

# Exhibit 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 DEVELOPMENT EVALUATION SYSTEM REGULATIONS.**

**County Counsel Summary**

*This ordinance implements Policy LU-1.19 of the 2010 Monterey County General Plan by establishing a Development Evaluation System to evaluate proposed development projects 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 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 sections of Title 21 to add a reference to the Development Evaluation System 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 citizens.

B. Community Areas, Rural Centers, and Affordable Housing Overlay districts have been established as top priority areas for development within the unincorporated non-coastal area of Monterey County. To that end, the 2010 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 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.

C. This ordinance implements Policy LU-1.19 by establishing the Development Evaluation System (DES) Program, 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.

D. [reserve for CEQA finding]

E. The ordinance also enables the Board of Supervisors to adopt by resolution an administrative manual, entitled the “County of Monterey Development Evaluation System Procedure Manual,” to explain and implement 2010 General Plan Policy LU-1.19 and regulations enacted by this ordinance.

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.**

A. 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.

B. 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.

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

2. The Deputy Director of RMA-Public Works, or their designee, shall determine if a project would have an equivalent or greater intensity of traffic generation than the establishment of five lots or units.

3. If an applicant disagrees with a determination of applicability of the DES to a 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.

C. Definitions. The following definitions apply to this Chapter:

1. “Affordable Housing Overlay District” means areas designated as Affordable Housing Overlay Districts as specified in 2010 General Plan Policy LU-2.11.a and properties designated as Affordable Housing Overlay District in accordance with 2010 General Plan Policy LU-2.11.b

2. “Agricultural Advisory Committee (AAC)” means the committee 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.
3. “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.
4. “Community Area” means areas designated as Community Areas as specified in 2010 General Plan Policy LU-2.21.
5. “Conservation” means planned management of natural resources to prevent waste, destruction, or neglect.
6. “Infill” means development of unused, vacant, underutilized, or undeveloped land that is substantially surrounded by other urban uses.
7. “Mixed-Use” means a development incorporating a range of diverse uses, such as office, commercial, institutional, and residential, into a single building or complex.
9. “Off-site” means off the lot on which the development is proposed.
10. “On-site” means on the lot on which the development is proposed.
11. “Preservation” means the use of long-term or permanent safeguards to guarantee the viability of natural or man-made resources.
12. “Rural Center” means areas designated as Rural Centers as specified in 2010 General Plan Policy LU-2.27.
13. “Transitional Housing” means a project that has as its purpose facilitating the movement of homeless individuals and families to permanent housing within a reasonable amount of time (usually 24 months). Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental or physical disabilities and homeless families with children.
14. “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.
15. “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.

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

17. “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.

18. “Viable Agricultural Use” means the ability of a farmer or group of farmers to productively farm on a given piece of land or in a specific area, maintain an economically viable farm business, keep the land in agriculture long-term, and steward the land so it will remain productive into the future.

D. Regulations. Projects to which the Development Evaluation System is applicable are subject to all of the following regulations.

1. 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.

a. Preliminary Evaluation. The applicant shall submit a preliminary DES package along with their Development Review Committee (DRC) application. 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.

b. 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” pursuant to the Permit Streamlining Act.

c. 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.

2. 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:

a. Affordable Housing.

- b. Infrastructure.
- c. Resource Management
- d. Site Suitability.
- e. Mix/Balance of Uses.
- f. Traffic and Proximity to Transportation.
- g. Environmental Impacts.

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

4. 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.

5. DES Score Sheet. Points awarded to a project shall be tallied and recorded in the 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 D of this Chapter.

6. Presentation of Scores to the Appropriate Authority. The project's final post-CEQA DES score shall be attached to the hearing staff report for the appropriate authority's consideration. A project's respective scores shall provide an additional information for the County decision maker to evaluate the project at the hearing. Projects receiving a passing score of 70 points or more are considered "passing", but are not automatically approved. Projects receiving a failing 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 hearing authority.

E. The Board of Supervisors shall by resolution adopt, and may from time to time amend, the "County of Monterey 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.

F. Projects Exempt from the DES.

1. A project to which the Development Evaluation System is otherwise applicable may be exempt from this Chapter if the project falls within one of the exceptions set forth herein and meets all of the required exemption criteria.

2. A project requesting consideration for exemption from this Chapter shall be reviewed by and receive a recommendation from the Agricultural Advisory Committee (AAC) to find that the project qualifies for an exemption from this Chapter.

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

a. Subdivisions exclusively for agricultural purposes if they meet the criteria in Subsection F.4 below.

b. Developments of long-term affordable housing exclusively for agricultural employees, if they meet the criteria in Subsection F.5 below.

c. Specific development types within the Agricultural and Winery Corridor Plan (AWCP) area meeting the criteria to Subsection F.6 below.

4. To qualify for the exemption for subdivision exclusively for agricultural purposes, the subdivision must be of the type listed in subsection “a” below, meet the Measurement Criteria for Exemption listed in subsection “b” below, and include the Exemption Assurance Mechanism in subsection “c” below:

a. Subdivisions exclusively for:

i. the separation of existing vineyard/crop land(s) from an existing winery/processing facility;

ii. the separation of different varieties, crops, or orchards exclusively for finance and/or lending purposes; or

iii. the separation of existing lands farmed by owners from lands farmed by lessees.

b. Subdivisions exclusively for agricultural purposes requesting consideration for exemption from this Chapter shall meet all of the following measurement criteria:

i. 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.



ii. 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.

iii. The applicant shall demonstrate that proposed improvements on the subject property are located in areas that will have minimal impact on productive land.

c. Subdivisions exclusively for agricultural purposes requesting consideration for exemption from this Chapter shall incorporate the following exemption assurance mechanism:

i. 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. The recorded document shall clearly explain the project description, agree that any future subdivision of the affected land shall be equal or greater than the minimum lot size for viable agricultural use; agree 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; agree that the property(ies) associated with the project are subject to the Deed Restriction or Conservation Easement for the life of the permit; and agree that removal of any or all restrictions prior to the sunset date shall require an amendment to the discretionary permit.

5. 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 “a” below and include the Exemption Assurance Mechanism in subsection “b” below:

a. The long-term affordable housing exclusively for agricultural employees shall:

i. meet the affordability qualifications set forth in section 21.06.005 of the Monterey County Code;

ii. meeting the definition of agricultural employee housing as defined in section 21.06.014 of the Monterey County Code; and

iii. provide housing for agricultural employees as defined in section 21.06.012 of the Monterey County Code.

b. Long-term affordable housing exclusively for agricultural employees requesting consideration for exemption to from this Chapter shall incorporate the following exemption assurance mechanism below:

i. The applicant shall agree to a condition of approval requiring recordation of a Deed Restriction conveyed over the subject property and/or enter into an affordable housing agreement. The recorded document shall clearly explain the project description; agree 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; agree 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 agree that removal of any or all restrictions prior to the sunset date shall require an amendment to the discretionary permit.

6. To qualify for the exemption for development types within the AWCP area, the development must be of the type listed in subsection “a” below, meet the Measurement Criteria for Exemption listed in subsection “b” below, and include the Exemption Assurance Mechanism in subsection “c” below:

a. The following development types within the AWCP area.

- i. artisan wineries;
- ii. full-scale wineries;
- iii. winery tasting rooms;
- iv. food service facilities such as restaurants and delicatessens; and
- v. inns.

b. Development types within the AWCP area requesting consideration for exemption to from this Chapter shall meet all of the following measurement criteria for exemption below:

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

ii. The applicant shall demonstrate that the development proposed meets the General Regulations, Development Standards, and Design Guidelines established in the AWCP.

c. Development types within the AWCP requesting consideration for exemption to from this Chapter shall incorporate the following exemption assurance mechanism below:

i. The applicant shall agree to a condition of approval requiring recordation of a Deed Restriction conveyed over the subject property. The recorded document shall clearly explain the project description; agree that the property(ies) associated with the project are subject to the Deed Restriction for the life of the permit; and agree that removal of any or all restrictions prior to the sunset date shall require an amendment to the discretionary permit.

SECTION 3. Subsection F of Section 21.10.070 of the Monterey County Code is added 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 of Section 21.12.070 of the Monterey County Code is added 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 of Section 21.14.070 of the Monterey County Code is added 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 of Section 21.16.070 of the Monterey County Code is added 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 of Section 21.18.080 of the Monterey County Code is added 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 of Section 21.20.080 of the Monterey County Code is added 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 of Section 21.22.080 of the Monterey County Code is added 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 of Section 21.24.080 of the Monterey County Code is added 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 of Section 21.26.080 of the Monterey County Code is added 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 of Section 21.28.080 of the Monterey County Code is added 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 of Section 21.30.070 of the Monterey County Code is added 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 of Section 21.32.070 of the Monterey County Code is added 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 of Section 21.34.070 of the Monterey County Code is added 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 of Section 21.36.070 of the Monterey County Code is added 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 of the Monterey County Code is added to read as follows:

21.38.080 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 of Section 21.40.070 of the Monterey County Code is added 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:

\_\_\_\_\_  
, 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:

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

DRAFT