ORDINANCE NO. _____

AN INTERIM ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, TEMPORARILY ESTABLISHING A MORATORIUM ON THE SITING, CONSTRUCTION, CONVERSION, AND/OR OPERATION OF NEW OR EXPANDED DETENTION FACILITIES AND CORRECTIONAL FACILITIES WITHIN THE UNINCORPORATED AREA OF MONTEREY COUNTY

County Counsel Summary

This interim ordinance is an urgency measure pursuant to Government Code section 65858 to prohibit, on a temporary basis, the siting, construction, conversion, and/or operation of new or expanded detention facilities and/or correctional facilities within the unincorporated area of Monterey County, to the full extent authorized under federal and state law. This ordinance is an interim urgency ordinance that requires a four-fifths vote of the Board of Supervisors for adoption. The ordinance would take effect immediately and would expire 45 days after its adoption unless extended by subsequent action of the Board of Supervisors.

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. Pursuant to Government Code section 65858, to protect the public safety, health, and welfare, the County may as an urgency measure adopt an interim ordinance prohibiting land uses that may be in conflict with contemplated land use regulations that the County is studying or considering or intends to study within a reasonable time.

C. With the federal government's recent expansion of immigration enforcement activities, there have been concurrent efforts throughout the country and in this region, including, recently, in the nearby counties of Alameda County and Santa Clara County, to construct new detention facilities or to convert existing facilities into detention facilities, including privately operated detention facilities.

D. Detention facilities and other similar institutional land uses, such as correctional facilities, regardless of the owner or operator, must be sited, designed, and operated in a manner that provides for human habitation, and must therefore provide for things such as adequate and appropriate water supply, sewer facilities, storm drainage, energy, fire protection, transportation networks, emergency medical response, ventilation, etc.

E. Local government agencies in California face significant existing constraints related to drought resilience, groundwater sustainability, electrical grid reliability, wastewater capacity, climate adaptation, emergency preparedness, environmental health, accessibility compliance, and housing shortages.

F. The siting, construction, conversion, and/or operation of new or expanded detention facilities, and other similar institutional land uses, have the potential to cause significant environmental impacts, strains on local infrastructure, zoning and land use conflicts, and other negative impacts on public health, safety, and wellbeing.

G. Significant concerns have been raised regarding the land use and other community impacts that the siting, construction, conversion, and/or operation of new or expanded detention and correctional facilities may have on public health, safety, and welfare in Monterey County, including the protection of environmental resources and community quality.

H. The County's zoning regulations do not currently include adequate provisions to ensure that the siting, construction, conversion, and/or operation of detention facilities, or other similar institutional land uses are sufficiently regulated to avoid harm to the public and such facilities could pose a current and immediate threat to the public health, safety, and welfare of Monterey County residents.

I. The County has a compelling interest in protecting the public health, safety, and welfare of its residents and businesses, preserving the peace and integrity of communities within the unincorporated area, ensuring that any habitable structures within the unincorporated area provide safe living conditions, and ensuring that new or expanded land uses within the unincorporated area are to be served by adequate infrastructure, comply with applicable local, state, and federal laws, including environmental review laws, and mitigate, to the extent feasible, adverse community impacts.

J. With respect to the siting, construction, conversion, and/or operation of new or expanded detention and correctional facilities, this Board finds that a temporary, local moratorium is necessary to protect the health, safety and welfare, specifically the County's and the public's interests in the County's aesthetic, economic, health, safety, and community character, until additional staff review of regulatory options has been completed and any necessary local regulations or code revisions have been adopted and made effective.

K. There is an immediate need to prevent the unregulated siting, construction, conversion, and/or operation of new or expanded detention and correctional facilities in the unincorporated Monterey County, which have the potential to negatively affect public health, safety, and wellbeing, as well as the character and aesthetic of the community.

L. A local moratorium on the construction, conversion, and/or operation of new or expanded detention or correctional facilities is required to allow an opportunity for the County to consider the various policy implications of, and to develop a comprehensive approach to, regulating and mitigating the land use and other community impacts of such facilities in the unincorporated area of Monterey County.

M. An interim ordinance setting forth a local moratorium is necessary in that there is a current and immediate threat to the public health, safety, and welfare from unregulated siting of detention and correctional facilities.

N. Government Code section 65858 authorizes this Board to adopt as an urgency measure an interim ordinance effective immediately upon a four-fifths vote of this Board, to

protect the public health, safety, and welfare, which interim ordinance is effective for a period of forty-five (45) days, unless extended pursuant to Government Code Section 65858.

O. Pursuant to Government Code section 65858(b), the County published notice of the public hearing for the Board to consider this interim ordinance in the Monterey County Weekly on September 17, 2026.

P. Such an interim ordinance adopted by this Board does not require review under the California Environmental Quality Act (Pub. Resources Code §§ 21000 *et seq*. ("CEQA")) based on the following:

(1) Under CEQA Guidelines Section 15060(c)(2), the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and under CEQA Guidelines Section 15060(c)(3), the activity is not a project as defined in Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly.

(2) Even assuming the adoption of the interim ordinance were a project, it is categorically exempt from CEQA pursuant to Section 15308 of the CEQA Guidelines as a regulatory action taken by the County pursuant to its police power and in accordance with Government Code Section 65858 to assure maintenance and protection of the environment pending the evaluation and adoption of contemplated local legislation, regulation, and policies.

SECTION 2. MORATORIUM IMPOSED

In accordance with Government Code Section 65858, from and after the date of this interim ordinance, a temporary moratorium is hereby established and imposed as of September 29, 2026 as follows:

(1) The siting, construction, conversion, and/or operation of any new or expanded detention facility or correctional facility, is prohibited in every zoning district in the unincorporated Monterey County.

(2) This temporary moratorium prohibits the filing, acceptance, processing, or approval of any permit application to site, construct, convert, and/or operate any public or private detention facility or correctional facility in the unincorporated Monterey County.

(3) This moratorium shall not apply to renovation, modernization, capacity modification, routine maintenance, repair, or life-safety code compliance work at an existing, lawfully operating detention facility or correctional facility.

This moratorium will last for a period of forty-five (45) days from the adoption of this interim ordinance to allow the County an opportunity to consider options and legal authority to enact land use controls regulating detention facilities and correctional facilities in a manner consistent with federal and state law.

SECTION 3. DEFINITIONS

For purposes of this interim ordinance, the following terms have the definitions set forth below:

1. The term "detention facility" shall mean a facility in which persons are held and housed involuntarily while in custody under process of law, pending the outcome of legal proceedings, but not for the purposes of punishment, correction, or rehabilitation following conviction of a criminal offense.

2. The term "correctional facility" shall mean a facility in which persons are held and housed involuntarily primarily for the purposes of punishment, correction, or rehabilitation following conviction of a criminal offense.

SECTION 4. AUTHORITY; URGENCY STATEMENT

This Board hereby finds that there is a current and immediate threat to the public health, safety and welfare that warrants the establishment of a temporary moratorium on the siting, construction, conversion, and/or operation of new or expanded detention and correctional facilities as described in this interim ordinance. This finding is based upon all of the facts recited in this interim ordinance, in the accompanying memorandum to the Board, and all matters and information presented to this Board at its meeting on September 29, 2026.

SECTION 5. ENFORCEMENT

Any violation of this interim ordinance is unlawful and a public nuisance. In the event of a violation of this interim ordinance, the County may, in its discretion, in addition to all other remedies, take such enforcement action, including seeking injunctive relief, as is authorized under the Monterey County Code and such other enforcement action as is authorized by law.

SECTION 6. SEVERABILITY

If any section, subsection, subdivision, paragraph, sentence, clause, phrase, or word of this interim ordinance is for any reason held to be invalid or unenforceable by the decision of a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses, phrases, or words of this interim ordinance.

SECTION 7. EFFECTIVE DATE

In light of the recitals in this interim ordinance, the Board declares that this interim ordinance is necessary as an urgency measure for preserving the public health, safety, and welfare. This interim ordinance shall take effect immediately upon adoption for the reasons set forth herein and shall expire 45 days thereafter unless extended pursuant to law. Nothing in this interim ordinance precludes the Board from taking further action to extend the term of this temporary moratorium in accordance with the provisions of Government Code Section 65858.

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

AYES:
NOES:
ABSTAIN:
ABSENT:

_____
Wendy Root Askew, Chair
Monterey County Board of Supervisors

ATTEST:
VALERIE RALPH
Clerk of the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM

Kelly L. Donlon
Chief Assistant County Counsel