

..Title

Consider:

- a. Adoption of a resolution finding that the proposed ordinance amending Chapter 15.20 of the Monterey County Code is categorically exempt from environmental review under the California Environmental Quality Act (“CEQA”) pursuant to Sections 15307 and 15308 of the CEQA Guidelines; and
- b. Adoption of the ordinance amending Chapter 15.20 of the Monterey County Code relating to sewage disposal.

..Report

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Adopt a resolution finding that the proposed ordinance amending Chapter 15.20 of the Monterey County Code is categorically exempt from environmental review under the California Environmental Quality Act (“CEQA”) pursuant to Sections 15307 and 15308 of the CEQA Guidelines (Attachment C); and
- b. Adopt the ordinance amending Chapter 15.20 of the Monterey County Code relating to sewage disposal (Attachment A).

SUMMARY:

The County of Monterey, Health Department, Environmental Health Bureau (EHB), has authority to administer, oversee and enforce regulation of onsite wastewater treatment systems (“OWTS”, sometimes referred to as septic systems) throughout the unincorporated County. The proposed ordinance amends Chapter 15.20 of the Monterey County Code to implement the Monterey County Local Agency Management Program for Onsite Wastewater Treatment Systems (“LAMP”). On May 23, 2023, the Board of Supervisors introduced the ordinance, waived reading, and set June 6, 2023 at 1:30 as the date and time to consider adoption of the ordinance.

On June 6, 2023, the Board of Supervisors considered the proposed ordinance and directed revisions to section 15.20.040 relating to requirements for chemical toilets and privies, particularly daily cleaning and pumping requirements. The Board continued the matter to June 13th at 10:30 a.m. and requested that staff return at that time with revisions to proposed section 15.20.040. Staff returns now with revisions to section 15.20.040 of the draft ordinance to clarify the requirements for timing of cleaning and pumping of chemical toilets and privies. The proposed revisions to section 15.20.040 are shown in track changes in Attachment D. Staff recommends that the Board adopt the proposed ordinance as revised (Attachment A) and adopt the resolution finding that the action is categorically exempt from environmental review under CEQA (Attachment C).

DISCUSSION:

On June 19, 2012, the State Water Resource Control Board adopted the Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (“OWTS Policy” or “State Policy”) through Resolution No. 2012-0032. The OWTS Policy sets forth standards in five Tiers. The EHB elected to pursue a LAMP in accordance with Tier 2 of the OWTS Policy, which allows the local agency to propose equivalent standards to Tier 1 that

take into consideration local geology and environmental factors and are as protective of public health and the environment.

The LAMP was adopted by the Board of Supervisors on April 3, 2018 and approved by the Central Coast Regional Water Quality Control Board on May 10, 2018. The LAMP establishes standards for all new, replacement and expansion OWTS and for OWTS demolition within Monterey County, thereby allowing the continued use of OWTS while enhancing protection of water quality and public health. The standards and specifications of the LAMP became effective on May 11, 2018. Staff prepared the proposed ordinance to incorporate the standards and requirements of the LAMP into the County Code and to improve the practical application and clarity of the LAMP's various requirements.

Staff developed the LAMP based on recommendations of the Monterey LAMP Guidance Document (Wallace Group, 2016). Prior to adoption, EHB held numerous public information meetings between 2016 and 2018 with OWTS industry representatives and interested residents of Monterey County. Staff also coordinated closely with staff from the Central Coast Regional Water Quality Control Board to prepare the LAMP.

Staff have implemented the standards and requirements of the LAMP since it became effective on May 11, 2018 in conjunction with the regulations set forth in Chapter 15.20 to the extent consistent with the LAMP. The LAMP specifies that the County amend Chapter 15.20 to make it congruent with LAMP requirements and to improve the practical application and clarity of the LAMP's various requirements. Accordingly, staff has prepared an ordinance to amend Chapter 15.20 ("sewage ordinance amendment" or "SOA") to align Chapter 15.20 with the LAMP. The SOA revises the sewage disposal regulations in current Chapter 15.20 to conform to the LAMP and replaces the existing Chapter 15.20. The SOA also establishes the regulatory framework for two new programs specified by the LAMP: 1) an annual registration program for qualified OWTS professionals who design, install, inspect, maintain, repair, or replace OWTS in unincorporated Monterey County, and 2) an annual operating permit program for onsite wastewater systems that necessitate routine monitoring or maintenance to ensure the system is operating in an acceptable manner and as designed. The SOA also addresses Onsite Treated Nonpotable Water Systems ("OTNWS", commonly referred to as rainwater and gray water systems) to clarify that they must be designed in accordance with standards and specifications of the California Plumbing Code and Title 18 of the Monterey County Code and installed in accordance with the standards of MCC, Chapter 15.20.

The EHB held a virtual public information session on May 9, 2023, to present the SOA to industry stakeholders and members of the public and explain that the ordinance makes the local ordinance congruent with the approved LAMP standards that have been in effect and implemented since 2018 and establishes administrative processes for the two new programs specified by the LAMP.

The ordinance was introduced at the May 23, 2023, Board of Supervisors' meeting and considered at the Board's June 6, 2023 meeting, at which time the Board directed revisions to section 15.20.040. The ordinance before the Board on June 13 includes those revisions to section 15.20.040.

Adoption of the SOA implements Monterey County General Plan Policy PS-4.8, which calls for development of "specific criteria for sewage disposal systems to serve individual uses when new

lots are being created and where connection to a wastewater treatment facility is not feasible.” The SOA is also consistent with General Plan Policy PS-4.10 which states that alternative OWTS “may be considered for repairs to existing systems and new systems on existing lots of record.” The SOA codifies design and operation requirements for alternative OWTS in conformance with the LAMP.

CEQA

Staff recommends that the Board adopt a resolution finding that the SOA is categorically exempt from environmental review under CEQA pursuant to Sections 15307 and 15308 of the CEQA Guidelines because the amendment to Chapter 15.20 consists of regulatory procedures to assure the maintenance, enhancement, and protection of natural resources and the environment. The resolution is attached as Attachment C to this staff report. The SOA protects water quality and public health through the proper design, placement, installation, maintenance, and evaluation of individual onsite wastewater treatment systems. The amendment of Chapter 15.20 involves no unusual circumstances, no reasonable possibility of a significant effect on the environment due to unusual circumstances, and no cumulative impact. The evidence and analysis supporting the categorical exemption are set forth in the proposed resolution.

OTHER AGENCY INVOLVEMENT:

County Counsel has approved the ordinance as to form.

FINANCING:

EHB currently administers an OWTS installation permit program funded by application fees to recover costs associated with direct staff costs to implement the program. Adoption of the SOA will require EHB to institute two new programs related to annual registration for qualified professionals and an annual operating permit for systems that necessitate routine monitoring or maintenance to ensure the system is operating in an acceptable manner and as designed. Fees to capture cost recovery for direct services related to those programs have been incorporated into Health Department fees through Article I.E, as approved by the Board of Supervisors on February 28, 2023, through Resolution 23-057.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

The SOA supports the County of Monterey, Health Department 2018-2022 Strategic Plan Goals 2., to enhance community health and safety through prevention. It also supports the following of the ten essential public health services, specifically, 2., diagnose and investigate health problems and health hazards in the community, 3., inform, educate and empower people about health issues and 5., develop policies and plans that support individual and community health efforts.

The SOA supports the related Board of Supervisors Strategic Initiatives:

Economic Development:

Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

Administration:

Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

Health & Human Services:

Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

Infrastructure:

Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

Public Safety:

Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

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Approved by: Joseph Macaluso, Assistant Director of Health, 809-4790, **on behalf of** Elsa Mendoza Jimenez, Director of Health, 755-4526

Attachments:

Attachment A – Proposed Ordinance amending Monterey County Code, Chapter 15.20

Attachment B – Existing Monterey County Code, Chapter 15.20

Attachment C – Proposed Resolution for Categorical Exemption Finding

Attachment D—Proposed Revision of Section 15.20.040 of Draft Ordinance (shown in track changes)