that new and expanded service station uses within the City, under the City's current regulations, constitutes a threat to the public health, safety or welfare. As described in Section 1, the staff report accompanying this Interim Urgency Ordinance, and other evidence in the record, such continued service station development in the City could threaten the health, safety and welfare of the community through negative impacts that include, but are not limited to, public safety, contaminant exposure, and police protection services. To preserve the public health, safety, and welfare, the City Council finds that it is necessary that this Interim Urgency Ordinance to extend the current moratorium on service stations take effect immediately pursuant to Government Code Sections 65858, 36934, and 36937 to prevent such harm.

SECTION 4. Moratorium Extended.

A. Based on the facts and findings set forth in Sections 1 through 3 of this Interim Urgency Ordinance, and notwithstanding any other ordinance or provision of the Rancho Cucamonga Municipal Code, the City Council hereby extends through and including April 20, 2022, the existing moratorium on the approval of applications for the development of new service station uses or the expansion of existing service station uses, adopted pursuant to Interim Urgency Ordinance No. 980 (the "Moratorium").

B. No application for a building permit or any other entitlement, including a design review or conditional use permit, authorizing construction of a new service station use or the expansion of an existing service station use, including the expansion of accessory uses on the same site, shall be approved during the term of the Moratorium.

C. Notwithstanding the foregoing, the Moratorium shall not apply to the following:

- (1) The improvement, renovation, or demolition of an existing service station, provided that such development otherwise conforms to applicable law, does not result in an increase to the number of gas pumping facilities, does not add any new accessory uses on site, and does not require a discretionary entitlement to perform such improvement, renovation, or demolition; or
- (2) An application for a service station that has been deemed complete or received all discretionary entitlements as of the moratorium's effective date, provided that the City has issued a building permit for construction or redevelopment of the proposed service station within six

months of the Moratorium's initial effective date of April 21, 2021. The Moratorium shall thereafter apply to these applications if a building permit has not been issued within that six-month period.

D. For the purposes of this Interim Urgency Ordinance, the term "service station" shall have the same meaning prescribed in Subsection F(9) of Section 17.32.020 of the Rancho Cucamonga Municipal Code, except that it shall be limited to retail business selling gasoline or other motor vehicle fuels derived from fossil fuels (e.g., petroleum).

SECTION 6. Special Conditional Use Permit.

Notwithstanding any other provision of this Interim Urgency Ordinance, the City of Rancho Cucamonga may accept, process and approve applications for special conditional use permits for development or use of property otherwise subject to Section 4 of this Interim Urgency Ordinance, if the City Council finds, after receipt of a recommendation from the Planning Commission, that an owner of property subject to the Moratorium will be deprived of all economically viable use of his or her land unless the property owner is allowed to develop or use the property for a service station, or that the law of California or of the United States otherwise requires the City to approve an application for a permit or an entitlement for the development or use. The special conditional use permit provided by this Section shall be an available entitlement process and permit for a property owner affected by the Moratorium whether or not a conditional use permit would otherwise be required by the Rancho Cucamonga Municipal Code. A special conditional use permit submitted pursuant to this Section shall be processed in accordance with Chapter 17.14 of the Rancho Cucamonga Municipal Code, except that the City Council shall serve as the final decision-making body, which shall make the additional findings required by this Section prior to approving the special conditional use permit.

SECTION 7. Enforcement.

The provisions of this Interim Urgency Ordinance shall be enforceable pursuant to the general enforcement provisions in Title 1 of the Rancho Cucamonga Municipal Code.

SECTION 8. CEQA Findings.

The City Council hereby finds that it can be seen with certainty that there is no possibility that the adoption of this Interim Urgency Ordinance may have a significant effect on the environment, because the Interim Urgency Ordinance will extend an existing temporary moratorium on approvals of applications for service station uses in the City in order to protect the public health, safety and general welfare, and will thereby serve to avoid potentially significant adverse environmental impacts during the term of the moratorium. It is therefore not subject to the California Environmental Quality Act review pursuant to Title 14, Chapter 3, Section 15061(b)(3) of the California Code of Regulations.

SECTION 9. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Interim Urgency Ordinance or its application to any person or circumstances, is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Interim Urgency Ordinance, or its application to any other person or circumstance. The City Council hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence,

clause, phrase hereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION 10. Effective Date: Approval and Extension of Ordinance.

This Interim Urgency Ordinance, being adopted as an urgency measure for the immediate protection of the public safety, health, and general welfare, containing a declaration of the facts constituting the urgency, and passed by a minimum four-fifths (4/5) vote of the City Council, shall take effect immediately upon its adoption and shall continue in effect for a period of not longer than forty-five (45) days. After notice pursuant to Government Code Section 65090 and a public hearing, the City Council may extend the effectiveness of this Urgency Ordinance as provided in Government Code Section 65858.

SECTION 11. Term.

This Interim Urgency Ordinance shall take effect concurrent with the expiration of Urgency Ordinance No. 980 at midnight on June 5, 2021, and shall remain in effect for a period of ten (10) months, fifteen (15) days, through and including April 20, 2022, in accordance with California Government Code Section 65858.

SECTION 12. Publication.

The City Clerk shall certify to the passage and adoption of this Interim Urgency Ordinance and shall cause its publication in accordance with applicable law.

PASSED, APPROVED, AND ADOPTED this 2nd day of June, 2021.

ATTEST:

L. Dennis Michael, Mayor

Janice C. Reynolds, City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) ss
CITY OF RANCHO CUCAMONGA)

I, Janice C. Reynolds, City Clerk of the City of Rancho Cucamonga, do hereby certify that the foregoing Interim Urgency Ordinance was passed and adopted by a 4/5 vote at a regular meeting of the City Council of the City of Rancho Cucamonga held on the 21st day of April, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

Executed this ___ day of June 2021, at Rancho Cucamonga, California.

Janice C. Reynolds, City Clerk

APPROVED AS TO FORM:

James L. Markman, City Attorney