

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE SANTA BARBARA COUNTY CODE
BY REVISING ARTICLE II OF CHAPTER 35, TITLED "COASTAL ZONING ORDINANCE"

CASE No.: 04-ORD-0000-00014

The Board of Supervisors of the County of Santa Barbara, State of California, ordains as follows:

SECTION 1:

Division 4 "Zoning Districts" of Article II of the Santa Barbara County Code is hereby amended, by deleting Sections 35-87.3.3 and 35-92.3.3, as follows:

[Section 35-87.3.3. M-CD Coastal Dependent Industry -- Permitted Uses]

- ~~3. Onshore components of marine terminals that are determined to be required for waterborne shipments of crude oil or petroleum products and that require a site on or adjacent to the sea to be able to function at all. Such uses are subject to the regulations of DIVISION 9 OIL AND GAS FACILITIES. (Amended by Ord. 3947, 11/19/91)~~

[Section 35-92.3.3. M-CR Coastal Related Industry -- Permitted Uses]

- ~~3. Onshore components of marine terminals required for waterborne shipments of crude oil or petroleum products, subject to the regulations of DIVISION 9 OIL AND GAS FACILITIES.~~

SECTION 2:

Division 9 "Oil and Gas Facilities" in Article II, Chapter 35 of the Santa Barbara County Code is hereby amended, by revising Section 35-154.5.i and deleting Section 35-156, as follows:

[Section 35-154.5.i. Onshore Processing Facilities]

- i. ~~Permits for expanding, modifying, or constructing crude oil processing or related facilities shall be conditioned to require that a~~All oil processed by the facility shall be transported from the facility and the County to the final refining destination by overland pipeline, as soon as the shipper's oil refining center of choice is served by pipeline, except as provided in this section.

"Final Refining Destination" shall mean a refinery in California where final refining of the subject oil into products is accomplished. Exceptions: Oil shall be considered to reach its final refining destination if (a) the oil has been transported out of the State of California, and does not reenter before final refining; or (b) the oil has been transferred to truck or train after leaving the County by pipeline and does not reenter the County by truck or train, and is not transferred to a marine terminal vessel for further shipment to a port in California prior to final refining.

- (1) Emergency. Temporary transport of oil by waterborne vessel may be authorized under an emergency permit if the Governor of the State of California declares a state of emergency pursuant to Public Resources Code Sec. 30262(a)(8) for an emergency that disrupts the pipeline transportation of oil produced offshore Santa Barbara County. In such a case, the oil transported by waterborne vessel shall be limited to that fraction which cannot feasibly be transported by pipeline. Transport by waterborne vessel shall cease immediately when it becomes technically feasible to resume pipeline transport.
- (2) Highly Viscous Oil. A Development Plan may permit transportation of oil by highway or rail only if the Director makes the following finding, in addition to findings required for Development Plans under this section: The oil is so highly viscous that pipeline transport is infeasible, taking into account available options such as modifications to existing pipelines, blending of NGLs, etc.

Any shipment of oil by highway or rail under this section shall be limited to that fraction of the oil that is technically infeasible to transport by pipeline. The shipper or carrier shall mitigate to the maximum extent feasible any significant environmental impacts caused by use of the alternate transportation mode.

~~Transportation by a mode other than pipeline may be permitted only:~~

- ~~(1) within the limits of the permitted capacity of the alternative mode; and~~
- ~~(2) when the environmental impacts of the alternative transportation mode are required to be mitigated to the maximum extent feasible; and~~
- ~~(3) when the shipper has made a commitment to the use of a pipeline when operational to the shipper's refining center of choice; and~~
- ~~(4) when the County has determined that use of a pipeline is not feasible by making one of the following findings:~~
 - ~~(a) A pipeline to the shippers' refining center of choice has inadequate capacity or is unavailable within a reasonable period of time;~~
 - ~~(b) A refinery upset has occurred, which lasts less than two months, precludes the use of a pipeline to that refinery, and requires temporary transportation of oil to an alternative refining center not served by pipeline;~~
 - ~~(c) The costs of transportation of oil by common carrier pipeline is unreasonable taking into account alternative transportation modes, economic costs, and environmental impacts; or~~
 - ~~(d) An emergency, which may include a national state of emergency, has precluded use of a pipeline.~~

~~———— A permit based on findings (b) or (d) may be granted by the Director of the Planning and Development Department and shall be subject to appeal to the Planning Commission. A permit based on findings (a) and (c) may be granted by the Board of Supervisors. All permits in this section are subject to appeal to the Coastal Commission.~~

~~———— All permits for the use of a non pipeline mode of transportation may specify the duration for such permitted use. Such permit may be extended upon a showing of good cause based upon a consideration of the findings listed above. A permit based on finding (b) shall be granted for two months only. If refinery upset conditions continue beyond two months and the~~

shipper wishes to continue use of a non-pipeline transportation mode, the shipper must seek a new or modified permit that is based on a consideration of finding (a), (c), or (d). In all cases, the burden of proof as to unavailability or inadequate capacity, unreasonable tariffs, and the need for and use of other transportation systems shall be on the shipper.

Sec. 35-156. Marine Terminals.

(Amended by Ord. 3745, 11/21/88)

1. ~~Applicability. The specific regulations contained within this section shall apply to the onshore portion of the components of a marine terminal which include loading and/or unloading equipment, storage tanks, terminal control and safety equipment and navigational facilities but not including pipelines. The regulations for pipelines and related facilities are located in Sec. 35-157. These regulations shall apply to existing and new marine terminals and as of April 12, 1967, there exists in the County four (4) marine terminals which are located at Cojo Bay, Gaviota, El Capitan and Coal Oil Point.~~
2. ~~Permitted Districts. Marine terminals are a permitted use in the Coastal-Related Industry (M-CR) District. They are also permitted in the Coastal-Dependent Industry (M-CD) District if such use is determined to require a site on or adjacent to the sea to be able to function at all. (Amended by Ord. 3947, 11/19/91) However,~~
 - a. ~~No more than one (1) additional marine terminal to the number in existence within the County as of April 12, 1967, shall be permitted in the area east of Point Conception.~~
 - b. ~~Where the land to be used for the onshore portions of the marine terminal is also subject to the Environmentally Sensitive Habitat Area Overlay District (ESH), such facilities shall not be permitted.~~
 - c. ~~Where the land to be used for the onshore portions of the marine terminal is also subject to the View Corridor Overlay District (VC), such facilities require a Major Conditional Use Permit, as provided in Section 35-172.~~
 - d. ~~After adoption of a Resolution by the County Board of Supervisors that an onshore pipeline for transporting crude oil to refineries is technically and economically feasible, new marine terminals shall not be a permitted use in any district and existing marine terminals shall continue to be a permitted use until the pipeline is operational, at which time they shall become legal nonconforming uses. After the pipeline is operational, marine terminals are a use permitted subject to a Major Conditional Use Permit in the Coastal-Related Industry (M-CR) District, and if determined to require a site on or adjacent to the sea to be able to function at all in the Coastal-Dependent Industry (M-CD) District. Marine terminals are permitted in these two districts only upon a finding, in addition to those normally required for a marine terminal, as set forth in paragraph 4, that transshipment of oil by onshore pipeline is not feasible for the particular operator. (Amended by Ord. 3947, 11/19/91)~~
 - e. ~~Major oil storage facilities shall be consolidated and shall support the most environmentally preferred oil transportation system. Minor storage facilities may be allowed at specific operating areas where clearly needed, where it can be shown that it is not feasible to provide such storage at the consolidated site(s), where it is located in the least environmentally damaging location and where the adverse environmental impacts are mitigated to the maximum extent feasible.~~
3. ~~Processing.~~

No permits for development including grading shall be issued except in conformance with an approved Final Development Plan, as provided in Sec. 35-174. (Development Plans), and with Sec. 35-169. (Coastal Development Permits).

In addition to the other information required under Sec. 35-174.3. (Development Plans), the following information must be filed with a Preliminary or Final Development Plan application:

- a. — An updated emergency response plan, that addresses the potential consequences and actions to be taken in the event of hydrocarbon leaks or fires. The emergency response plan shall be approved by the County's Emergency Services Coordinator and Fire Department.
- b. — A phasing plan for the staging of development which includes the estimated timetable for project construction, operation, completion, and abandonment, as well as location and amount of land reserved for future expansion.

4. — Findings Required for Approval of Development Plans.

In addition to the findings for Development Plans set forth in Sec. 35-174.7. (Development Plans), no Preliminary or Final Development Plan shall be approved unless the Planning Commission also makes all of the following findings:

- a. — There are no feasible alternative locations for the proposed marine terminal that are less environmentally damaging.
- b. — Expansion of an existing marine terminal onto adjacent lands is not feasible or is more environmentally damaging.
- c. — The proposed facility is compatible with the present and permitted recreational, educational, and residential development and the scenic resources of the surrounding area.

5. — Development Standards.

- a. — The level of noise generated by the facility at the property boundary shall not exceed 70 dB(A).
- b. — The applicant has received "authority to construct" from the Air Pollution Control District.
- c. — There shall be no visible emission of smoke.
- d. — Permanent structures and equipment shall be painted a neutral color so as to blend in with natural surroundings.
- e. — The installation shall be visually compatible with the potential surroundings by use of any or all of the following measures where applicable: Buffer strips; depressions, natural or artificial; screen planting and landscaping continually maintained; camouflage and/or blending colors.
- f. — All lights shall be shielded so as not to directly shine on adjacent properties.
- g. — Grading and alteration of natural drainages shall be minimized.
- h. — Adequate provision shall be made to prevent erosion and flood damage.
- i. — Except in an emergency, no materials, equipment, tools, or pipes used for marine terminal operations shall be delivered to or removed from the plant site through streets within a residential district between the hours of 7 p.m. and 7 a.m. of the next day.
- j. — The following standards must be achieved on site or through off-site mitigation:
 - 1) — The facility shall not have a significant visual impact.
 - 2) — The significance of visual impact shall be determined based on a visual contrast rating developed according to the United States Bureau of Land Management Scenic Quality Inventory and Evaluation System (1981), which utilizes a scale ranging from 0 (best) to 33 (worst). A score of 7 or greater (more severe) following mitigation shall be considered significant.

- 3) — No known or potential significant habitat for locally rare or regionally endemic species shall be adversely affected by the facility.
- k. — Oil storage facilities shall meet each of the following goals on site or through off-site mitigation except where aggregate impacts, notwithstanding one or more exceedances of the following goals, demonstrate that a particular site is the least environmentally damaging reasonable site available:
- 1) — To ensure public health and safety, human exposure to risk of an accident at the tank farm shall be limited to an aggregate of 240 person hours per day on average, exclusive of facility employees, within one-half (1/2) mile of the proposed facility;
 - 2) — Not more than 1.6 acres or their equivalent of high productivity terrestrial habitat (equivalent to 1025 acres of industrial use land) shall be disturbed;
 - a) — Impacts on terrestrial habitat shall be assessed based on a detailed environmental analysis of site-specific conditions. "Equivalent acres" shall be determined according to the following guidelines based on a standard of high productivity terrestrial habitat based on wetland productivity and biological assessments, but the determination of the environmentally preferable site and mitigation programs shall be based on site-specific environmental data.

<u>Habitat Type</u>	<u>High Productivity Habitat Equivalent</u>
Wetland	1 acre
Native Grassland	3 acres
Undisturbed Riparian	3 acres
Coastal Strand	5 acres
Disturbed Riparian	9 acres
Coastal Bluff Scrub	10 acres
Oak Woodland/Forest	10 acres
Coastal Sage Scrub	15 acres
Chaparral	20 acres
Cismontane Introduced Grassland	50 acres
Agricultural/Introduced Plantings	200 acres
Recently Disturbed	200 acres
Industrial	640 acres.

(eg., 40 acres Coastal Bluff Scrub is equivalent to 4 acres of high productivity habitat.)

The interpretation of the Coastal Zoning Ordinance shall not result in less resource protection than mandated by Environmentally Sensitive Habitat areas (ESH) protection policies and other policies contained within this Coastal Plan.

- 3) — Not more than 0.064 acres or their equivalent of high productivity marine habitat (equivalent to 1.19 acres of sandy beach) shall be disturbed by a ballast water treatment outfall associated with a marine terminal;
 - a) — Impacts on marine ecology shall be assessed based on a detailed environmental analysis of site-specific conditions. "Equivalent acres" shall

be determined according to the following guidelines based on a standard of high productivity rocky bottom kelp habitat, but the determination of the environmentally preferable site and mitigation programs shall be based on site-specific environmental data:

<u>Habitat Type</u>	<u>High Productivity Habitat Equivalent</u>
Kelp, rocky bottom	1 acre
High relief boulder/ Exposed intertidal reefs	1.6 acres
Kelp, sandy bottom	3 acres
Low relief intertidal bedrock reefs	6.9 acres
Cobble/gravel beach	8.1 acres
Hard bottom/deep water (no kelp)	10.8 acres
Silty/mud bottom	17.1 acres
Sand beach	18.6 acres

- 4) No residents shall be subject to greater than a 9 dB increment above baseline in ambient noise level;
- 5) No significant cultural resources shall be adversely affected.

SECTION 3:

This ordinance and any portion of it approved by the Coastal Commission shall take effect and be in force thirty (30) days from the date of its passage or upon the date that it is certified by the Coastal Commission pursuant to Public Resources Code 30514, whichever occurs later. Before the expiration of fifteen (15) days after its passage, this ordinance, or a summary of it, shall be published once, together with the names of the Board of Supervisors voting for and against the same in the Santa Barbara News Press, a newspaper of general circulation published in the County of Santa Barbara.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Santa Barbara, State of California, this twenty-sixth day of October, 2004, by the following vote:

AYES:

NOES:

ABSTAINED:

ABSENT:

Joseph Centeno, Chair
Board of Supervisors of the County of Santa Barbara
State of California

ATTEST:

MICHAEL F. BROWN
County Clerk of the Board

By _____
Deputy Clerk of the Board

APPROVED AS TO FORM:

STEPHEN SHANE STARK
County Counsel

By _____
Deputy County Counsel