



Monterey County Board of Supervisors

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1st Floor
Salinas, CA 93901
831.755.5066

Board Order

A motion was made by Supervisor Luis A. Alejo, seconded by Supervisor Chris Lopez to:

Adopted Ordinance 5316 suspending Sections 3 and 6, and a portion of Section 5, of Ordinance 5310, concerning Point of Use/Point of Entry water treatment, until December 11, 2019. (ADDED VIA ADDENDUM)

PASSED AND ADOPTED on this 27th day of August 2019, by the following vote, to wit:

AYES: Supervisors Alejo, Phillips, Lopez, Parker and Adams

NOES: None

ABSENT: None

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting August 27, 2019.

Dated: November 8, 2019

File ID: 19-0666

Agenda Item No.: 59.1

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California



Joel G. Pablo, Deputy

Ordinance No. 5316

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, SUSPENDING OPERATION OF PORTIONS OF ORDINANCE NO. 5310 RELATING TO POINT-OF-ENTRY AND POINT-OF-USE WATER TREATMENT SYSTEMS.

County Counsel Summary

This ordinance suspends portions of Ordinance No. 5310 which was adopted by the Monterey County Board of Supervisors on June 18, 2019 relating to point-of-use (POU) and point-of-entry (POE) water treatment to meet primary drinking water standards. Specifically, this ordinance suspends sections 3 and 6 and a portion of section 5 of Ordinance No. 5310 relating to utilization of POU or POE treatment by local small water systems, state small water systems, individual lot owners within local small water systems and state small water systems, and individual lots on private wells. These specified portions of Ordinance No. 5310 shall be suspended and shall not become operative until December 11, 2019.

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

SECTION 1. Findings and purpose.

- A. On June 18, 2019, the Board of Supervisors adopted Ordinance No. 5310. The County Counsel summary of the ordinance describes the ordinance as follows:

This ordinance amends sections of Chapter 15.04 of the Monterey County Code and adds a new Chapter 15.06 to the Monterey County Code to authorize and regulate point-of-use (POU) and point-of-entry (POE) water treatment by local small, state small, and small public water systems that would otherwise not meet primary drinking water standards. The ordinance requires an amendment to the water system permit to allow these water systems to utilize POU or POE treatment. For water systems of 15 to 199 service connections, the ordinance updates Chapter 15.04 to allow POU or POE treatment under certain circumstances in accordance with recently-adopted state standards. This ordinance also establishes standards for domestic water systems with two to fourteen water connections to utilize POU and POE treatment as a means of compliance with primary water quality standards. The ordinance requires the water system to renew annually the authorization to use a POU or POE treatment, and if grant funding becomes available, renewal is contingent on the water system pursuing funding for long term solutions such as but not limited to centralized water treatment, a new well, or consolidation. The ordinance also provides that if an individual property owner is seeking new construction on an existing legal lot with water that does not meet primary water quality standards, the owner may install POU or POE treatment as a means of satisfying water quality standards necessary for a construction permit for development. This ordinance applies in the unincorporated area of the County of Monterey.

- B. Ordinance No. 5310 takes effect on the thirty-first day following adoption, and per Board order, County staff is directed to return to the Board for review of the

ordinance 12 months after adoption. A copy of Ordinance No. 5310 is attached hereto as Exhibit A.

- C. The County has been notified that litigation will be filed challenging the validity of Ordinance No. 5310 on a variety of grounds including the California Environmental Quality Act; and
- D. To provide time to assess the alleged deficiencies and to take such action as the Board deems appropriate, the Board desires to suspend the operation of Sections 3 and 6 and a portion of Section 5 of Ordinance No. 5310 which pertain to utilization of POU or POE treatment by local small water systems, state small water systems, individual lot owners within local small water systems and state small water systems, and individual lots on private wells.

SECTION 2. Suspension of Sections 3 and 6 and a portion of Section 5 of Ordinance No. 5310.

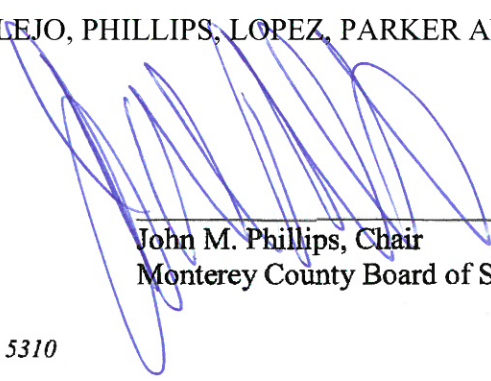
- A. Section 3 and Section 6 of Ordinance No. 5310 are suspended and shall not become operative until December 11, 2019; and
- B. That portion of Section 5 of Ordinance No. 5310 which amends Section 15.04.146 of the Monterey County Code to add subsection 1 of subsection c of section 15.04.146 is suspended and shall not become operative until December 11, 2019.

SECTION 3. 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 4. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this 27th day of August, 2019, by following vote to wit:

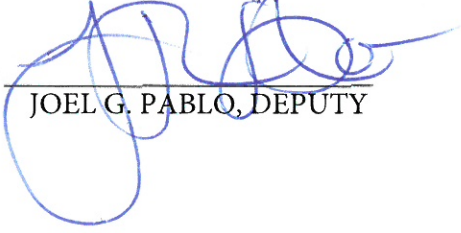
AYES: SUPERVISOR ALEJO, PHILLIPS, LOPEZ, PARKER AND ADAMS
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE




John M. Phillips, Chair
Monterey County Board of Supervisors

ATTEST

VALERIE RALPH
Clerk of the Board of Supervisors

By: 
JOEL G. PABLO, DEPUTY

APPROVED AS TO FORM:

WENDY S. STRIMLING
Senior Deputy County Counsel

ORDINANCE NO. 5310

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA
AMENDING CHAPTER 15.04 OF THE MONTEREY COUNTY CODE AND ADDING
CHAPTER 15.06 TO THE MONTEREY COUNTY CODE RELATING TO POINT-OF-
USE AND POINT-OF-ENTRY WATER TREATMENT SYSTEMS**

County Counsel Summary

This ordinance amends sections of Chapter 15.04 of the Monterey County Code and adds a new Chapter 15.06 to the Monterey County Code to authorize and regulate point-of-use (POU) and point-of-entry (POE) water treatment by local small, state small, and small public water systems that would otherwise not meet primary drinking water standards. The ordinance requires an amendment to the water system permit to allow these water systems to utilize POU or POE treatment. For water systems of 15 to 199 service connections, the ordinance updates Chapter 15.04 to allow POU or POE treatment under certain circumstances in accordance with recently-adopted state standards. This ordinance also establishes standards for domestic water systems with two to fourteen water connections to utilize POU and POE treatment as a means of compliance with primary water quality standards. The ordinance requires the water system to renew annually the authorization to use a POU or POE treatment, and if grant funding becomes available, renewal is contingent on the water system pursuing funding for long term solutions such as but not limited to centralized water treatment, a new well, or consolidation. The ordinance also provides that if an individual property owner is seeking new construction on an existing legal lot with water that does not meet primary water quality standards, the owner may install POU or POE treatment as a means of satisfying water quality standards necessary for a construction permit for development. This ordinance applies in the unincorporated area of the County of Monterey.

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 citizens.

B. This ordinance is intended to ensure that the water delivered by domestic water systems complies with applicable drinking water standards per Chapter 15 of Title 22 of the California Code of Regulations, as may be amended from time to time, and incorporated into Monterey County Code Chapter 15.04.110 with the objective of providing pure, wholesome, and potable water at all times. This ordinance is intended to provide a new treatment option as an affordable means to accomplish this objective.

C. The County regulates local small water systems consisting of two to four service connections, and state small water systems consisting of five to fourteen service connections. Many of these water systems are impacted by contaminants of concern such as nitrate, arsenic, fluoride or chromium VI. Prior to adoption of this ordinance, the Monterey County Code allowed these water systems only a single treatment option, the installation of a centralized treatment system at the source point or entry point prior to the storage distribution system.

D. Centralized treatment systems treating contaminants of concern are expensive, and there is a lack of state funding for local small and state small water systems and limited state funding for privately owned public water systems. The installation of point-of-use (“POU”) or point-of-entry (“POE”) water treatment devices is a viable affordable option for these impacted water systems while allowing them time to pursue a long-term solution for provision of safe potable water, such as but not limited to centralized water treatment, a new well or consolidation.

E. On October 9, 2015, State of California Assembly Bill No. 434 (“AB 434”) took effect. AB 434 amended California Health and Safety Code sections 116380 and 116552, which pertain to POE and POU treatment by public water systems. On January 22, 2019, the State Water Resources Control Board adopted permanent regulations that allow the permitted use of POE and POU treatment by public water systems in lieu of centralized treatment by making modifications to Title 22 of the California Code of Regulations, beginning with section 64417. On February 7, 2019, the State Water Resources Control Board submitted the adopted regulation to the Office of Administrative Law for review and approval. On March 22, 2019, the regulations were signed by the Secretary of State and became effective. The state law applies to public water systems of 15 service connections or more and limits the use of POE and POU treatment to public water systems of fewer than 200 service connections and limits the period of use to three years or until funding for centralized treatment is available, whichever occurs first. The County, through the County’s health officer, has authority delegated by the California State Department of Public Health through a Local Primacy Delegation Agreement to enforce the California Safe Drinking Water Act, including state law and regulations for POE and POU treatment, for small public water systems (15 to 199 service connections). Accordingly, one of the purposes of this ordinance is to update County regulations for small public water systems consistent with state law to allow them to use POE and POU treatment under certain circumstances.

F. Another purpose of this ordinance is to adopt local County regulations, similar to the recent changes in state law, to allow local small water systems (2-4 service connections) and state small water systems (5 to 14 service connections) that are under County jurisdiction to use POE and POU treatment under certain circumstances. By establishing local regulations for POE and POU treatment, the County can provide local small water systems and state small water systems a lower cost alternative to centralized treatment systems. Installation of POE or POU treatment would allow these water systems to provide safe potable water while allowing additional time for those systems to seek opportunities for funding resources to support long term solutions.

G. By establishing local regulations for POE and POU treatment, the County also recognizes that local small and state small water systems differ significantly in technical,

managerial, and operational capacity in comparison to larger water systems in that installation of centralized treatment may be financially, managerially, and operationally infeasible for local small and state small water systems.

H. The County finds that bottled water use, although appropriate for disaster emergency response, is not a suitable alternative nor a permanent substitute for an environmentally sustainable, financially affordable, readily accessible and reliable source of drinking water for local small and state small water systems.

I. This ordinance is also intended to provide an option for water quality treatment for owners of existing lots of record who are seeking approval of new development but whose water from a private onsite well or existing local small, state small, or small public water system does not meet drinking water standards required for issuance of a construction permit. This ordinance establishes local regulations enabling POU or POE treatment meeting required standards to satisfy water quality requirements for permit issuance.

J. The County recognizes that the County has a shortage of housing and allowing a POU or POE water treatment system may help facilitate new construction on existing legal lots of record where water quality does not meet drinking water standards.

K. On December 4, 2018 the Board of Supervisors of the County of Monterey recognized the importance of the Human Right to Safe Drinking Water and adopted Resolution No. 18-385 proclaiming that “every human being has the right to safe, clean, affordable and accessible water adequate for human consumption, cooking and sanitary purposes and that this right is extended to all residents of Monterey County including disadvantaged individuals and groups and communities in rural and urban areas.”

L. The County of Monterey recognizes that future land uses may include Accessory Dwelling Units (ADU) that are served by an impacted water system. In recognition that the occupants of ADUS, which may include tenants who do not control the water supply, have a human right to safe drinking water, this ordinance requires the ADU and the existing main dwelling to install a POU or POE treatment system meeting established criteria prior to approval for occupancy if the water does not meet primary drinking water standards.

M. Adoption of this ordinance is categorically exempt from environmental review pursuant to Sections 15301, 15302, 15303, 15308, and 15330 of the California Environmental Quality Act (“CEQA”) Guidelines. Consistent with Sections 15301, 15302, and 15303 of the CEQA Guidelines, a permitting process for POU and POE treatment systems will result in minor alterations to or replacement of existing facilities involving negligible or no expansion of use beyond that which is presently existing or installation of small new equipment. Additionally, the ordinance is categorically exempt under Section 15308 because it is an action taken by the County to assure the enhancement and protection of the environment and involves procedures for protection of the environment and public health by authorizing and regulating point-of-entry and point-of-use treatment of drinking water to meet drinking water standards. Lastly, the ordinance is categorically exempt under Section 15330 because it creates a permitting process for water systems to use of POU and POE to treat impacted water systems until funding for centralized treatment becomes available.

SECTION 2. Section 15.04.020 of the Monterey County Code is amended to read as follows:

Words used in the present tense include the future as well as the present. Words used in the masculine gender include the feminine and neuter. The singular includes the plural and the plural the singular.

As used in this Chapter, unless otherwise apparent from the context:

a. "Accessory dwelling unit" has the same meaning as "dwelling unit, accessory" set forth in Monterey County Code Chapter 21.06, as may be amended from time to time.

b. "Centralized treatment" means a single treatment plant or device that treats all of the water supplied by a water system for human consumption.

c. "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

d. "Consumer" means a customer or person served by the water system.

e. "Department" means the Monterey County Health Department.

f. "Director" means the Director or authorized representative of the Monterey County Health Department, designated to carry out the drinking water program.

g. "Domestic water system" means any water system including a local small water system, state small water system, or small public water system.

h. "Human consumption" means the use of water for drinking, bathing or showering, hand washing, food preparation, cooking, or oral hygiene.

i. "Impacted water system" means a domestic water system that does not meet primary water quality standards per Chapter 15 of Title 22 of the California Code of Regulations, as may be amended from time to time, as such standards are incorporated into Chapter 15.04.110 of the Monterey County Code.

j. "Local small water system" means a system for the provision of piped water for human consumption that serves at least two, but not more than four, service connections. It includes any collection, treatment, storage, and distribution facilities under control of the operator of such system which are used primarily in connection with such system, and any collection or pretreatment storage facilities not under the control of the operator which are used primarily in connection with such system. "Local small water system" does not include two or more service connections on a single lot of record where none of the dwellings are leased, rented, or offered for remuneration.

k. "Maximum contaminant level" or "MCL" means the maximum permissible level of a contaminant in water.

l. "Person" includes an individual, firm, association, partnership, corporation, and public entity.

m. "Point-of-use" or "POU" means a treatment device applied to a single tap for the purpose of reducing contaminants in drinking water at that tap.

n. "Point-of-entry" or "POE" means a treatment device applied to the drinking water entering a house or building for the purpose of reducing contaminants in the drinking water distributed throughout the house or building. Notwithstanding the foregoing, where all the water supplied by a water system for human consumption is treated by the water system via a single device or facility, regardless of location of the device or facility, the water system shall be considered to have centralized treatment.

o. "Service connection," consistent with Section 21.06.1010 of the Monterey County Code, means a connection to any habitable structure, except a guesthouse, or parcel which uses potable water from a water system for domestic and not agricultural purposes.

In addition, pursuant to California Health and Safety Code Section 116275 (s), "service connection" means the point of connection between the customer's piping or constructed conveyance, and the water system's meter, service pipe, or constructed conveyance. A connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection in determining if the system is a public water system if any of the following apply:

1. The water is used exclusively for purposes other than residential uses, consisting of drinking, bathing, and cooking or other similar uses.

2. The Health Officer determines that the alternative water to achieve the equivalent level of public health protection provided by the applicable primary drinking water regulation is provided for residential or similar uses for drinking and cooking.

3. The Health Officer determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a passthrough entity, or the user to achieve the equivalent level of protection provided by the applicable primary drinking water regulations.

p. "Small public water system" means a system for the provision of piped water to the public for human consumption that has at least fifteen (15) but not more than one hundred ninety-nine (199) service connections or regularly serves at least twenty-five (25) individuals at least sixty (60) days out of the year. A small public water system includes "community water system" and "noncommunity water system" as defined in Section 116275 (i) and (j) respectively, of the California Health and Safety Code, and "nontransient-noncommunity water system" as defined in Section 116275(k) of the California Health and Safety Code, and a "transient-noncommunity water system" as defined in California Health and Safety Code Section 116275(o), as these sections may be amended from time to time.

q. "State small water system" means a system for the provision of piped water to the public for human consumption that serves at least five, but not more than fourteen (14), service connections and does not regularly serve drinking water to more than an average of twenty-five (25) individuals daily for more than sixty (60) days out of the year. It includes any collection, treatment, storage, and distribution facilities under control of the operator of such system which are used primarily in connection with such system, and any collection or pretreatment storage facilities not under the control of the operator which are used primarily in connection with such system.

r. "Source" means a well, spring, lake, stream, or hookup with an approved public water supply. It excludes water from a water storage tank or facility.

s. "User" means any person using water for human consumption or domestic purposes.

t. "User connection" means the point of connection between the user's or consumer's piping or ditch, and the water system's meter, service pipe, or ditch.

SECTION 3. Subsection (c) is added to Section 15.04.070 of the Monterey County Code to read as follows:

c. An amendment to the local small or state small water system operating permit is required to allow a POU or POE treatment program that conforms to the requirements of Chapter 15.06 of the Monterey County Code. The amendment must be renewed annually by the water system. If opportunities for grant funding resources to support long term water treatment solutions become available, the water system shall demonstrate that it is pursuing such funding in order to be eligible for renewal.

SECTION 4. Subsection (d) is added to Section 15.04.070 of the Monterey County Code to read as follows:

d. An amendment to the small public water system operating permit is required to allow a POU or POE treatment device in accordance with state law and regulation.

SECTION 5. Section 15.04.146 of the Monterey County Code is amended to read as follows:

15.04.146 - Water System Treatment.

a. All local or state small water systems using surface water, or groundwater under direct surface water influence, shall provide continuous disinfection treatment of the water prior to entry to the distribution system.

b. Centralized treatment. All domestic water systems which fail primary or secondary drinking water standards as set forth in Chapter 15, Division 4 of Title 22 of the California Code of Regulations, as may be amended from time to time, and incorporated herein by this reference, may choose to treat the supply at the source with centralized treatment. A water system that installs centralized treatment is subject to the following:

1. Before any water system proposes to treat its water supply, the water supplier shall first conduct a reliability and feasibility study of alternative methods used to supply domestic water and submit the findings of the study as part of an amended permit application. The water supplier shall apply for and obtain an amended permit in accordance with Section 15.04.070 prior to construction and operation of any treatment facility.

2. Centralized treatment facilities proposed to treat domestic water supply shall use a technology certified by the California State Water Resources Control Board and capable of generating sufficient treated water to meet maximum daily demand for domestic use.

3. Installation of a treatment facility shall be under direct supervision of a professional civil engineer with experience in water treatment systems, or qualified person approved by the Director, and shall meet the minimum requirements as follows:

i. Installed at the source point or entry point prior to storage distribution system;

ii. Equipped with waste disposal system that will properly contain and dispose generated waste in a manner approved by the Director;

iii. Equipped with sample ports for raw and treated water monitoring purposes; and

iv. Free of structural and sanitary hazards.

4. Operation and maintenance of a treatment facility shall be conducted by an appropriate grade water treatment operator certified by the California State Water Resources Control Board and shall follow a developed operation plan approved by the Director. The operation plan shall specify the following: the minimum schedule for inspection, maintenance, and monitoring; operator's responsibilities; emergency response plan; and other pertinent information as deemed appropriate.

c. Point-of-Use or Point-of-Entry Treatment.

1. In lieu of a centralized treatment facility, a local small or state small water system may choose to install a POU or POE treatment device at each connection in conformance with the regulations specified in Chapter 15.06 of the Monterey County Code, as may be amended from time to time, subject to approval by the Director.

2. In lieu of a centralized treatment facility and to the extent allowable under state law, a small public water system may install a POU or POE treatment device at each connection in conformance with California Health and Safety Code section 116380, as

may be amended, and the state regulations adopted pursuant to section 116380, subject to approval by the Director.

(Ord. 4056, 2000)

SECTION 6. Chapter 15.06 is added to the Monterey County Code to read as follows:

Chapter 15.06

POINT-OF-USE (POU) AND POINT-OF-ENTRY (POE) WATER TREATMENT SYSTEMS

Sections:

15.06.010 – Findings and purpose.

15.06.020 – Definitions.

15.06.030 – Applicability.

15.06.040 – POU or POE Treatment Implementation Options.

15.06.050 – POU or POE Permit Requirements for Water Systems.

15.06.060 – POU and POE Requirements for New Dwelling Units.

15.06.070 – POU and POE Requirements for Additional Dwelling Units on a Property.

15.06.080 – POU and POE Treatment Device Technical Requirements for Water Systems.

15.06.090 – POU and POE Treatment Strategy for Water Systems.

15.06.100 – POU and POE Operations and Maintenance (O&M) Program for Water Systems.

15.06.110 – POU and POE Monitoring Program for Water Systems.

15.06.120 – POU and POE Recordkeeping and Reporting Requirements for Water Systems.

15.06.130 – POU and POE Water System Compliance.

15.06.140 – POU and POE Water System Enforcement.

15.06.010 Findings and purpose.

A. The County of Monterey regulates local small water systems consisting of two (2) to four (4) service connections, and state small water systems consisting of five (5) to fourteen (14) service connections. Many of these water systems are impacted by contaminants of concern such as nitrate, arsenic, fluoride or chromium VI.

B. The County recognizes that centralized treatment systems treating contaminants of concern are expensive, and there is a lack of state funding for state and local small water systems. The installation of point-of-use (POU) or point-of-entry (POE) water treatment devices is a viable affordable option for these impacted water systems while they pursue a long term solution for provision of safe potable water such as but not limited to centralized water treatment, a new well, or consolidation.

C. POE treatment ensures that all water entering a structure provides a higher level of protection to public health from ingestion and exposure to contaminants than POU treatment.

D. POU treatment provides treated water at a single tap for reducing contaminants in drinking water only at that tap to protect public health from ingestion and exposure to contaminants.

E. On October 9, 2015, State of California Assembly Bill No. 434 (“AB 434”) took effect. AB 434 amended California Health and Safety Code sections 116380 and 116552, which pertain to POE and POU treatment by public water systems.

F. On January 22, 2019, the State Water Resources Control Board adopted regulations that allow the permitted use of POE and POU treatment by public water systems in lieu of centralized treatment by making modifications to Title 22 of the California Code of Regulations, beginning with section 64417. On February 7, 2019, the State Water Resources Control Board submitted the adopted regulations to the Office of Administrative Law for review and approval. On March 22, 2019, the state regulations were signed by the Secretary of State and became effective. The state law applies to public water systems of 15 service connections or more and limits the use of POE and POU treatment to public water systems of fewer than 200 service connections and limits the period of use to three years or until funding for centralized treatment is available, whichever occurs first.

G. Monterey County Code Section 15.04.146 (c) allows local small water systems (2 to 4 service connections) and state small water systems (5 to 14 service connections) to install POU or POE water treatment devices in conformance with the regulations of this chapter. The purpose of this chapter is to establish local County regulations, to govern the use of POE and POU treatment by local small water systems and state small water systems, similar to the recent changes in state law which govern larger public water systems.

H. By establishing regulations for POE and POU treatment, the County also recognizes that local small and state small water systems differ significantly in technical, managerial, and operational capacity in comparison to public water systems in that local small and state small water systems may find installation of centralized treatment financially, managerially, and operationally infeasible.

I. The County finds that bottled water use, although appropriate for disaster emergency response, is not a suitable alternative nor a permanent substitute for an environmentally sustainable, financially affordable, readily accessible and reliable source of drinking water for local small and state small water systems.

J. This Chapter is also intended to provide an option for water quality treatment for owners of existing lots of record who are seeking approval of new development but whose water from a private onsite well or existing local small, state small, or small public water system does not meet drinking water standards required for issuance of a construction permit. This chapter provides the option of POU or POE treatment meeting the standards of this chapter as a means of satisfying water quality requirements for permit issuance.

K. The County recognizes that the County has a housing shortage and allowing a POU or POE water treatment system may help facilitate new construction on existing lots of record where water quality does not meet drinking water standards.

L. On December 4, 2018 the Board of Supervisors of the County of Monterey recognized the importance of the Human Right to Safe Drinking Water and passed Resolution No. 18-385 proclaiming that “every human being has the right to safe, clean, affordable and accessible water adequate for human consumption, cooking and sanitary purposes and that this right is extended to all residents of Monterey County including disadvantaged individuals and groups and communities in rural and urban areas”.

M. The County recognizes that future land uses may include Accessory Dwelling Units (ADUs) that are served by an impacted water system. In recognition that the occupants of ADUs, which may include tenants who do not control the water supply, have a human right to safe drinking water, this chapter requires the ADU and the existing main dwelling to install a POU or POE treatment system meeting established criteria prior to approval for occupancy if the water does not meet primary drinking water standards.

15.06.020 Definitions.

Words used in the present tense include the future as well as the present. Words used in the masculine gender include the feminine and neuter. The singular includes the plural and the plural the singular.

As used in this Chapter, unless otherwise apparent from the context:

a. “Accessory dwelling unit” has the same meaning as “dwelling unit, accessory” set forth in Monterey County Code section 21.06, as may be amended from time to time.

b. “Centralized treatment” means a single treatment plant or device that treats all of the water supplied by a water system for human consumption.

c. “Contaminant” means any physical, chemical, biological, or radiological substance or matter in water.

d. “Consumer” means a customer or person served by the water system.

e. “Department” means the Monterey County Health Department.

f. “Director” means the Director or authorized representative of the Monterey County Health Department, designated to carry out the drinking water program.

g. “Domestic water system” means any water system including a local small water system, state small water system, or small public water system.

h. “Human consumption” means the use of water for drinking, bathing or showering, hand washing, food preparation, cooking, or oral hygiene.

i. "Impacted water system" means a domestic water system that does not meet primary water quality standards per Chapter 15 of Title 22 of the California Code of Regulations, as may be amended from time to time, as such standards are incorporated into Chapter 15.04.110 of the Monterey County Code.

j. "Laboratory" for the purposes of this Chapter means a laboratory that is accredited by the California Environmental Laboratory Accreditation Program.

k. "Local small water system" means a system for the provision of piped water for human consumption that serves at least two (2), but not more than four (4), service connections. It includes any collection, treatment, storage, and distribution facilities under control of the operator of such system which are used primarily in connection with such system, and any collection or pretreatment storage facilities not under the control of the operator which are used primarily in connection with such system. "Local small water system" does not include two (2) or more service connections on a single lot of record where none of the dwellings are leased, rented or offered for remuneration.

l. "Maximum contaminant level" or "MCL" means the maximum permissible level of a contaminant in water.

m. "Person" includes an individual, firm, association, partnership, corporation, and public entity.

n. "Point-of-use" or "POU" means a treatment device applied to a single tap for the purpose of reducing contaminants in drinking water at that tap.

o. "Point-of-entry" or "POE" means a treatment device applied to the drinking water entering a house or building for the purpose of reducing contaminants in the drinking water distributed throughout the house or building. Notwithstanding the foregoing, where all the water supplied by a water system for human consumption is treated by the water system via a single device or facility, regardless of location of the device or facility, the water system shall be considered to have centralized treatment.

p. "Primary water quality standards" means drinking water standards per Chapter 15 of Title 22 of the California Code of Regulations, as may be amended from time to time, as such standards are incorporated by reference into section 15.04.110 of the Monterey County Code.

q. "Service connection", consistent with Section 21.06.1010, of the Monterey County Code, means a connection to any habitable structure, except a guesthouse, or parcel which uses potable water from a water system for domestic and not agricultural purposes.

In addition, pursuant to California Health and Safety Code Section 116275(s), "service connection" means the point of connection between the customer's piping or constructed conveyance, and the water system's meter, service pipe, or constructed conveyance. A connection to a system that delivers water by a constructed conveyance other than a pipe shall not be considered a connection in determining if the system is a public water system if any of the following apply:

1. The water is used exclusively for purposes other than residential uses, consisting of drinking, bathing, and cooking or other similar uses.

2. The Health Officer determines that the alternative water to achieve the equivalent level of public health protection provided by the applicable primary drinking water regulation is provided for residential or similar uses for drinking and cooking.

3. The Health Officer determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable primary drinking water regulations.

r. "State small water system" means a system for the provision of piped water to the public for human consumption that serves at least five (5), but not more than fourteen (14), service connections and does not regularly serve drinking water to more than an average of twenty-five (25) individuals daily for more than sixty (60) days out of the year. It includes any collection, treatment, storage, and distribution facilities under control of the operator of such system which are used primarily in connection with such system, and any collection or pretreatment storage facilities not under the control of the operator which are used primarily in connection with such system.

15.06.030 Applicability.

This Chapter applies to existing local small and state small water systems, individual property owners whose property is part of an impacted water system, and individual property owners with a private onsite well that does not meet primary water quality standards in the unincorporated area of the County of Monterey.

15.06.040 POU or POE Treatment Implementation Options.

A. A local small or state small water system (2-4 connections and 5-14 connections respectively) may be permitted to use effective POU or POE treatment devices. Water systems who choose this alternative will be deemed as a "*Compliant Water System Utilizing Treatment*" if 100 per cent of the service connections have installed a POU or POE treatment device in accordance with this Chapter and the water system meets the requirements of Section 15.06.130 of this Chapter.

B. A property owner seeking a building permit for a new dwelling unit on a legal lot of record which will be served by an impacted water system that is unable to meet the requirements of a compliant water system may choose to install an effective POU or POE treatment per Monterey County Code Section 15.06.060.

C. A property owner seeking a building permit for a new dwelling unit on a legal lot of record which will be served by a private well that does not meet primary water quality standards may choose to install an effective POU or POE treatment per Monterey County Code Section 15.06.060.

D. For local small water systems and state small water systems, POU treatment is not allowed for treatment of microbial contaminants, volatile organic chemicals, organic chemicals that pose an inhalation risk, or radon.

E. POU treatment or POE treatment is not authorized as the means to establish proof of water quality for water systems for applications for new subdivisions. Discretionary approval for new subdivisions shall not be conditioned to use POU treatment or POE treatment for water systems as the means by which the lots to be created by the subdivision would meet primary water quality standards.

15.06.050 POU or POE Permit Requirements for Water Systems.

A. A local small or state small water system that chooses to implement a POU or POE treatment program must apply for and obtain an amendment to the water system permit pursuant to Monterey County Code Section 15.04.070 prior to use of POU or POE treatment. The applicant must do the following:

1. Submit an application for a permit amendment to implement a POU or POE treatment program on such form as the Department may prescribe.
2. For a mutual water company or shared well, provide a copy of the articles of incorporation or a valid water system agreement, which indicates who is responsible for complying with water system permitting requirements. If the mutual water company or shared well does not have articles of incorporation or a valid water system agreement, then articles of incorporation or a written water system agreement must be adopted in order to establish responsibility for complying with water system permitting requirements for the POU or POE treatment.
3. Provide documentation that the proposed POU or POE treatment device complies with the treatment device technical requirements pursuant to Monterey County Code Section 15.06.080.
4. Submit a POU or POE treatment strategy pursuant to Monterey County Code Section 15.06.090 for the Director's review and approval.
5. Submit a POU or POE operations and maintenance program pursuant to Monterey County Code Section 15.06.100 for the Director's review and approval.
6. Submit a POU or POE monitoring program pursuant to Monterey County Code Section 15.06.110 for the Director's review and approval.
7. Provide evidence that 100 percent of the service connections will participate in the approved POU or POE treatment.

B. The Director shall issue the permit amendment to the water system if all of the following requirements are met:

1. Applicant has submitted the application and all required supporting documentation;
2. The POU or POE treatment device meets technical requirements in accordance with this Chapter;
3. The Director has approved the treatment strategy, operations and maintenance program, and monitoring program in accordance with this chapter; and
4. The water system has demonstrated that 100 per cent of the service connections will participate in the approved POU or POE treatment.
5. The water system is in compliance with annual operating fee requirements as stated in Monterey County Code Section 15.04.150.

C. The permit amendment for a POU or POE treatment device shall be valid for one year. The permit amendment must be renewed annually in order for the water system to be deemed a “*Compliant Water System Utilizing Treatment*”. In order to renew the permit amendment, the water system shall submit to following to the Director for review and approval.

1. Application for renewal;
2. Records maintained per Monterey County Code Section 15.06.120.B;
3. If opportunities for grant funding resources to support long term water treatment solutions become available, the water system shall demonstrate that it is pursuing such funding in order to be eligible for renewal.

D. The Director shall issue the renewed permit amendment to the water system if all of the following requirements are met:

1. Applicant has submitted the application for permit renewal and all required supporting documentation;
2. The most recent test of each installed POU or POE meets primary water quality standards.
3. The water system is in compliance with the Director approved treatment strategy, operations and maintenance program, and monitoring program in accordance with this Chapter; and
4. The water system has demonstrated that 100 per cent of the service connections have an approved POU or POE treatment.
5. The water system is in compliance with annual operating fee requirements as stated in Monterey County Code Section 15.04.150.

15.06.060 POU and POE Requirements for New Dwelling Units.

A. A property owner seeking a construction permit for a new dwelling unit that is served by an impacted water system or private well that does not meet primary water quality standards may choose to install a POU or POE treatment to satisfy water quality requirements for issuance of the construction permit if all of the following requirements are met:

1. Prior to County issuance of a construction permit, the applicant shall submit plans to the Director for review and acceptance of a private POU or POE treatment device that will produce water that meets primary water quality standards;

2. The POU or POE treatment device shall be selected from the California State Water Resources Control Board list of approved devices for the specific contaminant impacting the water system or shall be independently certified in accordance with the American National Standard Institute ("ANSI") standards;

3. The applicant shall provide a copy of the real property's legal description and a copy of the grant deed for the subject property to the Director. The Director will prepare a deed restriction form to be signed and recorded by the property owner. The purpose of the deed restriction is to notify the current and future owners of the property that a POU or POE water treatment system has been installed on the property, that the water treatment system is necessary to meet primary water quality standards, and that the property owner is responsible to operate and maintain the system in accordance with the manufacturer's specifications.

4. Prior to final inspection of a construction permit, the applicant shall submit water quality analysis results of a treated water sample to demonstrate that the installed Director- approved water POU or POE treatment system is producing water that meets primary water quality standards.

5. Prior to County issuance of final occupancy, the applicant shall provide documentation to the Department that the Director- prepared deed restriction has been signed and recorded in the Office of the Recorder of the County of Monterey.

15.06.070 POU and POE Requirements for Additional Dwelling Units on a Property.

A. A property owner seeking a construction permit for an additional new or converted dwelling unit such as an accessory dwelling unit (ADU), caretaker's unit, or senior unit that is served by an impacted water system or private well that does not meet primary water quality standards may choose to install a POU or POE treatment to satisfy water quality requirements for issuance of the construction permit if all of the following requirements are met:

1. Prior to approval of a construction permit, the applicant shall submit plans to the Director for review and acceptance of a private POU or POE treatment device that will produce water that meets primary water quality standards. The approved POU or POE treatment device must be installed on each dwelling unit on the property.

2. The POU or POE treatment device shall be selected from the California State Water Resources Control Board list of approved devices for the specific contaminant impacting the water system or shall be independently certified in accordance with the American National Standard Institute (“ANSI”) standards.

3. The applicant shall provide a copy of the real property’s legal description and a copy of the grant deed for the subject property to the Director. The Director will prepare the deed restriction form to be signed and recorded by the property owner. The purpose of the deed restriction is to notify the current and future owners of the property that a POU or POE water treatment system has been installed on the property, that the water treatment system is necessary to meet primary water quality standards, and that the property owner is responsible to operate and maintain the system in accordance with the manufacturer’s specifications.

4. Prior to final inspection of a construction permit, the applicant shall submit water quality analysis results of a treated water sample to demonstrate that each installed Director- approved water POU or POE treatment system is producing water that meets primary water quality standards.

5. Prior to County issuance of final occupancy, the applicant shall provide documentation to the Department that the Director- prepared deed restriction has been signed and recorded in the Office of the Recorder of the County of Monterey.

15.06.080 POU and POE Treatment Device Technical Requirements for Water Systems.

A. Each POU and POE treatment device for a water system must meet all of the requirements set forth below.

1. The POU or POE treatment device shall be selected from the California State Water Resources Control Board list of approved devices for the specific contaminant impacting the water system or shall be independently certified in accordance with the American National Standard Institute (“ANSI”) standards.

2. The POU or POE treatment device shall be approved by the Director, following a review of, without limitation, the POU or POE unit’s design, construction, treatment performance, and available field or pilot test results;

3. The POU or POE treatment device shall be installed, controlled, operated, and maintained by the water system, or a person under contract with the water system with the water system retaining responsibility, to ensure proper operation, maintenance, monitoring, and compliance with this Chapter and Monterey County Code Section 15.04.110 drinking water standards;

4. If the POU or POE treatment device is a reverse osmosis system, it shall be equipped with a total dissolved solid in-line analyzer; and

5. If the POU or POE treatment device utilizes an adsorptive media, the system shall be equipped with a totalizing flow meter, if requested by the Director.

B. Pilot testing shall be performed by the water system, or a person under contract with the water system on each proposed type of POU or POE treatment device to establish its use limitations and operations and maintenance criteria, as well as verification that it will produce effluent that meets primary water quality standards under the water system's expected influent water quality and flow conditions.

1. Prior to performing pilot testing, a pilot testing protocol shall be submitted to the Director for review, and the water system shall obtain Director approval of the protocol.

2. Pilot testing for a POU or POE treatment device shall be conducted in the manner and for the time period specified by the pilot testing protocol for that POU or POE treatment device. Water quality samples for the constituent of concern shall be collected upon initial installation and a second test shall be conducted eight weeks after the initial test, and both shall be submitted to a laboratory. Each sampling event shall include a raw and treated water sample. The water system shall request the laboratory to submit sample results to the Director.

15.06.090 POU and POE Treatment Strategy for Water Systems.

Prior to installing a POU or POE treatment device, a water system shall comply with a Director-approved POU/POE Treatment Strategy. The POU/POE Treatment Strategy shall include all of the following:

- A. Specify the primary water quality standard for which treatment is proposed.
- B. A description of how the water system will determine the type, number, and location of the POU or POE treatment devices to ensure a sufficient number of devices are installed for human consumption at all locations where there will be human consumption or use for food preparation.
- C. The basis for the POU or POE treatment device selection.
- D. The qualifications and identification of the person(s) responsible for the POU or POE treatment device installation, operation, maintenance, and water quality sampling and analyses.
- E. A consumer education program to be implemented prior to and following installation of the POU or POE treatment device.
- F. The authority that allows the water system's representatives access to consumers' premises for POU or POE treatment device installation, maintenance, and water quality monitoring, as well as the surveys necessary to meet subsection (B) of this Section.
- G. A plan to be used in the event an installed POU or POE treatment device fails to produce water that meets primary water quality standards that includes:

1. A consumer notification protocol, along with example notices, consistent with this Section 15.06.090; and

2. A plan for provision of an alternative water supply, meeting primary water quality standards, to consumers served by such installed POU or POE treatment devices.

H. An ongoing consumer notification protocol that includes:

1. Notices in the language(s) appropriate for communication with the consumers, distributed by mail, email or other electronic form such as text messaging; and

2. Annual notices informing the consumers:

a. That only the taps for which a POU or POE treatment device is installed provide water meeting primary water quality standards; and

b. The purpose and operational requirements for using the in-line total dissolved analyzer, if applicable as per Monterey County Code Section 15.04.080.A.4.

15.06.100 POU and POE Operations and Maintenance (O&M) Program for Water Systems.

A. Prior to installing a POU or POE treatment device, a water system shall submit a POU/POE Operations and Maintenance (O&M) Program for Director review and shall obtain Director approval of the Program. The POU/POE O&M Program shall include, but not be limited to, the following:

1. An installation protocol that, at a minimum, describes locations and assurances that the POU or POE treatment devices will be accessible for operation and maintenance;

2. The type and frequency of maintenance, at intervals specified by the manufacturer and determined by pilot testing, whichever is shorter, that ensures the POU or POE treatment device produces effluent that meets primary water quality standards;

3. A list of replacement parts for the POU or POE treatment device;

4. Replacement schedules for critical components;

5. The qualifications and identification of the person(s) responsible for the POU or POE treatment device installation, operation, and maintenance; and

6. POU or POE treatment device waste-handling and disposal procedures.

B. A protocol for how the water system shall ensure that the POU or POE treatment device is functioning properly at least every 12 months.

C. Based on the ongoing operation and maintenance of installed POU or POE treatment devices, a water system shall revise its POU or POE O&M Program as necessary to ensure continuous effective treatment and to ensure that systems produce effluent that meets primary water quality standards. The Revised POU or POE O&M Program shall be submitted to the Director for review and approval prior to implementation of the revised Program.

D. A water system shall maintain a copy of and implement its most recent POU/POE O&M Program prepared and approved pursuant to this Section.

15.06.110 POU and POE Monitoring Program for Water Systems.

A. A water system shall submit a POU/POE Monitoring Program to the Director for review and shall obtain Director approval of the Monitoring Program. The samples shall be analyzed by a laboratory as defined by Monterey County Code Section 15.06.020(j). At a minimum, the POU/POE Monitoring Program shall include monitoring of the contaminant(s) for which the water system has applied to use the POU or POE treatment device, as follows:

1. Initial POU/POE effluent, with samples collected as soon as possible but no later than seventy-two (72) hours after a device is installed;
2. Annual POU/POE effluent, following the monitoring in Subsection (A)(1) with one quarter (1/4) of all units sampled quarterly on a rotating basis; and
3. Quarterly source water monitoring, with samples collected during the same month (first, second, or third) of each calendar quarter. After one year of monitoring, a water system may apply to the Director for reduced ongoing monitoring if current and historical results do not indicate an upward trend in contaminant levels.

B. The Director may require further monitoring for the contaminant of concern or other contaminants, including microbial contaminants, based on monitoring results, the health risk associated with the contaminant, POU/POE technology, or a water system's compliance with this Chapter.

C. The water system shall revise its POU/POE Monitoring Program as necessary based on the ongoing operation and maintenance of installed POU or POE treatment systems or additional monitoring required pursuant to Subsection (B) of this Section. The Revised POU/POE Monitoring Program shall be submitted to the Director for review and approval prior to implementation of the revised Program.

D. The water system shall maintain a copy of and implement its most recent POU/POE Monitoring Program prepared and approved pursuant to this Section.

E. If an ongoing POU/POE effluent sample result exceeds any primary water quality standard, the water system shall take all of the following actions:

1. Implement the public notification and alternative water procedures identified in its Director-approved POU/POE Treatment Strategy.

2. Except as noted in Subsection (E)(3) below, collect a confirmation sample within seven (7) days of notification of the exceedance.

3. For an exceedance of a nitrate, nitrite, nitrate plus nitrite, or perchlorate Maximum Contaminant Level (MCL):

a. As soon as possible, but no later than twenty-four (24) hours following notification of an exceedance, provide each affected consumer with notification; and

b. Collect a confirmation sample within seventy-two (72) hours of notification of the exceedance.

4. If the confirmation sample or the average of the original and confirmation sample exceeds the MCL, notify the Director within twenty-four (24) hours of the result, complete corrective actions as soon as possible but within one (1) month of receipt of the result, and increase the monitoring frequency if requested to do so by the Director.

15.06.120 POU and POE Recordkeeping and Reporting Requirements for Water Systems.

A. The water system shall direct the laboratory which analyzes any water quality samples collected pursuant to this Chapter to submit all such water quality results to the Director;

B. A water system shall maintain and submit the following records to the Director as follows:

1. The date and type of maintenance and repairs performed; and

2. Any investigations and/or corrective action(s) taken to ensure the POU or POE treatment device meets the requirements of this Chapter including, but not limited to, POU/POE maintenance, property owner complaints, inspection results, and manufacturer notices pertaining to proper operation of devices.

C. The reports required pursuant to Subsection B.1 and B.2 of this Section shall be submitted to the Director with the annual permit renewal application.

15.06.130 POU and POE Water System Compliance.

A water system utilizing POU or POE treatment devices for compliance shall be considered a Compliant Water System Utilizing Treatment if:

A. 100 percent of the service connections, including all dwelling units on the property, have installed a POU or POE treatment device in accordance with this Chapter; and

B. The water system follows the requirements in Section 15.06.110 (E) if an individual POU or POE treatment device effluent fails to meet primary water quality standards; and

C. The water system is compliant with the Director-approved POU or POE Treatment Device Technical Requirements, Treatment Strategy, Operations and Maintenance Program, Monitoring Program, and Recordkeeping and Reporting requirements in accordance with this Chapter; and

D. The water system's utilization of the POU or POE treatment device complies with all requirements of this Chapter.

15.06.140 POU and POE Water System Enforcement.

A. If a water system that has been deemed a Compliant Water System Utilizing Treatment violates the requirements of this Chapter, the County may in its discretion, in addition to all other remedies, take such enforcement actions as are authorized by the Monterey County Code and by law, including enforcement pursuant to Chapter 15.04 as applicable to water systems.

B. In the event of a violation of this Chapter, the County may in its discretion, in addition to all other remedies, take such enforcement actions as are authorized by the Monterey County Code and by law.

SECTION 7. 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 8. This ordinance shall become effective on the thirty-first day following its adoption.

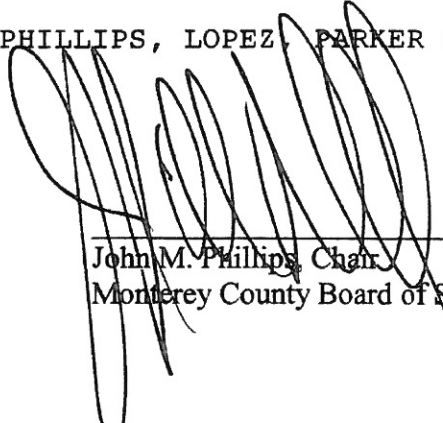
PASSED AND ADOPTED on this 18th day of June, 2019, by the following vote:

AYES: SUPERVISOR ALEJO, PHILLIPS, LOPEZ, PARKER & ADAMS

NOES: NONE

ABSENT: NONE

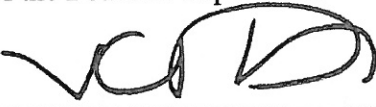
ABSTAIN: NONE



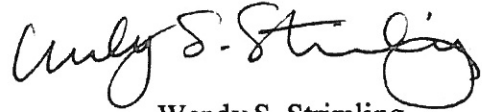
John M. Phillips, Chair
Monterey County Board of Supervisors

ATTEST:

Valerie Ralph
Clerk of the Board of Supervisors

By: 
Deputy

APPROVED AS TO FORM BY:



Wendy S. Strimling
Senior Deputy County Counsel