

# Attachment C

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**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, ADDING CHAPTER 21.92 OF THE MONTEREY COUNTY CODE AND AMENDING MULTIPLE SECTIONS OF TITLE 21 OF THE MONTEREY COUNTY CODE RELATING TO THE DEVELOPMENT EVALUATION SYSTEM.**

**County Counsel Summary**

*This ordinance implements Policy LU-1.19 of the 2010 Monterey County General Plan by enacting Development Evaluation System regulations to evaluate proposed development projects located outside of priority areas for development in the inland unincorporated area of the County of Monterey. The purpose of the Development Evaluation System is to establish a systematic, consistent, predictable, and quantitative method for County decision makers to evaluate developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity outside of Community Areas, Rural Centers and Affordable Housing Overlay districts. This ordinance adds Chapter 21.92 to Title 21 (non-coastal zoning ordinance) of the Monterey County Code to establish regulations for the Development Evaluation System. This ordinance also amends several non-coastal zoning district regulations by adding a reference to the Development Evaluation System regulations. This ordinance also authorizes the Board of Supervisors to adopt the Monterey County Development Evaluation System Procedure Manual to implement the regulations.*

The Board of Supervisors of the County of Monterey ordains as follows:

**SECTION 1. FINDINGS AND DECLARATIONS.**

A. Pursuant to Article XI, section 7 of the California Constitution, the County of Monterey (“County”) may adopt and enforce ordinances and regulations not in conflict with general laws to protect and promote the public health, safety, and welfare of its residents.

B. On October 26, 2010, the Board of Supervisors adopted the 2010 Monterey County General Plan (“General Plan”) and certified its accompanying Final Environmental Impact Report (FEIR #07-01, SCH #2007121001) (“FEIR”). Addenda Nos. 1 and 2 were prepared and considered in 2013 in connection with amendments to the 2010 General Plan.

C. The General Plan established Community Areas, Rural Centers, and Affordable Housing Overlay districts as top priority areas for development within the unincorporated non-coastal area of Monterey County. To that end, General Plan Land Use Element Policy LU-1.19 requires establishment of a Development Evaluation System to provide a systematic, consistent, predictable, and quantitative method for County decision makers to evaluate developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity outside of those priority areas.

D. This ordinance implements Policy LU-1.19 by enacting regulations to implement the Development Evaluation System (DES), including defining terms and establishing applicability and exemption criteria, evaluation milestones, evaluation criteria, and specific performance criteria for supporting a development project's score as well as assurance mechanisms. The DES is intended to serve two purposes in the discretionary land use permitting process: 1) to allow staff an opportunity to advise the applicant quantitatively and constructively of the project's overall quality through the entire permit process; and 2) to provide a tool for the hearing body to assess critical aspects of a project. Because of the discretionary approval process, projects that receive a passing score are not guaranteed approval and projects that receive a failing score are not guaranteed denial.

E. The ordinance also enables the Board of Supervisors to adopt by resolution an administrative manual, entitled the "Monterey County Development Evaluation System Procedure Manual," to explain and implement General Plan Policy LU-1.19 and regulations enacted by this ordinance.

F. Pursuant to Public Resources Code section 21166 and California Environmental Quality Act ("CEQA") Guidelines section 15164(d), Addendum No. 3 to the FEIR has been prepared for this ordinance and related implementing manual. The Board of Supervisors has considered Addendum No. 3 and finds based on substantial evidence in the record that the conditions requiring a Subsequent Environmental Impact Report or Supplement to the FEIR do not exist. This ordinance enacts Development Evaluation System regulations pursuant to General Plan Policy LU-1.19 to evaluate developments of a certain size outside of top priority areas in order to support orderly growth and development and preserve and conserve open-space land and natural resources. This ordinance provides the regulations to implement the DES as addressed in the General Plan. Implementation of this ordinance would not result in an increase to the build-out projections identified in the General Plan. This ordinance will not require major revisions to the FEIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

SECTION 2. Chapter 21.92 is added to the Monterey County Code to read as follows:

**Chapter 21.92 --REGULATIONS FOR PROJECTS SUBJECT TO THE DEVELOPMENT EVALUATION SYSTEM.**

21.92.010. Purpose. The purpose of this Chapter is to establish a systematic, consistent, predictable, and quantitative method, to be known as the Development Evaluation System ("DES"), for County decision-makers to evaluate certain categories of proposed development projects located outside of established top priority areas for development. This Chapter implements Policy LU-1.19 of the 2010 Monterey County General Plan ("General Plan").

21.92.020. Applicability. This Chapter applies to proposed development projects of five or more lots or units and proposed development projects of equivalent or greater traffic, water, or wastewater intensity if either such category of development project is located outside of a Community Area, Rural Center, or Affordable Housing Overlay district.

A. The Director of the Monterey County Health Department, or their designee, shall determine if a proposed development project would have an equivalent or greater intensity of water use or wastewater output than the establishment of five or more lots or units.

B. The Chief of Public Works, or their designee, shall determine if a proposed development project would have an equivalent or greater intensity of traffic generation than the establishment of five or more lots or units.

C. If an applicant disagrees with a determination of applicability of the DES to a proposed development project, an appeal of the determination may be filed pursuant to Chapter 21.82 of the Monterey County Code. The applicant shall submit, as part of the appeal, a report or other technical information prepared by a qualified professional that compares project related impacts with professional standards set for thresholds for water, wastewater, and/or traffic as applicable.

21.92.030. Definitions. The following definitions apply to this Chapter and to the Monterey County Development Evaluation System Manual adopted pursuant to this Chapter:

A. “Affordable Housing Overlay District” means areas designated as Affordable Housing Overlay Districts as specified in General Plan Policy LU-2.11.a and properties designated as Affordable Housing Overlay District in accordance with General Plan Policy LU-2.11.b.

B. “Agricultural Advisory Committee (AAC)” means the committee established by the Board of Supervisors that advises and makes recommendations to the Monterey County Board of Supervisors, and other county boards, commissions and departments, on matters affecting, or of interest to, the agricultural industry.

C. “Agricultural and Winery Corridor Plan (AWCP)” means Chapter 9.J of the General Plan.

D. “Cluster Development” means a development design where the structures or lots or structures and lots are located on a focused portion of the property to be developed rather than spread throughout the property.

E. “Community Area” means areas designated as Community Areas as specified in General Plan Policy LU-2.21.

F. “Conservation” means planned management of natural resources to prevent waste, destruction, or neglect.

G. “Evaluation Milestone” means the three specific points in the permit process when a permit application receives a DES evaluation, as set forth in section 21.92.040.A.

H. “Infill” means development of unused, vacant, underutilized, or undeveloped land that is substantially surrounded by other urban uses.

I. “Mixed-Use” means a development incorporating a range of diverse uses, such as office, commercial, institutional, and residential, into a single building or complex.

J. “Off-site” means off the lot on which the development is proposed.

K. “On-site” means on the lot on which the development is proposed.

L. “Preservation” means the use of long-term or permanent safeguards to guarantee the viability of natural or man-made resources.

M. “Rural Center” means areas designated as Rural Centers as specified in General Plan Policy LU-2.27.

N. “Workforce Housing” means housing that is priced where it is affordable to households earning between 120%-180% of the County median income. “Workforce I” means housing that is priced where it is affordable to households earning between 120%-150% of the County median income. “Workforce II” means housing that is priced where it is affordable to households earning between 150%-180% of the County median income.

O. “Winery, Artisan” means a winery that produces between 2,000 and 50,000 cases per year, with a Winery Tasting Facility up to 2,500 square feet in size.

P. “Winery, Full-Scale” means a winery that produces more than 50,000 cases per year.

Q. “Winery Tasting Facility” means a bonded Winery Tasting Facility, also known as an “on or off winery premise,” as provided by federal law under the jurisdiction of the Tax and Trade Bureau. A Winery Tasting Facility shall accommodate wine tasting, an administrative office, retail sales of associated wine and wine related items, events, warehousing, and storage. Winery Adjunct Uses may be considered as accessory to a Winery Tasting Facility when specifically requested and addressed as part of the discretionary permit application for the Winery Tasting Facility or as a subsequent permit application process.

21.92.040. Regulations. Proposed development projects to which the Development Evaluation System is applicable are subject to all of the following regulations.

A. Evaluation Milestones. Projects shall be evaluated during three specific milestones of the permit process. Resulting scores from each evaluation may differ based on new information available.

1. Preliminary Evaluation. The applicant shall submit a preliminary DES package along with their Development Review Committee (DRC) request. The project’s DES evaluation shall be discussed during the DRC meeting. After the meeting, County staff shall provide the applicant with the project’s preliminary scores along with their formal permit application package.

2. Formal Application Evaluation. The applicant shall submit a formal DES package along with their formal application. The project shall be evaluated during the application's completeness review. County staff shall provide the formal application DES score to the applicant at such time that County staff deems the project application "complete" or the project application is deemed complete by operation of law pursuant to the Permit Streamlining Act.

3. Post CEQA Evaluation. After staff has conducted appropriate environmental review under the California Environmental Quality Act (CEQA) but prior to consideration of the project by the Appropriate Authority, staff shall conduct a "post-CEQA" DES evaluation. The post-CEQA evaluation will be the final project DES score. The applicant and Appropriate Authority shall be provided with the project's final score.

B. Evaluation Criteria. Projects shall be evaluated based on the following criteria using the evaluation contained in such score sheet guide as is included in the Monterey County Development Evaluation System Procedure Manual:

1. Affordable Housing.
2. Infrastructure.
3. Resource Management
4. Site Suitability.
5. Mix/Balance of Uses.
6. Traffic and Proximity to Transportation.
7. Environmental Impacts.

C. Supporting Documentation. In order for a project to receive scores based on the evaluation criteria specified above, the applicant shall submit to the Chief of Planning for review the appropriate supporting documentation specified in such score sheet guide as is included in the Monterey County Development Evaluation System Procedure Manual.

D. Required Conditions of Approval. To ensure a project maintains the specific development component(s) for which scores were awarded, the applicant shall agree to specific conditions of approval applicable throughout the life of the project.

E. DES Score Sheet. Points awarded to a project shall be tallied and listed in such score sheet as is included in the Monterey County Development Evaluation System Procedure Manual and provided to the applicant after each Evaluation Milestone specified in subsection 21.92.040.A of this Chapter.

F. Presentation of Scores to the Appropriate Authority. The project's final post-CEQA DES score shall be included in the hearing staff report for the Appropriate Authority's consideration. A project's respective scores shall provide additional information for the County decision maker to evaluate the project at the hearing. Projects receiving a score of 70 points or more are considered "passing" but are not automatically approved. Projects receiving a score of 69 points or less are considered "failing" but are not automatically denied. Projects with a failing score shall receive a staff recommendation of denial when staff brings the project to hearing before the Appropriate Authority. In recognition that the DES scoring is part of a discretionary process for land use entitlements in which the Appropriate Authority serves in a quasi-judicial capacity, the DES score does not and is not intended to limit the exercise of discretion by the Appropriate Authority in rendering a decision on any particular project application.

G. The Board of Supervisors shall by resolution adopt, and may from time to time amend, the "Monterey County Development Evaluation System Procedure Manual" to establish guidelines to explain and implement this Chapter. The manual shall explain the specific applicability, procedures and requirements of this Chapter and shall include the elements of the Development Evaluation System Package for submittal such as the DES Package Submittal Form, the DES Score Sheet Guide, and the DES Score Sheet. If any provisions of the Development Evaluation System Procedure Manual conflict with any provisions of this Chapter, the provisions of this Chapter shall prevail.

#### 21.92.050. Projects Exempt from the DES.

A. A proposed development project to which the Development Evaluation System is otherwise applicable shall be exempt from this Chapter if the project falls within one of the exceptions set forth below and meets all of the criteria applicable to the specific exemption.

B. A project requesting consideration for exemption from this Chapter shall be reviewed by and receive a recommendation from the Agricultural Advisory Committee (AAC) regarding whether the project qualifies for an exemption from this Chapter.

C. Each of the following categories of projects to which the DES is otherwise applicable are exempt from this Chapter:

1. Application for subdivision (tentative or parcel map) exclusively for agricultural purposes if it meets the criteria in Subsection D below.

2. Proposed project for long-term affordable housing exclusively for agricultural employees, if it meets the criteria in Subsection E below.

3. Specific development types within the Agricultural and Winery Corridor Plan (AWCP) area, if the proposed development meets the criteria in Subsection F below.

D. To qualify for the exemption for applications for subdivisions exclusively for agricultural purposes, the subdivision must be of the type listed in subsection "1" below, meet



the Measurement Criteria for Exemption listed in subsection “2” below, and include the Exemption Assurance Mechanism in subsection “3” below:

1. Development Type: Subdivisions that are exclusively for:
  - a. the separation of existing vineyard/crop land(s) from an existing winery/processing facility;
  - b. the separation of different varieties, crops, or orchards exclusively for finance and/or lending purposes; or
  - c. the separation of existing lands farmed by owners from lands farmed by lessees.

2. Measurement Criteria for Exemption: Subdivisions exclusively for agricultural purposes requesting consideration for exemption from this Chapter shall meet all of the following Measurement Criteria:

- a. The applicant shall demonstrate that the acreage of affected lots resulting from a subdivision will be equal to, or greater than, the minimum lot size to support the viable agricultural use of the land and as prescribed by zoning;
- b. The applicant shall demonstrate that the proposed uses incorporated in the project are restricted to only those that support, maintain and/or enhance the existing viable agricultural use of the property; and
- c. The applicant shall demonstrate that proposed improvements on the subject property are located in areas that will have minimal impact on agriculturally productive land.

3. Exemption Assurance Mechanism: Subdivisions exclusively for agricultural purposes requesting consideration for exemption from this Chapter shall incorporate the following Exemption Assurance Mechanism:

- a. The applicant shall agree to a condition of approval requiring recordation of a Deed Restriction or an Agricultural Conservation Easement conveyed over the subject property(ies). The recorded document shall: clearly state the uses authorized by the development permit; provide that any future subdivision of the subject land shall be equal or greater than the minimum lot size for viable agricultural use; provide that future uses on the property shall be limited to those that support, maintain, and/or enhance the existing viable agricultural use of the property; and provide that the subject property(ies) are subject to the Deed Restriction or Conservation Easement permanently, unless terminated or amended by a subsequent discretionary land use action of the County.

E. To qualify for the exemption for long-term affordable housing exclusively for agricultural employees, the development must meet the Measurement Criteria for Exemption

listed in subsection “1” below and include the Exemption Assurance Mechanism in subsection “2” below:

1. Measurement Criteria for Exemption: The long-term affordable housing exclusively for agricultural employees shall meet all of the following Measurement Criteria:

a. meet the affordability qualifications for “affordable housing” as defined in section 21.06.005 of the Monterey County Code, as may be periodically amended;

b. meet the definition of “agricultural employee housing” as defined in section 21.06.014 of the Monterey County Code, as may be periodically amended; and

c. provide housing for “agricultural employees” as defined in section 21.06.012 of the Monterey County Code, as may be periodically amended.

2. Exemption Assurance Mechanism: Long-term affordable housing exclusively for agricultural employees requesting consideration for exemption from this Chapter shall incorporate the following Exemption Assurance Mechanism:

a. The applicant shall agree to a condition of approval requiring recordation of a Deed Restriction conveyed over the subject property(ies) and/or enter into an affordable housing agreement with the County to be recorded on the subject property(ies). The recorded document shall: clearly state the uses authorized by the development permit; state that future uses on the property shall be limited to those that support, maintain, and/or enhance the long-term affordable housing exclusively for agricultural employees established on the property; state that the property(ies) associated with the project are subject to the Deed Restriction and/or affordable housing agreement for the life of the permit; and state that removal of any or all restrictions prior to the permit sunset date shall require an amendment to the discretionary permit.

F. To qualify for the exemption for development types within the AWCP area, the development must be of the type listed in subsection “1” below, meet the Measurement Criteria for Exemption listed in subsection “2” below, and include the Exemption Assurance Mechanism in subsection “3” below:

1. Development Type: Development within the AWCP area that is one or more of the following:

a. Artisan Wineries;

b. Full-Scale Wineries;

c. Winery Tasting Rooms;

d. Food service facilities such as restaurants and delicatessens; or

e. Inns.

2. Measurement Criteria for Exemption: Development types within the AWCP area requesting consideration for exemption to from this Chapter shall meet all of the following Measurement Criteria:

a. The applicant shall demonstrate that development type does not exceed the facility limitations prescribed by the AWCP.

b. The applicant shall demonstrate that the development is consistent with the General Regulations, Development Standards, and Design Criteria established in the AWCP.

3. Exemption Assurance Mechanism: Development types within the AWCP requesting consideration for exemption from this Chapter shall incorporate the following Exemption Assurance Mechanism:

a. The applicant shall agree to a condition of approval requiring recordation of a Deed Restriction conveyed over the subject property(ies). The recorded document shall: clearly state the uses authorized by the development permit; state that the subject property(ies) are subject to the Deed Restriction for the life of the permit; and state that removal of any or all restrictions prior to the permit sunset date shall require an amendment to the discretionary permit.

SECTION 3. Subsection F is added to Section 21.10.070 of the Monterey County Code to read as follows:

F. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Chapter 21.92.

SECTION 4. Subsection F is added to Section 21.12.070 of the Monterey County Code to read as follows:

F. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Chapter 21.92.

SECTION 5. Subsection C is added to Section 21.14.070 of the Monterey County Code to read as follows:

C. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Chapter 21.92.

SECTION 6. Subsection C is added to Section 21.16.070 of the Monterey County Code to read as follows:

C. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Chapter 21.92.

SECTION 7. Subsection C is added to Section 21.18.080 of the Monterey County Code to read as follows:

C. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Chapter 21.92.

SECTION 8. Subsection C is added to Section 21.20.080 of the Monterey County Code to read as follows:

C. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Chapter 21.92.

SECTION 9. Subsection C is added to Section 21.22.080 of the Monterey County Code to read as follows:

C. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Chapter 21.92.

SECTION 10. Subsection D is added to Section 21.24.080 of the Monterey County Code to read as follows:

D. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Chapter 21.92.

SECTION 11. Subsection D is added to Section 21.26.080 of the Monterey County Code to read as follows:

D. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Chapter 21.92.

SECTION 12. Subsection D is added to Section 21.28.080 of the Monterey County Code to read as follows:

D. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Chapter 21.92.

SECTION 13. Subsection E is added to Section 21.30.070 of the Monterey County Code to read as follows:

E. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Chapter 21.92.

SECTION 14. Subsection D is added to Section 21.32.070 of the Monterey County Code to read as follows:

D. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Chapter 21.92.

SECTION 15. Subsection E is added to Section 21.34.070 of the Monterey County Code to read as follows:

E. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Chapter 21.92.

SECTION 16. Subsection C is added to Section 21.36.070 of the Monterey County Code to read as follows:

C. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Chapter 21.92.

SECTION 17. Section 21.38.080 is added to the Monterey County Code to read as follows:

**Section 21.38.080 Development Evaluation System**

Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Chapter 21.92.

SECTION 18. Subsection C is added to Section 21.40.070 of the Monterey County Code to read as follows:

C. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers

and Affordable Housing Overlay districts shall be subject to the regulations contained in Chapter 21.92.

SECTION 19. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 20. EFFECTIVE DATE. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this \_\_\_\_ day of \_\_\_\_\_, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Chris Lopez, Chair,  
Monterey County Board of Supervisors

A T T E S T:

VALERIE RALPH  
Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM BY:

*/s/ Wendy S. Strimling*

\_\_\_\_\_  
Wendy S. Strimling  
Assistant County Counsel