

ORDINANCE NO. 5408

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA RESTATING PORTIONS OF CHAPTER 15.04 OF THE MONTEREY COUNTY CODE AND RESTATING AND AMENDING 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 restates certain sections of Chapter 15.04 of the Monterey County Code and restates and amends Chapter 15.06 to the Monterey County Code to authorize and regulate point-of-use (POU) and point-of-entry (POE) water treatment for active service connections by local small and state small 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. 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. 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 in already active service connections in local small and state small water systems.

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.

F. 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.

G. 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).

H. The purpose of this ordinance is to adopt local County regulations, similar to the 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 existing 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.

I. On June 18, 2019, the Board of Supervisors (“Board”) adopted Ordinance No. 5310 with regard to POE and POU treatment. Ordinance No. 5310 amended sections of Chapter 15.04 of the Monterey County Code and added a new Chapter 15.06 to authorize and regulate POU and POE water treatment by local small, state small, and small public water systems that would otherwise not meet primary drinking water standards. Ordinance No. 5310 also provided 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.

J. On July 26, 2019, litigation was served on the County challenging the validity of Ordinance No. 5310 on a variety of grounds including the California Environmental Quality Act (“CEQA”).

K. On August 27, 2019, the Board adopted Ordinance No. 5316 which suspended the operation of Sections 3 and 6 and a portion of Section 5 of Ordinance No. 5310 until December 11, 2019. The suspended sections pertained to utilization of POU or POE treatment by local small water systems, state small water systems, and individual existing lots of record on private wells (“Suspended Sections”).

L. On December 10, 2019, the Board adopted Ordinance No. 5322 which extended the suspension of the operation of Suspended Sections until further action of the Board.

M. Adoption of this ordinance reinstates and amends the Suspended Sections with new POE and POU regulations that only apply to active service connections located on local small water systems or state small water systems. This ordinance differs from the Suspended Sections because it does not allow the use of POE or POU to result in new development.

N. Pursuant to a settlement agreement from the above mentioned litigation, the County hired a consultant to prepare an initial study to analyze the environmental impacts, if any, from this ordinance. Based on the findings of the Initial Study, the County finds the ordinance qualifies for both Class 1 and Class 3 categorical exemptions pursuant to California Environmental Quality Act (“CEQA”) Guidelines Articles 19 Section 15301 and 15303, and there are no exceptions pursuant to Section 15300.2. Specifically, the Class 1 exemption applies to the operation, permitting, or minor alternation of existing public or private structures. The Class 3 exemption applies to construction of new, small facilities or structures. This ordinance qualifies for Class 1 and Class 3 because it establishes regulations for the installation of point of use and/or point of entry water treatment devices for impacted water systems in only existing residential dwelling or commercial units. The devices are small, similar to a household water softener system, and will most likely be installed under a kitchen sink, within existing garages, or other areas adjacent to buildings substantially visible to the public, with the system hooked up to the existing plumbing system. No grading or ground disturbance is required. There are no exceptions pursuant to Section 15300.2, because the POU and POE systems would not impact an environmental resource; successive installation of POU or POE systems would not contribute to a significant cumulative impact; there are no unusual circumstances regarding this project that would cause a significant impact to the environment; and the installation of POU or POE systems would not result in damages to scenic resources, would not be located on or near any hazardous waste sites, and would not cause a substantial adverse change in the significance of a historical resource.

SECTION 2. Subsection (c) of Section 15.04.070 of the Monterey County Code is reinstated 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 3. Subsection (c) of Section 15.04.146 of the Monterey County Code is reinstated to read as follows:

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.

SECTION 4. Chapter 15.06 of the Monterey County Code is reinstated and amended 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 Treatment Device Technical Requirements for Water Systems.

15.06.070 – POU and POE Treatment Strategy for Water Systems.

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

15.06.090 – POU and POE Monitoring Program for Water Systems.

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

15.06.110 – POU and POE Water System Compliance.

15.06.120 – 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. 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”.

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 21.06.372, as may be amended from time to time.

B. “Active service connection” means a service connection, as defined in Subsection (S) of this Section, that serves an already existing habitable structure.

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

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

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

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

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

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

I. “Dwelling unit” has the same meaning as set forth in Monterey County Code section 21.06.370, as may be amended from time to time.

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

K. “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.

L. “Laboratory” for the purposes of this Chapter means a laboratory that is accredited by the California Environmental Laboratory Accreditation Program.

M. “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.

N. “Maximum contaminant level” or “MCL” means the maximum permissible level of a contaminant in water.

O. “Person” includes an individual, firm, association, partnership, corporation, and public entity.

P. “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.

Q. “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.

R. “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.

S. “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.

T. “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 that do not meet primary water quality standards in the unincorporated area of the County of Monterey. This Chapter only applies to active service connections.

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% 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 15.06.110 of this Chapter.

B. 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.

C. POU treatment or POE treatment is not authorized as the means to establish proof of water quality 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 15.06.060.
4. Submit a POU or POE treatment strategy pursuant to Monterey County Code Section 15.06.070 for the Director's review and approval.
5. Submit a POU or POE operations and maintenance program pursuant to Monterey County Code Section 15.06.080 for the Director's review and approval.
6. Submit a POU or POE monitoring program pursuant to Monterey County Code Section 15.06.090 for the Director's review and approval.
7. Provide evidence that 100% 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;

4. The water system has demonstrated that 100% of the service connections will participate in the approved POU or POE treatment; and

5. The water system is in compliance with annual operating fee requirements as stated in Monterey County Code Section 15.04.150.

C. The Director may issue the permit amendment to the water system per Subsection B of this Section if all requirements except Subsection B(4) are met, but the water system would not be deemed a fully compliant system.

D. The permit amendment for a POU or POE treatment device shall be valid for one (1) 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 15.06.100; and

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.

E. 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.

4. The water system has demonstrated that 100% 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 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, waste disposal, 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. For a mutual water company or shared well, if agreed upon by each property owner, the water system may delegate authority for installation, operation, maintenance, and sampling to each property owner.

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.

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 (8) 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.

15.06.070 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. For a mutual water company or shared well, if agreed upon by each property owner, the water system may designate each property owner as the person responsible for their own POU or POE treatment device's 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. For a mutual water company or shared well, if agreed upon by each property owner, the water system may designate each property owner as the person responsible for their own POU or POE treatment device's installation, operation, maintenance, and water quality sampling and analyses.
- 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 15.06.070; 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).

15.06.080 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 twelve (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.

15.06.090 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(1). 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.

15.06.100 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.

15.06.110 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% of the service connections, including all dwelling units on the property, have installed a POU or POE treatment device in accordance with this Chapter;

B. The water system follows the requirements in Section 15.06.090(E) if an individual POU or POE treatment device effluent fails to meet primary water quality standards;

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.

15.06.120 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 5. 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 6. EFFECTIVE DATE. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this 28th day of November 2023 by the following vote:

AYES Supervisors Alejo, Church Lopez, and Root Askew

NOES None

ABSENT Supervisor Adams

ASTAIN None

Motion Passed 4 to 0



Chair, Luis A. Alejo
Monterey County Board of Supervisors

A T T E S T:

VALERIE RALPH
Clerk of the Board

By: Emmanuel H. Santos
Deputy Emmanuel H. Santos

APPROVED AS TO FORM: DocuSigned by: <u>Kelly L. Donlon</u> 22D030CA05A940B... Kelly L. Donlon Assistant County Counsel
