

STAFF REPORT TO THE CITY COUNCIL

DATE: Regular Meeting of January 11, 2022

TO: Honorable Mayor and Members of the City Council

SUBMITTED BY: Thomas Lloyd Smith, City Attorney *7LS*

SUBJECT: Introduction of Ordinance Amending the Antioch Municipal Code Sections 9-5.3803 and 9-5.3834 to Prohibit Oil and Gas Drilling, Production, and Exploratory Operations as Permitted Uses in the M-2 and S Zones

RECOMMENDED ACTION

It is recommended that that the City Council waive the first reading and introduce by title only an ordinance amending the Antioch Municipal Code Sections 9-5.3803 and 9-5.3834 to remove oil and gas drilling, production, and exploratory operations as permitted uses in the “heavy industrial” (M-2) zone and in the designated portion of the Sand Creek Focus Area of the “S” Study District.

FISCAL IMPACT

There is no anticipated direct fiscal impact as a result of this item because there are no presently authorized oil and gas operations in the zones affected by the proposed ordinance, nor are there any pending applications for land use entitlements that will be affected. There may be an indirect fiscal impact in the future, to the extent the City will no longer permit operation of oil and gas drilling or production facilities that may otherwise have increased employment opportunities or revenue to the City in the form of taxes. However, there are no present or pending land use entitlements for oil and gas drilling or production purposes, and other industrial uses that bring employment and revenue opportunities to the City will continue to be permitted in the M-2 zone.

DISCUSSION

The Antioch Municipal Code presently authorizes oil and gas drilling, production, and exploratory operations in the M-2 zone, which is an industrial district, after obtaining a use permit, and as a temporary use within a portion of the Sand Creek Focus Area of the “S” Study District. There are presently no active oil and gas operations in the M-2 zone. Nor are there any pending land use entitlement applications to undertake oil and gas operations in that zone. Within the City as a whole, there is a deemed complete application at the Creekside Vineyards at Sand Creek project location for a zoning text amendment and use permit to allow oil and gas exploration. The applicant requested to

put the application on hold in May 2020 and no further action has occurred. In March 2021, the City Council approved the Creekside Vineyards at Sand Creek residential project. The proposed oil and gas exploration plans show that the potential exploration would occur in an area outside of the approved residential development envelope of the site.

The “S” Study District refers to the property now owned and entitled as part of “The Ranch” development in the Sand Creek Focus Area. The Ranch includes exclusively residential and commercial uses in its project entitlements and Development Agreement. The entitlements and Development Agreement function as a binding limitation on land uses for the project, so unless the project proponent/landowner requested modification of the entitlements and Development Agreement to allow oil and gas uses upon City approval – which would effectively abandon the current entitlements – no oil and gas uses are feasible on the property. Further, approximately 2/3 of The Ranch project is within 1,500 feet of existing homes, which would separately restrict the ability to use the site for oil and gas drilling and production purposes.

Oil and gas drilling and production can have significant environmental and health effects on the community. For example, oil and gas production can substantially increase air pollution in the areas where permitted, and fossil fuel extraction contributes to emissions that create long-term climate change effects.

Antioch prides itself on its recreational opportunities, affordability, and the wellbeing of its residents; precluding oil and gas operations within City limits will protect the ability of Antioch’s residents to enjoy clean air and water, and live and work in a healthy and commercially thriving community.

There is no immediate or anticipated effect to existing or proposed oil and gas uses within the City limits and restricting such uses would most likely have positive health and environmental effects for the entire community.

ATTACHMENTS

A. Proposed Ordinance

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH
AMENDING SECTIONS 9-5.3803 AND 9-5.3834 OF ARTICLE 38 OF
CHAPTER 5 OF THE ANTIOCH MUNICIPAL CODE RELATING TO
ZONING RESTRICTIONS FOR OIL AND GAS DRILLING**

WHEREAS, the City of Antioch ("City") presently authorizes oil and gas drilling and production in the "heavy industrial" (M-2) zone, with a Use Permit issued by the Planning Commission;

WHEREAS, the City presently regulates oil and gas drilling and recovery in the Sand Creek Focus Area of the "S" Study District as a temporary use;

WHEREAS, the City now desires to remove oil and gas drilling, production, and recovery as authorized uses in the M-2 zone and authorized temporary uses in the "S" Study District; and

WHEREAS, there are presently no active oil and gas drilling or production operations within the City's M-2 or "S" Study District, and no approved requests for land use entitlements to construct or operate such oil and gas drilling or production facilities.

The City Council of the City of Antioch, California, does hereby ordain as follows:

SECTION 1. Recitals. The above recitals are incorporated as though set forth in this section.

SECTION 2.Amendment. Section 9-5.3803 of the Antioch Municipal Code, "Table of Land Use Regulations", is hereby amended so that "oil & gas drilling" and "oil and gas production" are no longer permitted in the M-2 zone. A copy of the amended Table of Land Use Regulations is attached hereto and incorporated by reference herein.

SECTION 3.Amendment. Subsection (B) is hereby deleted from Section 9-5.3834 of the Antioch Municipal Code, and previous subsections (A)(1) and (A)(2) will now be renumbered as subsections (A) and (B), so that Section 9-5.3834 shall now read as follows:

"§ 9-5.3834 STUDY DISTRICT (S).

Within the "S" Study District, all properties are entitled to and restricted by the requirements of the previous county zoning designations that applied to the property prior to the date of annexation by the city.

(A) All land uses existing on the date of annexation by the city shall be allowed to continue and expand as would otherwise have been allowed under the previous county zoning designations, including the keeping of animals and other uses of land permitted under county ordinances prior to the date of annexation by the city.

(B) No individual application for approval of a development project, other than what would have been allowed under the previous county zoning designations, may be approved in advance of approval by the city of a specific plan, or an alternative planning process as determined by the City Council.”

SECTION 4. CEQA. The adoption of this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3), which provides that CEQA only applies to projects which have the potential for causing a significant effect on the environment. Where it can be determined that the proposed project will not have a significant adverse effect on the environment, the project is not subject to CEQA. This Ordinance changes City zoning regulation of oil and gas drilling and exploration operations, and does not propose nor authorize any action or specific project that would have the potential to cause a significant adverse effect on the environment.

SECTION 5. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable, or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 6. Publication; Effective Date. This Ordinance shall take effect and be enforced within thirty (30) days from and after the date of its adoption by the City Council at a second reading and shall be posted and published in accordance with the California Government Code.

* * * * *

I HEREBY CERTIFY that the forgoing ordinance was introduced and adopted at a regular meeting of the City Council of the City of Antioch, held on the ____ of January, 2022, and passed and adopted at a regular meeting thereof, held on the ____ day of January, 2022 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Lamar Thorpe, Mayor of the City of Antioch

ATTEST:

Elizabeth Householder, City Clerk of the City of Antioch

ATTACHMENT

Amended Table of Land Use Regulations

Antioch Municipal Code § 9-5.3802