

## **ORDINANCE NO. 1078**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRENTWOOD APPROVING A ZONING TEXT AMENDMENT TO THE BRENTWOOD MUNICIPAL CODE (RZ 24-005), WHICH WOULD PROHIBIT NEW CAR WASHES, AND EXPAND PERMISSION FOR ALTERNATIVE FUEL STATIONS**

**WHEREAS**, City staff prepared a zoning text amendment that would to prohibit new carwashes and expand permissions to allow the operation of Alternative Fuel Stations in all zones where automobile service stations/gas stations are currently allowed, and add a new land use classification in Brentwood Municipal Code Section 17.030.030 (Definitions) for Alternative Fuel Station (the "Ordinance"); and

**WHEREAS**, the Ordinance would amend Title 17 (Zoning) of the Brentwood Municipal Code, and the Planning Commission is charged with reviewing amendments to said title prior to their consideration by the City Council; and

**WHEREAS**, Brentwood has experienced rapid population growth over the past few decades, and in conjunction, the pace of development has been one of the highest in Contra Costa County; and

**WHEREAS**, Brentwood is transitioning from a city with vast areas of open land to one relying on infill development and redevelopment of existing areas and there are few vacant commercial sites to locate any new types of businesses, including car washes; and

**WHEREAS**, car washes may not be the highest and best use of the limited available commercial land, especially where such uses may be incompatible with nearby residentially zoned properties; and

**WHEREAS**, expanding the availability of alternative fuel stations will allow the City of Brentwood to transition away from the use of pure fossil fuels as an energy source for vehicles to lower emission and zero emission alternatives, which will have positive impacts on community health, public safety, and the local and regional environment while aligning with State goals for sustainability; and

**WHEREAS**, on October 4, 2024, the City gave public notice of a Planning Commission public hearing to be held to consider this Ordinance by advertisement in the Brentwood Press, a newspaper of general circulation; and

**WHEREAS**, on October 15, 2024, the Planning Commission held a duly-noticed public hearing to consider the staff report, recommendation by staff, and public testimony concerning this Ordinance. Following the public hearing, the Planning Commission approved Resolution No. 24-041 and voted to recommend that the City Council adopt the proposed Ordinance by a vote of 5-0; and

**WHEREAS**, the City published a notice of public hearing in the Brentwood Press on November 1, 2024, in accordance with City policies and Government Code Section 65090; and

**WHEREAS**, on November 12, 2024, the City Council held a duly-noticed public hearing to consider the Ordinance, including: (1) the public testimony and agenda reports prepared in connection with the Ordinance, (2) the policy considerations discussed therein, and (3) the consideration by the City's Planning Commission; and

**WHEREAS**, this amendment is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) of the CEQA Guidelines, in that CEQA applies only to projects which have the potential for causing a significant effect on the environment, and it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment; and

**WHEREAS**, all legal prerequisites to the adoption of the Ordinance have occurred.

**NOW, THEREFORE**, the City Council of the City of Brentwood does ordain as follows:

**SECTION 1. Recitals.** The above recitals are incorporated into this Ordinance as though fully set forth herein.

**SECTION 2. CEQA.** Pursuant to California Environmental Quality Act ("CEQA") Section 15061(b)(3) of the CEQA Guidelines, this project is exempt in that CEQA applies only to projects which have the potential for causing a significant effect on the environment, and it can be seen with certainty that there is no possibility that the Ordinance may have a significant effect on the environment, as the proposed Ordinance would restrict future land uses and development and would not facilitate new construction or other groundbreaking activities. There is no potential to result in either a direct physical change to the environment or a reasonably foreseeable indirect physical change to the environment.

**SECTION 3. Rezoning.** Brentwood Municipal Code Section 17.870.008 provides:

*No rezoning of property or text amendment shall occur which is inconsistent with the city's community development plan. In making a decision, the planning commission and council shall consider the consistency of the proposed action to the community development plan and other applicable city plans, and shall consider whether the proposed action is inappropriate or otherwise contrary to the public interest.*

The zoning text amendments set forth in Exhibit A are consistent with the General Plan because General Plan Land Use Policy LU 3-1 aims to ensure that an adequate inventory of vacant industrial, commercial, office, and business park land is designated, zoned, and maintained for targeted employment-generating uses. The

Ordinance's amendments prohibiting additional car washes will help to preserve remaining commercial land in the city for uses with greater employment generating potential. The City Council finds that the Ordinance is appropriate and is not contrary to the public interest in that it will help preserve commercial land for the highest and best use and protect the city's residential neighborhoods.

**SECTION 4. Amendment.** Specified sections, or portions of sections, of Title 17 of the Brentwood Municipal Code are hereby amended to prohibit the development of new car washes, as provided in Exhibit "A", attached hereto and incorporated herein. Revisions to existing sections are reflected in ~~striketrough~~ for deletions and underline for additions.

**SECTION 5. Effective Date; Publication Date.** This ordinance shall be published in accordance with Government Code Section 36933. This ordinance shall take effect 30 days after its adoption. The City Clerk is directed to cause the Municipal Code text to be entered in the Brentwood Municipal Code of the City of Brentwood to be modified accordingly.

**THE FOREGOING ORDINANCE** was introduced with the first reading waived at a regular meeting of the City Council of the City of Brentwood on the 12th day of November 2024 by the following vote:

AYES:  
NOES:  
ABSENT:  
RECUSE:

**THE FOREGOING ORDINANCE** was adopted with the second reading waived at a regular meeting of the City Council of the City of Brentwood on the 10<sup>th</sup> day of December 2024 by the following vote:

AYES:  
NOES:  
ABSENT:  
RECUSE:

APPROVED

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Joel R. Bryant  
Mayor

ATTEST:

---

Amanda McVey  
City Clerk

**EXHIBIT "A"**

**SECTION 1.** Brentwood Municipal Code Section 17.030.030 ('Definitions') is modified to add the following:

"Alternative fuel station" means any establishment that dispenses alternative fuel as defined by the Energy Policy Act of 2005, including methanol, denatured ethanol, and other alcohols; mixtures containing 85% or more by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; non-alcohol fuels (such as biodiesel) derived from biological material; and electricity.

**SECTION 2.** Subsection A of Brentwood Municipal Code Section 17.250.003 ('Conditionally permitted uses') is modified as follows:

The following uses are permitted only on the granting of a conditional use permit pursuant to Chapter 17.830:

- A. Auto service station, ~~nonmechanical carwash,~~ alternative fuel station, restaurant or café restricted to sit-down facility only, on-sale or off-sale liquor establishments;

**SECTION 3.** Subsection A of Brentwood Municipal Code Section 17.260.003 ('Conditionally permitted uses') is modified as follows:

The following uses are permitted only on the granting of a conditional use permit pursuant to Chapter 17.830:

- A. Auto service station, alternative fuel station, tire shop, repair shop, machine shop, auto seat and upholstery shop; billiard hall; bowling alleys; cardroom gaming; dancehall; laboratory—medical, dental, optical; meeting room—lodge, fraternal hall, community facility; medical or dental office; hospital; restaurant or café, on or off-sale liquor establishments; recreation services such as bowling alley, skating rink and similar uses;

**SECTION 4.** Subsection A of Brentwood Municipal Code Section 17.270.003 ('Conditionally permitted uses') is modified as follows:

The following uses are permitted only on the granting of a conditional use permit pursuant to Chapter 17.830:

- A. Auto service station, alternative fuel station, auto tire shop, auto repair including engine, transmission, brakes, etc., auto body repair and painting, ~~carwash~~, laundry or dry cleaning plant, bakery—wholesale; all on-sale and off-sale liquor facilities; billiard hall; card or gaming room, adult entertainment;

dancehall; new and used equipment rental; meeting room—lodge, fraternal hall, community facility; hospital; truck and trailer rental, campground or recreation vehicle park, vocational or trade school;

**SECTION 5.** Brentwood Municipal Code Section 17.450.004 (‘Conditionally permitted uses’) is modified as follows:

Any use not listed as a permitted use or listed as conditionally permitted in the specific planned development zone may be permitted subject to approval of a conditional use permit pursuant to Chapter 17.830, except for carwashes.

**SECTION 6.** That portion of Brentwood Municipal Code Section 17.456.002 (‘Permitted uses and conditionally permitted uses’) shown below is modified as follows:

...

PD-6—PERMITTED USES AND CONDITIONALLY PERMITTED USES							
Uses	LDR	MDR	HDR	Park/O.S./ Public Facility	Regional Commercial	P.A. 1 Office Commercial	P.A. 7 Office Commercial
Accessory Uses	P	P	P	P	P	C	C
<u>Alternative Fuel Station</u>	---	---	---	---	<u>C<sup>1</sup> P</u>	---	---
Arcades, Game	---	---	---	C	C	C	C
Auto Service Station	---	---	---	---	C <sup>1</sup> P	---	---
Bakeries	---	---	---	---	P	P	C
Bar, Tavern, Cocktail Lounge	---	---	---	---	P	P	---
Barber and Beauty Salon	---	---	C	---	P	P	P
Book Stores	---	---	---	---	P	P	P
Camera Stores	---	---	---	---	P	P	P

PD-6—PERMITTED USES AND CONDITIONALLY PERMITTED USES							
Uses	LDR	MDR	HDR	Park/O.S./ Public Facility	Regional Commercial	P.A. 1 Office Commercial	P.A. 7 Office Commercial
Car Wash	---	---	---	---	---C	---C	---

Notes:

- 1 Stand-alone auto and alternative fueling and auto service stations are conditionally permitted; auto and alternative fueling stations that are accessory uses to an anchor retailer as the principal use are permitted.

**SECTION 7.** Subsection A(1) of Brentwood Municipal Code Section 17.462.003 ('Conditionally permitted uses') is modified as follows:

The following uses are conditionally permitted only on the granting of a conditional use permit pursuant to Chapter 17.830:

- A. Subarea A. The following uses shall be conditionally permitted within this subarea:
  1. Auto service station, alternative fuel station, auto repair (tires, brakes, etc. but excluding auto body), ~~car wash~~, auto rental and leasing agency, all on and off-sale liquor facilities, card and gaming room, dance hall, bowling alleys and similar commercial recreational uses, restaurants, new and used equipment rental, hospital, truck and trailer rental, vocational or trade school;

**SECTION 8.** Subsection C(5) of Brentwood Municipal Code Section 17.466.003 ('Conditionally permitted uses') is modified as follows:

Upon obtaining a conditional use permit pursuant to Chapter 17.830, the following uses are permitted in the PD-16 zone:

...

- C. Subarea A. The following uses shall be conditionally permitted within this subarea:
  5. Gas station, alternative fuel station /mini-mart, without service bays: this use must integrate with other site circulation and design. Additional access points on Walnut Boulevard and Balfour Road are not allowed (see the development plan and related exhibits). Automotive, boat, recreational vehicle or similar sales and/or service are specifically prohibited;

**SECTION 9.** Subsections B(1) and B(2) of Brentwood Municipal Code Section 17.470.003 ('Conditionally permitted uses') are modified as follows:

The following uses are permitted only on the granting of a conditional use permit pursuant to Chapter 17.830.

...

B. General Commercial.

1. Auto service station, alternative fuel station, tire shop, repair shop, machine shop, auto seat and upholstery shop; billiard hall; bowling alleys; card room gaming; dance hall; laboratory-medical, dental, optical; meeting room-lodge fraternal hall, community facility; medical or dental office; hospital; restaurant or café, on or off-sale liquor establishments; recreation services such as bowling alley, skating rink and similar uses;
2. All drive-in, drive-thru establishments, building materials, garden supply, outdoor sales or display, ~~automated car wash~~;

**SECTION 10.** Subsection B of Brentwood Municipal Code Section 17.484.003 ('Conditionally permitted uses') is modified as follows:

Upon obtaining a conditional use permit pursuant to Chapter 17.830, the following uses are permitted in the PD-34 zone:

...

- B. Auto service station, alternative fuel station, tire shop, auto seat and upholstery shops; laboratories for medical, dental, optical uses; meeting room/fraternal hall, neighborhood community center;

**SECTION 11.** Subsection C(2) of Brentwood Municipal Code Section 17.485.003 ('Conditionally permitted uses') is modified as follows:

The following uses are conditionally permitted in the PD-35 zone:

...

C. The following uses are conditionally permitted in subarea B:

...

2. Fuel sale facilities, alternative fuel stations, convenience stores, ~~automated car washes~~, meeting rooms/fraternal halls, and neighborhood community centers;

**SECTION 12.** Subsection B of Brentwood Municipal Code Section 17.488.003 ('Conditionally permitted uses in subarea A') is modified as follows:

The following uses are permitted in subarea A of PD-38 subject to securing a conditional use permit pursuant to Chapter 17.830:



...

- B. Drive-in and drive-through establishments, including alternative fuel stations and gas stations, but excluding all prohibited uses;

**SECTION 13.** Subsection G of Brentwood Municipal Code Section 17.488.013 ('Conditionally permitted uses within subarea F') is modified as follows:

...

- G. Gas stations and alternative fuel stations;

**SECTION 14.** Subsection C(4) of Brentwood Municipal Code Section 17.491.002 ('Permitted uses') is modified as follows:

...

- C. Subarea C. The following uses shall be permitted within this subarea:

...

- ~~4. Car washes;~~

**SECTION 15.** Subsection A(2) of Brentwood Municipal Code Section 17.491.003 ('Conditionally permitted uses') is modified as follows:

- A. Subarea A. The following uses shall be conditionally permitted within this subarea:

...

- ~~2.~~ Auto service stations or gas stations; alternative fuel stations;

**SECTION 16.** Subsection C(5) of Brentwood Municipal Code Section 17.492.003 ('Conditionally permitted uses') is modified as follows:

Upon obtaining a conditional use permit pursuant to Chapter 17.830, the following uses are permitted in the PD-42 zone:

...

- C. Subarea C. The following uses shall be conditionally permitted within this subarea:

...

- 5. Gasoline service stations and/or car washes; and alternative fuel stations;

**SECTION 17.** Subsection C of Brentwood Municipal Code Section 17.499.002 ('Permitted and conditionally permitted uses in subarea A') is modified as follows:

...

The following uses are permitted within subarea A subject to approval of a conditional use permit:

...

- C. Auto service station, ~~car wash~~, and alternative fuel stations; tire shop, new or used car sales, vehicular repair;

**SECTION 18.** Subsection C of Brentwood Municipal Code Section 17.499.004 ('Permitted and conditionally permitted uses in subarea C') is hereby modified as follows:

...

The following uses are permitted within subarea C subject to approval of a conditional use permit:

...

- C. Auto service station, ~~car wash~~, and alternative fuel stations; tire shop, new or used car sales, vehicular repair;

**SECTION 19.** That portion of Brentwood Municipal Code Section 17.505.008 ('Zoning matrix of land uses by subareas for PD-55') shown below is modified as follows:

...

LAND USES <sup>3</sup>	Commercial		Residential		Park and Water Quality	
	Subarea 1	Subarea 2	Subarea 3	Subarea 6	Subarea 4	Subarea 5
<b>Commercial Uses</b>						
...	...	...				
<u>Alternative fuel stations</u>	<u>P</u>	<u>P</u>				

**SECTION 20.** Subsection B(4) of Brentwood Municipal Code Section 17.517.003 ('Permitted and conditionally permitted uses and general development standards for subarea B (general commercial area)') is modified as follows:

...

- B. Conditionally Permitted Uses for Subarea B.

...

- 4. ~~Car washes~~, Tire shops, new or used car sales, and vehicular repair;

**SECTION 21.** Subsections B(1) and B(5), respectively, of Brentwood Municipal Code Section 17.517.004 ('Permitted and conditionally permitted uses and general development standards for subarea C (general commercial area)') are modified as follows:

...

B. Conditionally Permitted Uses for Subarea C.

1. Gas stations; alternative fuel stations;

...

5. ~~Car washes,~~ Tire shops, new or used car sales, and vehicular repair;