

ORDINANCE NO. _____

Ordinance Of The City Council Of The City Of Emeryville Adding Two New Land Use Classifications To Section 9-2.339 (“Motor Vehicle Sales And Services”) In Article 3 Of Chapter 2 Of Title 9 Of The Emeryville Municipal Code; Adding A New Definition To Section 9-8.201 (“A” Terms) In Article 2 Of Chapter 8 Of Title 9; And Modifying Table 9-3.202 In Section 9-3.202 (Uses Permitted, Conditionally Permitted And Prohibited) In Article 2 Of Chapter 3 Of Title 9; Concerning Certain Auto-Related Uses And Indoor Public Storage Uses (CEQA Determination: Exempt Pursuant To Guidelines Section 15061(b)(3))

WHEREAS, on October 3, 2023, Mayor Bauters requested and received majority support for a future study session to discuss de-emphasizing certain auto-related and storage land uses; and

WHEREAS, on January 16, 2024, the City Council held a study session and provided direction to staff to develop amendments to Title 9 of the Emeryville Municipal Code (the “Planning Regulations”) to prohibit certain auto-related uses, including car washes, gas stations, and car dealerships, and personal storage uses in the City, and to create two new use classifications: Alternative Energy Vehicle Showrooms and Alternative Energy Vehicle Charging Stations, to be permitted in certain parts of the city; and

WHEREAS, on March 25, 2024, the Planning Commission reviewed the proposed changes to the Planning Regulations at a study session and suggested modifications to the proposed definition of “alternative fuel vehicles” such that the definition of “alternative fuel” could allow for future, non-hydrocarbon based fuels; and

WHEREAS, the prohibition of auto centric uses such as car washes, car dealerships, gas stations, and personal storage uses that are land intensive would allow for better and higher use of land; and

WHEREAS, allowing for alternative energy vehicle showrooms and charging stations would both add to the economic variety as well as facilitate the City’s Climate Action Plan 2.0 Articles 2 and 4, which call for reduction of the carbon intensity of vehicles through cleaner fuels and by investment in expanded private and public infrastructure for both passenger and medium/heavy duty electric vehicles; and

WHEREAS, staff drafted an ordinance as directed by the City Council which includes additions to and modifications of the Planning Regulations, and in accordance with Government Code sections 65853 et seq., the Planning Commission must make a recommendation on any change to the Planning Regulations; and

WHEREAS, the Planning Commission considered the draft ordinance and held a duly noticed public hearing on April 25, 2024 and recommended that the City Council adopt the ordinance; and

WHEREAS, the City Council considered the draft ordinance and held a duly noticed public hearing on June 4, 2024; and

Ordinance No. _____
Prohibiting Auto Centric and Personal Storage Uses
City Council Meeting | July 2, 2024
Page 2 of 8

WHEREAS, the City Council has reviewed and considered the staff report and attachments thereto, all public comments, and the project as set forth in this Resolution and the applicable provisions of the Emeryville Planning Regulations (the “Record”);

NOW, THEREFORE, THE CITY OF EMERYVILLE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION ONE. PURPOSE AND INTENT

The above recitals being true and correct and incorporated by reference, the purpose of this Ordinance is to improve public health, safety, and quality of life by deemphasizing certain auto-centric uses and personal storage uses that are typically land intensive and are not the best and highest use for a one-square mile city, and to de-emphasize the reliance on nonrenewable fuel sources for transportation.

SECTION TWO. FINDINGS FOR ADOPTING ORDINANCE.

The City Council of the City of Emeryville makes the following findings as required by Emeryville Municipal Code Sections 9-7.1305:

- (a) The proposed amendment is consistent with the General Plan.

The proposed amendments will be consistent with the following General Plan principles, goals, and policies:

General Plan Principles

Principle 9 Sustainability and innovation, with respect for the past.

Land Use Goals

LU-G-11 A wide range of economic activity—An economy that capitalizes on Emeryville’s central location, strengthens the City’s tax base, and ensures that Emeryville has adequate fiscal resources to fund high-quality public services for its residents and businesses.

Land Use Policies

LU-P-26 A mix of retail that draws local customers as well as patrons from the greater Bay Area shall be encouraged.

LU-P-29 The City will encourage the development and retention of small business, start-up firms, partnership incentives, and buildings that accommodate these businesses.

Ordinance No. _____
Prohibiting Auto Centric and Personal Storage Uses
City Council Meeting | July 2, 2024
Page 3 of 8

Sustainability Goals

ST-G-5 An advocate for sustainability—The City will serve as an advocate for sustainability for the municipality and the community.

- (b) The proposed amendment is necessary for public health, safety, and general welfare or will be of benefit to the public.

The proposed amendment will promote efficient use of land by restricting uses that are land intensive and will promote alternative energy-related businesses that will be a benefit to the public at large.

- (c) That the proposed amendment has been reviewed in compliance with the requirements of the California Environmental Quality Act.

The Ordinance has been reviewed in compliance with the requirements of CEQA and has been found to be exempt from environmental review under Section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment.

- (d) For a change to the Zoning Maps, that the subject property is suitable for the uses permitted in the proposed zone in terms of access, size of parcel, relationship to similar or related uses, and other relevant considerations, and that the proposed change of zoning district is not detrimental to the use of adjacent properties.

There are no proposed changes to the Zoning Maps.

SECTION THREE. ADDS NEW SUB-SECTIONS 9-2.339 (G) AND (H) UNDER ARTICLE 3 (“COMMERCIAL AND INSTITUTIONAL USE TYPES”) OF CHAPTER 2 (“USE CLASSIFICATION”) OF TITLE 9 TO THE EMERYVILLE MUNICIPAL CODE

Language that is deleted is denoted by ~~strike through~~ type and new language is denoted by underlined type. Provisions not explicitly listed are not changed.

9-2.339 – Motor Vehicles Sales and Services

(g) Alternative Energy Vehicle Showrooms. Indoor showrooms for Alternative Energy Vehicles for sale or lease, without incidental storage and maintenance of said vehicles. Such showrooms shall be 5,000 sq. ft. or less.

Ordinance No. _____
Prohibiting Auto Centric and Personal Storage Uses
City Council Meeting | July 2, 2024
Page 4 of 8

(h) Alternative Energy Vehicle Charging Stations. Alternative fuel sales for electric or any other Alternative Energy Vehicles. Accessory uses may include minor repair services and the sale of packaged food, replacement parts, and accessories”.

SECTION FOUR. ADDS A NEW SUBSECTION (U) TO SECTION 9-8.201 (“A” TERMS”) UNDER ARTICLE 2 (“GENERAL DEFINITIONS”) AND REORDERS THE SUBSECTIONS OF CHAPTER 8 OF TITLE 9 OF THE EMERYVILLE MUNICIPAL CODE

Language that is deleted is denoted by ~~strike through~~ type and new language is denoted by underlined type. Provisions not explicitly listed are not changed.

Section 9-8.201 (“A” TERMS)

(u) “Alternative Energy Vehicle” (AEV) refers to a vehicle that is powered and operated using renewable fuels including electricity stored in fuel cells or batteries, biodiesel, green hydrogen, and other sustainable technologies, excluding vehicles powered by fuels derived from hydrocarbons such as coal, petroleum, and natural gas.

~~(u)~~ (v) “Americans with Disabilities Act (ADA)” means United States Public Law 101-336, 104 Stat. 327 (July 26, 1990), codified at 42 U.S.C. Section 12101 et seq.

~~(v)~~ (w) Ammunition (as pertains to firearms and ammunition sales). See Section 9-5.607(a).

~~(w)~~ (x) Animated sign (as pertains to sign types). See Section 9-5.1615(b)(1).

~~(x)~~ (y) “Antenna” means any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves.

~~(y)~~ (z) “Apartment” means a dwelling unit in a Two (2) Unit or Multi-Unit Residential structure that is not a condominium unit and is typically not owner-occupied.

~~(z)~~ (aa) Applicant (as pertains to Affordable Housing Set-Aside Program). See Section 9-5.415(b).

~~(aa)~~ (bb) Applicant (as pertains to reasonable accommodation). See Section 9-7.908(b).

~~(bb)~~ (cc) Area median income (as pertains to Affordable Housing Set-Aside Program). See Section 9-5.415(c).

~~(cc)~~ (dd) At one (1) location (as pertains to Affordable Housing Set-Aside Program). See Section 9-5.415(d).

Ordinance No. _____
 Prohibiting Auto Centric and Personal Storage Uses
 City Council Meeting | July 2, 2024
 Page 5 of 8

~~(dd)~~(ee) “Attached structure” means a structure that has a wall in common with another structure or is connected to another structure by a continuous roof.

~~(ee)~~(ff) “Awning” means a roof-like cover, often made of fabric, metal, or glass, designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure, typically over a window or door.

~~(ff)~~(gg) Awning sign (as pertains to sign types). See Section 9-5.1615(b)(2).

SECTION FIVE. AMENDING TABLE 9-3.202 “USES PERMITTED, CONDITIONALLY PERMITTED, AND PROHIBITED” UNDER ARTICLE 2 (“USES PERMITTED, CONDITIONALLY PERMITTED, AND PROHIBITED”) OF CHAPTER 3 (“ZONING DISTRICTS”) OF TITLE 9 OF THE EMERYVILLE MUNICIPAL CODE

The proposed changes are denoted by ~~strikethrough~~ type for language that is deleted and underlined type for new language.

Table 9-3.202: Uses Permitted, Conditionally Permitted and Prohibited

	Base Zones															Overlay Zones			
Use Classifications	RM Medium Density Residential	RMH Medium Density Residential	RH High Density Residential	MUR Mixed Use with Residential	MURS Mixed Use with Residential South	MUN Mixed Use with Non-Residential	OT Office/Technology	OT/DH Office/Technology Doyle Hollis North Area	INI Light Industrial	INH Heavy Industrial	P Public	M Marina	PO Park/Open Space	SM Shoreline Management	UT Utilities/Transportation	PA Park Avenue District	NR Neighborhood Retail	RR Regional Retail Overlay	TH Transit Hub Overlay
Commercial and Institutional																			
Motor Vehicle Sales and Services																			
Cleaning (Car Wash)	X	X	X	X	X	CX	X	CX	CM* X	CX	X	X	X	X	X			CX	
Sales and Leasing (Dealerships)	X	X	X	CX	CX	CX	X	CX	CX	X	X	X	X	X	X				

<i>Sales and Leasing (Alternative Energy Vehicle Showrooms)</i>	<u>X</u>	<u>X</u>	<u>X</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>X</u>	<u>X</u>	<u>C</u>	<u>C</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>				
<i>Service Station (Gas stations)</i>	X	X	X	X	X	<u>C</u> <u>X</u>	X	X	X	X	X	X	X	X	X	X	X	<u>C</u> <u>X</u>	X
<i>Service Station (Alternative Energy Vehicle Charging stations)</i>	<u>X</u>	<u>X</u>	<u>X</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>C</u>	<u>X</u>
Industrial																			
Storage and Distribution																			
<i>Personal</i>	X	X	X	<u>C</u> <u>X</u>	<u>C</u> <u>X</u>	<u>C</u> <u>X</u>	X	<u>C</u> <u>X</u>	<u>C</u> <u>X</u>	<u>C</u> <u>X</u>	X	X	X	X	X	X	X		

SECTION SIX: DELETES REFERENCES TO SERVICE STATIONS IN SECTION 9-3.303(b)(1)(b) AND 9-3.405(a)(2) UNDER ARTICLE 3 (“BASE ZONE REGULATIONS”) OF CHAPTER 3 OF TITLE 9 OF THE EMERYVILLE MUNICIPAL CODE

The proposed changes are denoted by ~~strikethrough~~ type for language that is deleted and underlined type for new language.

Section 9-3.303(b)(1): Zone Regulations – Limitation on Certain Uses

~~(b) Motor Vehicles Sales and Services, Service Stations uses are only allowed where the MUN zone is combined with the RR zone.~~

Section 9-3.405(a): RR Regional Retail Overlay Zone – Zone Regulations

~~(2) Reserved. Motor Vehicle Sales and Services, Service Station uses are only allowed where the RR zone is combined with the MUN zone.~~

SECTION SEVEN. SEVERABILITY

The City Council of the City of Emeryville declares that each section, sub- section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance is severable and independent of every other section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance. If any section, sub- section, paragraph, sub-paragraph, sentence, clause or phrase of this ordinance is held invalid, the City declares that it would have adopted the remaining provisions of this ordinance irrespective of the portion held invalid, and further declares its express intent that the remaining portions of this ordinance should remain in effect after the invalid portion has been eliminated.

Ordinance No. _____
Prohibiting Auto Centric and Personal Storage Uses
City Council Meeting | July 2, 2024
Page 7 of 8

SECTION EIGHT. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION

This ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3) because it can be seen with certainty that there is no possibility that these amendments to the Emeryville Municipal Code will have a significant effect on the environment. The amendments do not authorize construction or other activities that could impact the environment; instead, these amendments are intended to protect the environment limiting the construction of new facilities that support the use of nonrenewable fuels for transportation use.

SECTION NINE. EFFECTIVE DATE

This Ordinance shall take effect 30 days following its final passage. The City Clerk is directed to cause copies of this Ordinance to be posted or published as required by Government Code section 36933.

SECTION TEN. CODIFICATION

Sections Three, Four, Five and Six of this Ordinance shall be codified in the Emeryville Municipal Code. Sections One, Two, Seven, Eight, Nine and Ten shall NOT be so codified.

Ordinance No. _____
Prohibiting Auto Centric and Personal Storage Uses
City Council Meeting | July 2, 2024
Page 8 of 8

This Ordinance was **INTRODUCED AND FIRST READ** by the City Council of the City of Emeryville at a regular meeting held Tuesday, June 4, 2024, and **PASSED AND ADOPTED** by the City Council of the City of Emeryville at a regular meeting held Tuesday, July 2, 2024, by the following vote:

AYES: _____
NOES: _____
ABSTAIN: _____
ABSENT: _____

ATTEST:

CITY CLERK

MAYOR

APPROVED AS TO FORM:

DocuSigned by:
John Kennedy
2C934D02DB55467...

CITY ATTORNEY