

PLANNING COMMISSION RESOLUTION NO. XX-23

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF
UNION CITY RECOMMENDING TO THE CITY COUNCIL APPROVAL OF
AMENDMENTS TO CHAPTER 18.08 DEFINITIONS, SECTION 18.08.267 GAS
STATION MARKETEEER; CHAPTER 18.26 MARKETPLACE MIXED USE (MMU)
DISTRICT, SECTION 18.26.030 CONDITIONAL USES; CHAPTER 18.35 CORRIDOR
MIXED USE COMMERCIAL (CMU) DISTRICT, SECTION 18.35.030 CONDITIONAL
USES; CHAPTER 18.36 COMMERCIAL DISTRICTS, SECTION 18.36.030
CONDITIONAL USES FOR NEIGHBORHOOD COMMERCIAL (CN) AND
COMMUNITY COMMERCIAL (CC) DISTRICTS; AND CHAPTER 18.40
INDUSTRIAL DISTRICTS, SECTION 18.40.020 LAND USE REGULATIONS—
INDUSTRIAL DISTRICTS, FOR LIGHT INDUSTRIAL (ML) OF THE UNION CITY
MUNICIPAL CODE TO REPEAL THE PROHIBITION OF BEER AND WINE SALES
AT SELF SERVICE STATIONS**

WHEREAS, the California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, welfare, and morals of their citizens; and

WHEREAS, the Union City Municipal Code currently prohibits the sale of alcohol at self-service stations (hereinafter referred to as “gas stations”) for the purpose of protecting the public health, safety and welfare from crime and the sale of alcohol to minors; and

WHEREAS, Business and Professions Code Section 23790.5 prohibits the City of Union City from banning the sale of beer and wine at gas stations; and

WHEREAS, on July 25, 2023, at a regularly scheduled meeting, the City Council directed the City Attorney to prepare an ordinance repealing this prohibition; and

WHEREAS, the prohibition is housed within the Zoning Ordinance, falling within the jurisdiction of the Planning Commission to first consider the item before the City Council; and

WHEREAS, the Planning Commission held a duly noticed public hearing on the proposed Municipal Code Amendments on September 21, 2023 at which time all interested parties had the opportunity to be heard. The Planning Commission considered a staff report dated September 21 2023 and all written and oral testimony; and

WHEREAS, the Planning Commission desires to recommend to the City Council adoption of an ordinance amending the Zoning Ordinance to permit the sale of beer and wine at gas stations.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Commission of the City of Union City as follows:

SECTION 1. Recitals.

The above recitals are true and correct and made a part of this Resolution.

SECTION 2. Municipal Code Amendment.

The Planning Commission recommends to the City Council that Title 18, Zoning, of the Union City Municipal Code be amended as shown in Exhibits A and B (Redlined Version), attached hereto and incorporated herein.

SECTION 3. Findings.

1. That the proposed Zoning Text Amendments should be granted to ensure that the City's Zoning Ordinance requirements are consistent with State law; and
2. That the proposed Zoning Text Amendments are consistent with the following General Plan policy
 - **Policy ED-7.3, *Remove Regulatory Barriers:*** *The City shall continually work to identify and remove any unnecessary regulatory barriers that discourage private-sector investment.*

The proposed amendments will remove language from the zoning ordinance that prohibits alcohol sales at gas stations, allowing operators an expanded choice of sales items and an expanded source of revenue; and

3. That the proposed Zoning Text Amendments are necessary and desirable to achieve the purpose of Title 18, which seeks to promote and protect the public health, safety, morals, comfort, convenience, and the general welfare of the people. Any business selling alcohol is required to obtain a permit from the California Department Alcohol Beverage Control and is required to comply with any applicable requirements and laws. In addition, the Public Convenience and Necessity process is in place to help protect against the impacts associated with overconcentration of commercial uses which sell alcohol.

SECTION 4. CEQA.

Approval of the amendments is exempt from environmental review in accordance with California Environmental Quality Act Guidelines section 15061(b)(3), the general exemption for projects with no potential for significant effect on the environment. As a series of limited text amendments and additions to remove a prohibition on the sale of beer and wine at gas stations, it can be seen with certainty that there is no possibility that the Municipal Code Amendments will have a significant effect on the environment.

I HEREBY CERTIFY that the foregoing resolution was introduced and adopted at a regular meeting of the Planning Commission of the City of Union City held on September 21, 2023, by the following vote:

AYES

NOES

ABSTAIN

ABSENT

MOVED:

SECONDED:

APPROVED:

LEE GUIO, CHAIRPERSON

ATTEST:

CARMELA CAMPBELL, SECRETARY