ORDINANCE NO._____

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

County Counsel Summary

This ordinance amends Chapter 15.06 of the Monterey County Code to authorize and regulate point-of-use (POU) and point-of-entry (POE) water treatment for new construction on a vacant existing lot of record that will be served by either a domestic water system or a private well that would otherwise not meet primary drinking water standards. The amendment requires both that the County's Environmental Health Bureau (EHB) approve the POU or POE device to be installed and that the applicant provide EHB with water test results following installation that verify the device's effectiveness. The amendment also requires that the property owner record a deed restriction regarding the installation of the POU or POE. Finally, this ordinance allows a POU or POE device to be used to meet water quality requirements for construction of an accessory dwelling unit that will be served by water system or a private well, provided that all dwelling units on the property also install a POU or POE device. This ordinance applies in the unincorporated area of Monterey County.

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 provide a new treatment option to ensure that the water delivered to new homes supplied by domestic water systems or private wells can comply with applicable drinking water standards with the objective of providing pure, wholesome, and potable water at all times.

C. 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.

D. The installation of point-of-use (POU) or point-of-entry (POE) water treatment devices is a viable affordable option for property owners that want to construct new homes in these impacted water systems while allowing water systems sufficient time to pursue a long-term solution for provision of safe potable water, including but not limited to centralized water treatment, a new private well, or consolidation with a compliant water system.

E. On June 18, 2019, the Board of Supervisors (the Board) adopted Ordinance No. 5310, which addressed 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.

F. 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 to satisfy water quality standards necessary to obtain a construction permit for development.

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

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

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

J. On November 28, 2023, the Board adopted Ordinance No. 5408, which allowed local and state small water systems to install POU or POE treatment on active service connections to comply with water quality standards.

K. The Board desires to adopt this ordinance to reinstate and amend the Suspended Sections of Ordinance No. 5310 regarding approval of new construction using POU or POE to meet primary drinking water standards on existing lots of record served by either a domestic water system or private well.

L. Pursuant to a settlement agreement stemming from the CEQA 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 and applicable CEQA Guidelines (Title 14, Division 6, Chapter 3 of the California Code of Regulations), the County finds that an Addendum to the 2010 Monterey County General Plan Environmental Impact Report ("2010 General Plan EIR") is appropriate. CEQA Guidelines section 15164 requires the County, the lead agency, to "prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in [Guidelines] Section 15162 calling for preparation of a subsequent EIR have occurred." Those conditions include: 1) substantial changes as to the project or the circumstances under which the project is undertaken that would require "major revisions of the previous EIR" due to either new significant environmental effects or a substantial increase in the severity of previously-identified significant effects; and 2) the discovery of "new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the

previous EIR was certified as complete" showing new significant effects not analyzed by the previous EIR, increased severity of significant effects previously analyzed, or previously infeasible or new, considerably different mitigation measures or alternatives that would substantially reduce one or more significant project effects on the environment that the lead agency declines to adopt. None of these conditions exists. Consequently, and because the 2010 General Plan EIR included sufficient buildout assumptions to account for this project's effects, the CEQA Guidelines require the County to proceed by Addendum.

M. CEQA Guidelines section 15164(c) provides that an addendum "need not be circulated for public review." Nevertheless, the County publicly circulated the Addendum for public comment and response prior to bringing the Addendum to the Board of Supervisors for adoption together with this ordinance. No public comments were received.

SECTION 2. Section 15.06.010 of the Monterey County Code is hereby amended to read as follows:

15.06.010 Findings and purpose.

A. The County of Monterey regulates local small water systems consisting of two to four service connections, and state small water systems consisting of five 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 private 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 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 to satisfy water quality requirements for permit issuance, provided applicants meet the standards of this Chapter.

K. The County recognizes that the County has a housing shortage. Allowing a POU or POE water treatment system may help facilitate new construction on existing lots of record upon which water quality would not otherwise meet drinking water standards.

~~J~~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. The occupants of ADUs, which may include tenants who do not control the water supply, have a human right to safe drinking water. Consequently, this chapter requires new ADUs and existing main dwellings to either satisfy primary drinking water standards or to install a POU or POE treatment system meeting established criteria prior to approval for occupancy.

SECTION 3. 15.06.020 of the Monterey County Code is hereby amended to read as follows:

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 "Private well" means a source that both serves a single lot of record and does not meet the definition of a domestic water system. Private wells also include other sources such as a spring or creek.

~~S~~T. "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~~U. "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.

SECTION 4. Section 15.06.030 of the Monterey County Code is hereby amended to read as follows:

15.06.030 Applicability.

This Chapter applies to new and 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 well 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~~.

SECTION 5. Section 15.06.040 of the Monterey County Code is hereby amended to read as follows:

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. An applicant seeking a construction permit for a new dwelling unit on a legal lot of record that will be served by either an impacted water system that is unable to meet the requirements of a compliant water system or a private well that does not meet primary water quality standards may choose to install an effective POU or POE treatment device per Section 15.06.055.

C. An applicant seeking a construction permit for an additional new or converted dwelling unit such as an accessory dwelling unit, that is served by either an impacted water system or a private well that does not meet primary water quality standards may choose to install an effective POU or POE treatment per Section 15.06.055.

~~B~~D. For local small water systems, ~~and~~ state small water systems, and individuals served by an impacted water system or private wells, POU treatment is not allowed for treatment of microbial contaminants, volatile organic chemicals, organic chemicals that pose an inhalation risk, or radon.

~~C~~E. 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.

SECTION 6. Section 15.06.055 of the Monterey County Code is hereby added to read as follows:

15.06.055 POU and POE Requirements for New Dwelling Units.

A. An applicant seeking a construction permit for a new dwelling unit on a vacant lot or an additional new or converted dwelling unit, such as an accessory dwelling unit, that will be served by either an existing impacted water system or private well that does not meet primary water quality standards may install a POU or POE treatment to satisfy water quality requirements if all of the following are met:

1. 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 shall be installed on each new and existing dwelling unit on the property.

2. The POU or POE treatment device shall either be selected from the California State Water Resources Control Board list of approved devices for the specific contaminant impacting the water source or shall be independently certified in accordance with the applicable American National Standard Institute standards for the respective POU or POE device type used.

3. The applicant shall provide the Director with copies of the subject property's legal description and most current grant deed. The Director shall prepare a deed restriction form to be signed and recorded by the property owner. The deed restriction is intended to notify current and future owners of the property that i) a POU or POE water treatment system has been installed on the property; ii) the water treatment system is necessary to meet primary water quality standards; and iii) the property owner is responsible for both operating and maintaining the water treatment 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 POU or POE treatment system produces water that meets primary water quality standards.

5. Prior to County final issuance of a certificate of occupancy, the applicant shall provide documentation to the Department demonstrating that the deed restriction has been signed by all applicable parties and recorded in the Office of the Recorder of the County of Monterey.

B. If a new dwelling unit would be served by a private well that does not meet primary water quality standards and will require creation of a new local or state small water system, the water system will be required to comply with Section 15.06.110 in order to be an approved source for the construction permit for a new dwelling unit.

C. Prior to the County's final issuance of a certificate of occupancy for a new dwelling unit that will be served by an existing water system for which the County has approved the use of either POU or POE treatment, an applicant shall install a treatment device that conforms with the water system's already approved POU/POE treatment strategy.

SECTION 8. **SEVERABILITY**. If any subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, which shall remain in full force and effect. The Board of Supervisors hereby declares that it would have adopted this Ordinance, and each subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional, without regard to whether any portion of the article would be subsequently declared invalid or unconstitutional. The courts are hereby authorized to reform the provisions of this Section to preserve the maximum permissible effect of each subsection herein.

SECTION 9. **EFFECTIVE DATE**. This ordinance shall take effect on the thirtieth day following its adoption.

PASSED AND ADOPTED on this ___ day of _____, 2026, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

_____
Wendy Root-Askew, 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:

Kelly L. Donlon
Chief Assistant County Counsel