

ORDINANCE NO. 3740
AN ORDINANCE OF THE COUNTY OF MARIN ADDING CHAPTER 23.22 TO THE MARIN COUNTY CODE ENTITLED "ORDINANCE AMENDING THE MARIN COUNTY CODE TO PROVIDE PROCEDURES FOR APPLICATIONS FOR CERTAIN FACILITIES SUPPORTING OFFSHORE OIL AND GAS EXPLORATION AND DEVELOPMENT"

WHEREAS, the Pacific Ocean's coastline, inlets, and bays within the western boundaries of the County of Marin, together with the bay shores of the San Francisco Bay and its sub-bays within the eastern boundaries of the County are precious natural resources which are valuable to the People of this County, the State of California, and the Nation; and

WHEREAS, the County of Marin has authority under the U.S. Constitution, the California Constitution, and State law, through its Board of Supervisors, to use its police power to enact legislative measures regulating land use in the interest of public health, safety, environment, and general welfare; and

WHEREAS, the health, safety, environment, and general welfare of the coastline, bay shores, and community of the County of Marin is currently threatened by recent proposals for onshore support facilities intended to support development of oil and gas resources located off the coast of the County of Marin; and

WHEREAS, as of the date of this ordinance, County zoning already entirely prohibits, in all zoning districts (including all districts within the Coastal Zone), the development of any oil and gas well drilling, geothermal wells, production operations, and related facilities; and

WHEREAS, while the development of onshore facilities supporting offshore oil and gas exploration is currently prohibited throughout the entire unincorporated County, the voters of the County of Marin can retain – through this Ordinance -- the final authority on whether to allow onshore support facilities for offshore oil and gas development following any legislative approvals granted by the Board of Supervisors or other County entity.

NOW, THEREFORE, THE BOARD OF SUPERVISORS OF THE COUNTY OF MARIN DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I: Chapter 23.22 of the Marin County Code is hereby added to read as follows:

Marin County Code Chapter 23.22

Onshore Facilities Supporting Offshore Oil and Gas Exploration and Development

23.22.010 - Purpose.

The purpose of this ordinance is to protect the County of Marin's coastline, water, agricultural lands, tourism, air quality, recreation, biodiversity, and quality of life, and to further the County of Marin's transition to renewable energy. While, as of the date of adoption of this ordinance, the development of onshore facilities supporting offshore oil and gas exploration is currently prohibited throughout all of the County's zoning districts including those in the Coastal zone, this ordinance ensures that zoning changes or other legislative acts that might allow onshore support facilities in the future will only be allowed if they are approved by the majority of the voters in the County of Marin.

23.22.020 - Findings.

It is hereby found and determined as follows:

(a) This ordinance provides an opportunity for the people of the County of Marin to make future decisions about whether the development of an onshore support facility is in the best interest of the public health, safety, environment, and general welfare of the County. This ordinance does not apply to existing facilities or operations that support offshore oil development. This ordinance also does not apply to facilities or operations relating to onshore oil development.

(b) Onshore support facilities for offshore oil and gas development could substantially adversely affect the many significant coastal resources located within the County of Marin:

(1) The County of Marin's Pacific coastline and bay shores are highly scenic. The County has protected the scenic and visual qualities of its coastal and bayside areas by siting development to be visually compatible with the character of surrounding areas and to minimize the alteration of natural landforms. Siting an onshore facility in the County could disrupt the scenic and visual qualities the County has worked hard to protect.

(2) The County is home to numerous tourist destinations, including, but not limited to, the historic downtown Sausalito waterfront, Mt. Tamalpais State Park, China Camp State Park, Olompali State Historic Park, Point Reyes National Seashore, and Golden Gate National Recreational Area (including Muir Woods National Monument), and relies on tourism as a significant part of its economy. Onshore support facilities could detract from the tourist experience in the County, both visually and by limiting the available coastal areas for tourists to visit.

(3) The construction and operation of onshore support facilities in the County could impede public access to the coastline and bay shoreline, and oil spills from onshore support facilities could cut off public access to the beach, ocean, and bay shores for months.

(4) There are valuable marine resources in the County that are required by the California Coastal Act to be maintained and enhanced. These marine resources could be impaired by the construction or operation of onshore support facilities.

(5) An onshore facility could disrupt the biological productivity of coastal waters and bay waters and the conditions required to sustain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes. Operations from onshore facilities could also impair the various preserves created by the County (for example, Bolinas Lagoon Preserve).

(6) The County is home to large populations of threatened and endangered steelhead and coho salmon that swim through coastal waters (including, but not limited to, Bolinas Lagoon) to reach upstream spawning grounds; new onshore facilities on the coast could destroy that habitat and threaten the existence of the species.

(7) Acres of environmentally sensitive wetlands are found along the County of Marin's coastline and bay shoreline; building an onshore facility could directly destroy the habitat, as well as indirectly affect its long-term health.

(8) Much of the County's coast contains land suitable for dairy and other food production operations. The County maintains significant amounts of prime agricultural land and ensures that nonagricultural development does not impair agricultural viability. An onshore support facility could disrupt the viability of ongoing dairy operations by using up acres of prime agricultural land, or degrading air and water quality.

(9) The County has a large, coastal-dependent oyster industry; onshore facilities such as pipelines and tankers located within the coastal zone could take up valuable harbor space and substantially interfere with the commercial activities of that industry.

(10) The County has devoted significant portions of the bay shoreline to serving recreational boating. For example, Paradise Beach Park in Tiburon provides space for launching a kayak or canoe into the waters of the San Francisco Bay, and the County has constructed a public launching facility (Miller Boat Launch in Tomales Bay). The County prioritizes limiting non-water dependent land uses – such as onshore support facilities – that could congest access corridors and preclude boating support facilities.

(11) Miwok Native Americans inhabited Marin County for thousands of years and around 600 identified village sites remain throughout the county. There is a lack of comprehensive data on Marin's archaeological resources, making these resources more vulnerable. Because the County's coastal and bay shorelines are only partially surveyed, potential losses in unmapped areas cannot be fully assessed. These resources are culturally and historically valuable and could be irreparably harmed if onshore support facilities were constructed in their vicinity.

(12) The County's existing municipal infrastructure is inadequate to support onshore facilities. For example, State Highway Route 1 services the County. Per the California Legislature's wishes, the County has preserved it as a scenic two-lane road, and sections of it are extremely narrow and winding. Additionally, the County does not have oil spill containment technologies in the event of a pipeline leak; the County lacks any existing wharf or port (on either its coast or bayside) that could handle tankers; many bayside roadways already experience seasonal and king tide flooding (including Manzanita Park & Ride, Miller Avenue in Mill Valley, the Marinship area in Sausalito, US Highway 101 at Marin City, Corte Madera, and Larkspur, and State Route 37 in Novato); and many coastal roadways already experience seasonal and king tide flooding including, but not limited to, State Highway Route 1 along Bolinas lagoon.

(c) The County of Marin has unique characteristics that could make it particularly unsuitable for siting onshore support facilities for offshore oil and gas development anywhere in the County:

(1) The County of Marin experiences severe winter storms and Marin's bayside communities are already susceptible to flooding at high tides, especially king tides combined with storms. These storms and/or king tides may make onshore operations hazardous and too risky.

(2) The County is a seismically hazardous area, meaning it is at a higher risk for earthquakes, which have the potential to rupture pipelines or disrupt other onshore facilities.

(3) The coastline of the County has suffered from high erosion rates; to cite just one datapoint, USGS data from 1929-1988 shows an average erosion rate of 1.5 feet/year at Little Mesa, Bolinas. This would put an onshore facility located on the coast at great risk.

(d) The construction and operation of onshore support facilities could create many hazards and risks threatening the public health, safety, environment, and general welfare of the County of Marin:

(1) Onshore support facilities can create the risk of spills or leaks, such as the spill experienced on Refugio State Beach in 2015, in which 140,000 gallons of oil spilled and spread over 150 miles of the California coast. The spill led to the closure of miles of beaches and 130 square miles of fishing grounds and killed hundreds of birds, fish, and marine mammals. Oil spills can have numerous adverse effects, including: degradation of sensitive marine environments; contamination of beaches and other recreational areas; reduction in property values; decrease in tourism; long-term impairment of water-dependent industries, such as fishing; and acute human health effects, such as skin and eye irritation, breathing problems, nausea and vomiting, and others.

(2) Onshore support facilities can emit and transport hazardous and toxic air pollutants, such as:

i. Benzene, toluene, ethylbenzene, and xylene. Short-term exposure to these chemicals can cause drowsiness, dizziness, nausea, depression, fatigue, and eye, skin, and respiratory tract irritation; long-term exposure can result in respiratory effects, damage to the central nervous system, kidneys, and liver, and developmental effects (such as birth defects). Benzene is also a known human carcinogen and has been linked to leukemia.

ii. Particulate matter (PM). Exposure can result in heart attacks, irregular heartbeats asthma, decreased lung function, increased respiratory symptoms, and premature death in people with heart or lung disease. PM can also stain and damage stone and other materials, including culturally or historically valuable objects such as statues and monuments, as well as harm sensitive ecosystems by contributing to acid rain and nutrient depletion.

iii. Hydrogen sulfide (H₂S). Short-term exposure can result in irritation of the eyes, nose, and throat, headache, dizziness, nausea, vomiting, coughing, difficulty breathing, and permanent damage to the central nervous system.

iv. Carbon monoxide (CO). Short-term exposure can result in headache, dizziness, vomiting, nausea, unconsciousness, and death.

v. Nitrogen oxides (NO_x) and sulfur oxides (SO_x). Short-term exposure can aggravate respiratory diseases, particularly asthma, leading to respiratory symptoms such as coughing, wheezing or difficulty breathing. Long-term exposure may contribute to the development of asthma and potentially increase susceptibility to respiratory infections. NO_x and SO_x also contribute to acid rain, and NO_x contributes to nutrient pollution in coastal waters.

(3) Onshore support facilities are also potential contributors to groundwater and surface water pollution. For example, some facilities use deep-injection wells to dispose of wastewater that may contain oil residuals, chemicals, and other hazardous wastes, which can contaminate aquifers and groundwater.

(4) Loud noises from mechanical equipment, vehicles, helicopters (and other nuisances) associated with onshore facilities could be significant irritants to the County's residents.

(e) The County of Marin has considered the national energy interest and found that it already significantly supports national energy needs:

(1) For its governmental operations, the County purchases 100% renewable energy for all electricity from the local community choice energy provider, MCE Clean Energy. MCE's 100% renewable energy option is composed of 50% California wind energy and 50% California solar energy.

(2) The County of Marin has fully committed to California's prioritization of renewable energy. For example, the County of Marin led the effort to launch the first community choice aggregation program in California in 2010; the County has installed over 1.1 MW of solar on its own facilities; and over 7,500 solar electric arrays with a capacity of over 52 MW have been installed countywide.

23.22.030 Definitions.

(a) For the purposes of this ordinance, the term "onshore support facility" means any new or expanded facilities within the County of Marin's jurisdiction (regardless of physical distance from the Pacific Ocean's coastal shores or actual distance from inland bay shores on the eastern boundary of the County) that support the exploration, development, production, storage, processing, or other activities related to offshore energy resources development. "Onshore support facilities" include but are not limited to:

(1) Transportation facilities: Onshore facilities and equipment for the purpose of transporting crude offshore oil and gas to and from processing and storage facilities, including pipelines, pipeline landfalls, pump stations, tankers, rail spurs, and trucking terminals;

(2) Storage facilities: Onshore facilities and equipment for the purpose of storing crude offshore oil and gas, including tank farms, or storing chemicals, drilling muds, cuttings, produced waters, and/or other materials used in the course of drilling offshore oil and gas wells, production, or in the processing of crude offshore oil and gas;

(3) Processing facilities: Onshore facilities and equipment for the purpose of processing, distilling, converting, treating, blending, purifying, and/or refining crude offshore oil and gas, including refineries, gas plants, treatment tanks, and distillation units;

(4) Waste disposal facilities: Onshore facilities and equipment for the purpose of disposing of chemicals, drilling muds, cuttings, produced waters, and other toxic materials generated in the course of drilling offshore oil and gas wells, production, or in the processing of offshore oil and gas products.

(b) Exceptions. The term “onshore support facilities” does not refer to:

(1) Transportation, storage, processing, or waste disposal facilities or equipment that are not being used to support offshore oil and gas development.

(2) Existing facilities that support onshore or offshore oil and gas development.

(3) Gas stations or power plants.

23.22.040. Voter Approval for Onshore Support Facilities.

Any legislative approvals (e.g., zoning amendment, General Plan amendment, Local Coastal Program amendment, or any other legislative action) authorizing or allowing the development, construction, installation, or expansion of any onshore support facility within the County of Marin shall not be effective unless such authorization is approved by a majority of the voters in County in a general election.

23.22.050. Exemptions for Certain Projects.

(a) Nothing in this ordinance shall apply to prohibit any person or entity from exercising a vested right, obtained pursuant to State or local law, as of the effective date of this ordinance.

(b) The provisions of this ordinance shall not be applicable to the extent, but only to the extent, that they would violate the constitution or laws of the United States or the State of California.

23.22.060. Severability.

If any section, sentence, clause, phrase, or part of this ordinance is held unconstitutional or invalid, the remainder of this ordinance shall be given full effect consistent with the intent and purpose of the ordinance.

SECTION II: VALIDITY

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion of this chapter. The Board of Supervisors of Marin County hereby declares that it would have adopted the ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases thereof shall be declared invalid.

SECTION III: EFFECTIVE DATE AND PUBLICATION

This Ordinance shall be and is hereby declared to be in full force and effect as of thirty (30) days from and after the date of its passage and shall be published once before the expiration of fifteen (15) days after its passage, with the names of the Supervisors voting for and against the same, in the *Marin Independent Journal*, a newspaper of general circulation published in the County of Marin

SECTION IV: VOTE

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin held on this 25th day of August 2020 by the following vote:

AYES: SUPERVISORS Dennis Rodoni, Judy Arnold, Damon Connolly, Kathrin Sears, Katie Rice

NOES: NONE

ABSENT: NONE



KATIE RICE PRESIDENT,
BOARD OF SUPERVISORS

ATTEST:



CLERK