

Attachment B

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ORDINANCE NO. _____

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA,
ADDING CHAPTER 21.91 TO THE MONTEREY COUNTY CODE RELATING TO
GENERAL PLAN AMENDMENTS**

County Counsel Summary

This ordinance adds Chapter 21.91 to Title 21 (non-coastal zoning) of the Monterey County Code to establish procedures to amend the 2010 Monterey County General Plan. The new chapter establishes a process, as directed by the 2010 Monterey County General Plan, that would limit consideration of amendments to the 2010 Monterey County General Plan to two times each year, with certain exceptions. The new chapter also requires comprehensive and cumulative review of proposed general plan amendments and provides a process for early assessment of proposed general plan amendments. The procedures established by this ordinance would apply in addition to procedures required by state law for consideration of general plan amendments. This ordinance applies only to amendments to the 2010 Monterey County General Plan and is applicable only in the non-coastal 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 may adopt and enforce ordinances and regulations not in conflict with general laws to protect the public health, safety, and welfare of its citizens.

B. This proposed addition to Title 21 protects the public health, safety, and welfare of Monterey County citizens by supporting the overall integrity of the General Plan in the periods between comprehensive updates of the General Plan.

C. This proposed addition to Title 21 implements *2010 Monterey County General Plan* policies LU-9.6 and LU-9.7 by providing a process that, with certain exceptions, limits the consideration of general plan amendments to two times per year, requires comprehensive and cumulative review of these general plan amendments, and provides a process for early assessment of these general plan amendments.

D. This proposed addition to Title 21 is statutorily exempt under the California Environmental Quality Act (CEQA) per CEQA Guideline Sections 15060 (c)(3) and 15378 (b)(5) because the process enacted by this ordinance is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment. Any actual proposal to amend the general plan would be subject to review under the California Environmental Quality Act.

SECTION 2. The Table of Contents of Title 21 of the Monterey County Code is amended to add Chapter 21.91 as follows:

Chapter 21.91 General Plan Amendments

SECTION 3. Chapter 21.91 is added to the Monterey County Code to read as follows:

**Chapter 21.91
GENERAL PLAN AMENDMENTS**

Sections:

- 21.91.010 Purpose.
- 21.91.020 Applicability.
- 21.91.030 Early Assessment of Proposed Amendments.
- 21.91.040 Comprehensive Review.
- 21.91.050 Evaluation Criteria.
- 21.91.060 Public Hearing Process.
- 21.91.070 Reapplication.
- 21.91.080 Fees.

21.91.010 Purpose.

The primary purpose of this Chapter is to set forth regulations governing amendments to the *2010 Monterey County General Plan* and future comprehensive updates to the *2010 General Plan* (“General Plan”). Because the *2010 Monterey County General Plan* is applicable only in the non-coastal, unincorporated area of the County, these regulations apply only to General Plan amendments affecting the non-coastal unincorporated area of the County. These regulations are intended to maintain the overall integrity of the General Plan, as may be periodically comprehensively updated, by requiring early assessment of proposed amendments, requiring comprehensive and cumulative review of proposed amendments, limiting the number of times each year the General Plan may be amended, and by identifying the limited circumstances under which General Plan amendments may be approved.

21.91.020 Applicability.

A. The provisions of this Chapter shall apply in addition to State law to proposed amendments to the *2010 Monterey County General Plan* and future comprehensive updates to the *2010 Monterey County General Plan*, unless the amendment is exempt under subsection B below. These regulations apply to amendments initiated by any of the following methods:

1. Application by an individual property owner to amend the General Plan designation(s) of the owner’s property;

2. Application by an individual or individuals to amend the text provisions of the General Plan; or
 3. Resolution of Intention by either the Planning Commission or the Board of Supervisors of the County of Monterey to consider amendments to either the General Plan designations for property or properties or the text provisions of the General Plan, or both.
- B. The provisions of this Chapter shall not apply to the following categories of General Plan amendment:
1. Periodic comprehensive updates of the *2010 Monterey County General Plan*;
 2. General Plan amendments initiated by either the Planning Commission or the Board of Supervisors of the County of Monterey when such an amendment is necessary to address a threat to the public health or safety; or
 3. General Plan amendments instituted by citizen initiative.

21.91.030 Early Assessment of Proposed Amendments.

- A. No application for a General Plan amendment shall proceed to hearing until completion of the early assessment process described in this Chapter.
- B. The applicant must obtain an early assessment as part of either the pre-application or application process.
- C. The Director of Planning shall refer the pre-application or application to the applicable Land Use Advisory Committee(s) and other County advisory committees, as appropriate, for comments on the early assessment.
- D. The Planning Commission shall provide an early assessment of each application for General Plan amendment to determine the suitability of the request. The Planning Commission shall provide by a majority vote its early assessment as to whether the proposed project has the potential to meet the evaluation criteria set forth in Section 21.91.050 of this Chapter.
- E. The early assessment by the Planning Commission shall not be construed as approval of the amendment or a guarantee of the ultimate outcome, nor shall a negative early assessment preclude the applicant from pursuing the General Plan amendment. In addition to the early assessment process, all General Plan amendments shall be subject to all appropriate environmental review and procedures required by law for consideration of general plan amendments.

- F. The early assessment may be undertaken prior to environmental review under the California Environmental Quality Act (CEQA) based on the recognition that the early assessment is not a commitment to the General Plan amendment and does not excuse preparation of environmental review as appropriate under CEQA.
- G. Early assessment by the Planning Commission of applications for a General Plan amendment may be undertaken at any time and as frequently as deemed appropriate by the Director of Planning.

21.91.040 Comprehensive Review.

- A. Each application for General Plan amendment shall be reviewed in the context of all other current applications for amendments to the *2010 Monterey County General Plan* and previously approved amendments to the *2010 Monterey County General Plan*, for the purpose of providing a comprehensive and cumulative analysis of the proposed General Plan amendment.
- B. RMA Planning staff shall prepare the comprehensive and cumulative analysis. The analysis shall include but not be limited to a single map that depicts the location of all proposed and approved amendments to the *2010 Monterey County General Plan maps*.
- C. The comprehensive and cumulative analysis shall be presented to the Planning Commission and Board of Supervisors as part of their consideration of each proposed General Plan amendment.

21.91.050 Evaluation Criteria.

The decision to approve a General Plan amendment remains in the discretion of the Board of Supervisors in accordance with state law. If the Board of Supervisors in its discretion chooses to approve an amendment to the General Plan, the amendment must at a minimum satisfy the following criteria in addition to any other relevant considerations:

- A. The amendment is not in conflict with the goals, objectives, and policies of the General Plan that are not proposed for amendment; and
- B. The applicant demonstrates, based on substantial evidence, one or more of the following:
 - 1. There is a demonstrable error or oversight in the adopted General Plan, or
 - 2. There is a clear change of facts or circumstances, or
 - 3. The amendment better carries out the overall goals and policies of the General Plan.

21.91.060 Public Hearing Process.

- A. The Planning Commission and Board of Supervisors may consider General Plan amendments no more than two (2) times each year and only after completion of the early assessment as prescribed by Section 21.91.030. General Plan amendments may be grouped together in a package for the twice-yearly consideration. The public hearing on proposed General Plan amendments at the Planning Commission must begin in either February or August. The public hearing on the proposed General Plan amendments at the Board of Supervisors must begin in either April or October. Once a public hearing has commenced, the Appropriate Authority may continue the hearing from one meeting date to another without restriction until a decision is reached.
- B. Within the limits of Subsection A of Section 21.91.060, the process by which the Planning Commission makes recommendations to the Board of Supervisors for approval or denial of the proposed amendment shall be as governed by state law. The Planning Commission shall consider the evaluation criteria set forth in Section 21.91.050 when making its recommendations.
- C. Within the limits of Subsection A of Section 21.91.060, the process by which the Board of Supervisors approves or denies a proposed amendment shall be as governed by state law. The Board of Supervisors must find that the proposed General Plan amendment meets the evaluation criteria set forth in Section 21.91.050.

21.91.070 Reapplication.

When an application for an amendment is denied by the Board of Supervisors, no new application for an amendment substantially the same as the one denied shall be considered for a period of one (1) year following such denial.

21.91.080 Fees.

The fee for an application to amend the General Plan shall be set by the Board of Supervisors by resolution. The fee shall generally not be refundable, except the resolution may provide for partial refunds in the case where proposed amendments are withdrawn by the applicant as a result of early assessment by the Director of Planning.

SECTION 4. 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 5. EFFECTIVE DATE. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this ____ day of _____, 2014, by the following vote:

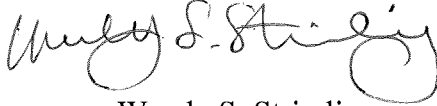
AYES: Supervisors
NOES:
ABSENT:
ABSTAIN:

Louis R. Calcagno, Chair
Monterey County Board of Supervisors

A T T E S T:

GAIL T. BORKOWSKI
Clerk of the Board

By: _____
Deputy

APPROVED AS TO FORM BY:

Wendy S. Strimling
Senior Deputy County Counsel