

ORDINANCE NO. _____

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA
AMENDING CHAPTER 15.04 OF THE MONTEREY COUNTY CODE AND ADDING
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 amends sections of Chapter 15.04 and adds a new Chapter 15.06 to the Monterey County Code to regulate point-of-use and point-of-entry water treatment systems. This ordinance establishes point-of-use and point-of-treatment water treatment options for domestic water systems with two to fourteen water connections. This ordinance requires the water system to obtain a permit amendment under Monterey County Code Section 15.04.070, which is issued by the Monterey County Environmental Health Bureau, to allow a point-of-use or point-of-entry treatment device for incremental three year periods until funding for centralized water treatment or consolidation is available. The ordinance also sets standards for treatment, operations and maintenance, system monitoring, recordkeeping and compliance. Compliance with these standards is enforced through inspection by the Environmental Health Bureau and the enforcement provisions of the Monterey County Code.

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 public water systems of Monterey County shall be pure, wholesome, and potable at all times. The provisions of this ordinance provide the means to accomplish this objective.

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. The Monterey County Code requires these water systems to install a centralized treatment facility 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 state and local 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 interim option for these impacted water systems to allow them time to pursue funding for centralized treatment.

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. On February 6, 2018, 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 Sections 64417, *et seq.* of Title 22 of the California Code of Regulations. On February 6, 2018, the State Water Resources Control Board also directed the Executive Director to submit the adopted regulation to the Office of Administrative Law for filing with the Secretary of State so the regulations can become effective, and on August 23, 2018, the State Water Resources Control Board submitted the regulations to the Office of Administrative Law.

F. By establishing regulations for POE and POU that are based on AB 434, the County can provide local domestic small water systems an interim alternative to centralized treatment systems that would provide safe potable water and allow water systems additional time to seek opportunities for funding resources.

G. Adoption of this ordinance is categorically exempt from environmental review pursuant to Sections 15301, 15307, and 15330 of the California Environmental Quality Act (“CEQA”) Guidelines. Consistent with Section 15301 of the CEQA Guidelines, a permitting process for POU and POE treatment systems will result in minor alterations to existing facilities involving negligible or no expansion of use beyond that which is presently existing. Additionally, the ordinance is categorically exempt under Section 15308 because it is an action taken by the County to assure the enhancement and protection of the environment and involves procedures for protection of the environment and public health by authorizing and regulating point-of-entry and point-of-use treatment of drinking water to meet drinking water standards. Lastly, the ordinance is categorically exempt under Section 15330 because it creates a permitting process for the interim use of POU and POE water treatment systems to treat impacted water systems while they pursue funding for centralized treatment.

SECTION 2. Section 15.04.020 of the Monterey County Code is amended to read as follows:

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

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

- c. "Consumer" means a customer or person served by the water system.
- d. "Department" means the Monterey County Health Department.
- e. "Director" means the Director or authorized representative of the Monterey County Health Department, designated to carry out the drinking water program.
- f. "Domestic water system" means any water system including a local small water system, State small water system, or small public water system.
- g. "Guesthouse" means an attached or detached living quarters of a permanent type of construction lacking internal circulation with the main dwelling, without kitchen or cooking facilities, clearly subordinate and incidental to the main structure, on the same lot, and not to be rented, let, or leased, whether compensation is provided or not.
- h. "Human consumption" means the use of water for drinking, bathing or showering, hand washing, food preparation, cooking, or oral hygiene.
- i. "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.
- j. "Maximum contaminant level" means the maximum permissible level of a contaminant in water.
- k. "Person" includes an individual, firm, association, partnership, corporation, and public entity.
- l. "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.
- m. "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.
- n. "Service connection" means a connection to any habitable structure, any commercial structure with a bathroom or breakroom that serves employees or the public, or parcel which uses potable water from a water system for domestic use and not exclusively for agricultural purposes. "Service connection" does not include a connection to a guesthouse.

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.

o. "Small public water system" means a system for the provision of piped water to the public for human consumption that has fifteen (15) but not more than one hundred ninety-nine (199) service connections or regularly serves at least twenty-five (25) individuals at least sixty (60) days out of the year. A small public water system includes "community water system" and "noncommunity water system" as defined in Section 116275(i) and (j) respectively, of the California Health and Safety Code, and "nontransient-noncommunity water system" as defined in Section 116275(k) of the California Health and Safety Code, and a "transient-noncommunity water system" as defined in California Health and Safety Code Section 116275(o), as these sections may be amended from time to time.

p. "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.

q. "Source" means a well, spring, lake, stream, or hookup with an approved public water supply. It excludes water from a water storage tank or facility.

r. "User" means any person using water for human consumption or domestic purposes.

5. "User connection" means the point of connection between the user's or consumer's piping or ditch, and the water system's meter, service pipe, or ditch.

SECTION 3. Subsection (c) of Section 15.04.100 of the Monterey County Code is amended to read as follows:

c. If any routine sample is total coliform-positive, the water supplier shall collect a repeat sample from the same location within forty-eight (48) hours of being notified of the positive result. If the repeat sample is also total coliform-positive, the sample shall also be analyzed for the presence of fecal coliform or *Escherichia coli* (*E. coli*). If the repeat sample is total coliform-positive, the water supplier shall notify the Director within forty-eight (48) hours of being notified of the result and shall take corrective actions to eliminate the cause of the positive samples. The water supplier shall notify the users as directed by the Director.

SECTION 4. Subsection (c) is added to Section 15.04.070 of the Monterey County Code to read as follows:

c. A permit amendment to allow a POU or POE treatment device in conformance with Chapter 15.06 of the Monterey County Code shall be limited to not more than three (3) years or until funding for centralized treatment or consolidation is available, whichever occurs first. After three (3) years, the Director may approve subsequent permit amendments for additional three (3) year increments if the water system meets the requirements of Chapter 15.06.

SECTION 5. Subsection (b) of Section 15.04.105 of the Monterey County Code is amended to read as follows:

b. Each water source which has been designated as vulnerable by the Director shall be sampled by the water supplier at least once prior to any treatment and analyzed for volatile or synthetic organic chemicals listed in Chapter 15, Division 4 of Title 22 of the California Code of Regulations, as may be amended from time to time. The sample shall be analyzed by a laboratory certified by the California State Water Resources Control Board using approved EPA Methods. A copy of the results of the analysis shall be distributed by the water supplier to each user of the water system within thirty (30) days of receiving the results, and a copy of the distribution notice shall be provided to the Director.

SECTION 6. Section 15.04.110 of the Monterey County Code is amended to read as follows:

a. The water supplier shall comply with any corrective actions, including notification to users, ordered by the Director for any primary or secondary chemical contaminant which exceeds the maximum contaminant levels established in Chapter 15, Division 4 of Title 22 of the California Code of Regulations, as may be amended from time to time, incorporated herein by this reference.

b. Water exceeding the maximum contaminant levels established in Chapter 15, Division of Title 22 of the California Code of Regulations, as may be amended from time to time,

and incorporated herein by this reference, shall not be supplied to users of the water system for human consumption or domestic purposes.

c. For local small and State small water systems, surface water sources and water exposed to potential bacteriological contamination sources, shall be treated by disinfection and the turbidity level of the treated water shall not exceed 0.5 turbidity units for an acceptable level of public health protection. If the turbidity level exceeds 0.5 turbidity units, filtration shall be incorporated into the treatment system.

d. Deviations exceeding any of the maximum contaminant levels for secondary (aesthetics) chemicals may be allowed, in the discretion of the Director, if adequate chemical treatment is provided, or if the quality of water from the water system is not objectionable to an appreciable number of users.

SECTION 7. Subsection (b) of Section 15.04.140 of the Monterey County Code is amended to read as follows:

b. Water sources shall demonstrate reliability and capability of a long term sustained yield in accordance with the requirements of Chapter 16, Division 4 of Title 22 of the California Code of Regulations. In addition, water sources for local small water systems shall supply sufficient water quantity in accordance with the minimum capacity expressed in gallons per minute set forth in the following table:

Number of Service Connections	<u>For Wells</u> Number of Gallons Per Minute	<u>For Springs</u> Number of Gallons Per Minute
2	*6	*3
3	9	4.5
4	12	6

* When the second service connection is on the first parcel under one ownership, the quantity of water required will be at the Director's discretion.

SECTION 8. Section 15.04.146 of the Monterey County Code is amended to read as follows:

a. All local or State small water systems using surface water, or groundwater under direct surface water influence, shall provide continuous disinfection treatment of the water prior to entry to the distribution system.

b. All water systems which fail primary or secondary standards as set forth in Chapter 15, Division 4 of Title 22 of the California Code of Regulations, as may be amended from time to time, and incorporated herein by this reference, may choose to treat the supply at the source with centralized treatment.

c. A water system that installs centralized treatment is subject to the following:

1. Before any water system proposes to treat its water supply, the water supplier shall first conduct a reliability and feasibility study of alternative methods used to supply domestic water and submit the findings of the study as part of an amended permit application. The water supplier shall apply for and obtain an amended permit in accordance with Section 15.04.070 prior to construction and operation of any centralized treatment facility.

2. Centralized treatment facilities proposed to treat domestic water supply shall be a technology certified by the California State Water Resources Control Board and capable of generating sufficient treated water to meet maximum daily demand for domestic use.

3. Installation of a centralized treatment facility shall be under direct supervision of a professional civil engineer with experience in water treatment systems, or a qualified person approved by the Director, and shall meet all of the following minimum requirements:

- i. Installed at the source point or entry point prior to storage distribution system.
- ii. Equipped with waste disposal system that will properly contain and dispose generated waste in a manner approved by the Director.
- iii. Equipped with sample ports for raw and treated water monitoring purposes.
- iv. Free of structural and sanitary hazards.

d. Operation and maintenance of a centralized treatment facility shall be conducted by an appropriate grade water treatment operator certified by the State Water Resources Control Board – Division of Drinking Water and shall follow a developed operation plan approved by the Director. The operation plan shall specify the minimum schedule for inspection, maintenance, and monitoring; operator's responsibilities; emergency response plan, and other pertinent information as deemed appropriate.

e. In lieu of a centralized treatment facility, a small public water system may elect to install a POU or POE treatment device at each connection in conformance with the regulations specified in California Health and Safety Code section 116380, as may be amended, or as otherwise approved by the Director.

f. In lieu of a centralized treatment facility, a local or State small water system may elect to install a POU or POE treatment device at each connection in conformance with regulations specified in Chapter 15.06 of the Monterey County Code, as may be amended from time to time, or as otherwise approved by the Director.

SECTION 9. Chapter 15.06 is added to the Monterey County Code to read as follows:

Chapter 15.06
POINT-OF-USE AND POINT-OF-ENTRY TREATMENT SYSTEMS

Sections:

- 15.06.010 – Findings and purpose**
- 15.06.020 – Definitions**
- 15.06.030 – Applicability**
- 15.06.040 – POU and POE Treatment Device Requirements**
- 15.06.050 – Immediate Economic Feasibility of Centralized Treatment**
- 15.06.060 – Immediate Economic Feasibility of Consolidation**
- 15.06.070 – POU and POE Treatment Device Technical Requirements**
- 15.06.080 – POU and POE Treatment Strategy**
- 15.06.090 – POU and POE Operations and Maintenance (O&M) Program**
- 15.06.100 – POU and POE Monitoring Program**
- 15.06.110 – Customer Survey/Ballot and Acceptance**
- 15.06.120 – Recordkeeping, Reporting, and Compliance**

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. Monterey County Code Section 15.04.146 requires these water systems to install a centralized treatment facility at the source point or entry point prior to the storage distribution system.

B. Centralized treatment systems treating contaminants of concern are expensive, and there is a lack of state funding for state and local small water systems and limited state funding for privately owned public water systems.

C. The installation of point-of-use (“POU”) or point-of-entry (“POE”) water treatment devices is a viable interim option for these impacted water systems to allow them time to pursue funding for centralized treatment.

D. POE treatment ensures that all water entering a structure provides the highest level of protection to public health from ingestion and exposure to contaminants.

E. 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.

F. 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.

G. AB 434 mandated the State Water Resources Control Board to adopt emergency regulations governing the permitted use of POE and POU treatment by public water systems in lieu of centralized treatment. AB 434 stipulated that these emergency regulations would remain in effect until January 1, 2018 or until such time as the State Water Board adopts permanent regulations, whichever was sooner.

H. On February 6, 2018, 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 Sections 64417, *et seq.* of Title 22 of the California Code of Regulations. On February 6, 2018, the State Water Resources Control Board also directed the Executive Director to submit the adopted regulation to the Office of Administrative Law for filing with the Secretary of State so the regulations can become effective, and on August 23, 2018, the State Water Resources Control Board submitted the regulations to the Office of Administrative Law.

I. By establishing regulations for POE and POU that are based on AB 434, the County can provide local domestic small water systems an interim alternative to centralized treatment systems that would provide safe potable water and allow water systems additional time to seek opportunities for funding resources.

J. Under Sections 116330 and 116340 of the California Health and Safety Code, the Health Officer of Monterey County has authority to regulate and carry out the local drinking water program.

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

b. "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

c. "Consumer" means a customer or person served by the water system.

d. "Department" means the Monterey County Health Department.

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

f. "Guesthouse" means an attached or detached living quarters of a permanent type of construction lacking internal circulation with the main dwelling, without kitchen or cooking

facilities, clearly subordinate and incidental to the main structure, on the same lot, and not to be rented, let, or leased, whether compensation is provided or not.

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

h. “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.

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

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

k. “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.

l. “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.

m. “Public water system” means a system for the provision of piped water to the public for human consumption or other constructed conveyances that has fifteen (15) or more service connections or regularly serves at least twenty-five (25) individuals at least sixty (60) days out of the year. A public water system includes all the following:

1. Any collection, treatment, storage, and distribution facilities under control of the operator of the system that are used primarily in connection with the system.

2. Any collection or pretreatment storage facilities not under the control of the operator that are used primarily in connection with the system.

3. Any water system that treats water on behalf of one or more public water systems for the purpose of rendering it safe for human consumption.

n. “Service connection” means a connection to any habitable structure, any commercial structure with a bathroom or breakroom that serves employees or the public, or

parcel which uses potable water from a water system for domestic use and not exclusively for agricultural purposes. "Service connection" does not include a connection to a guesthouse.

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.

o. "Small public water system" means a system for the provision of piped water to the public for human consumption that has fifteen (15) but not more than one hundred ninety-nine (199) service connections or regularly serves at least twenty-five (25) individuals at least sixty (60) days out of the year. A small public water system includes "community water system" and "noncommunity water system" as defined in Section 116275 (I) and (j) respectively, of the California Health and Safety Code, and "nontransient-noncommunity water system" as defined in Section 116275(k) of the California Health and Safety Code, and a "transient-noncommunity water system" as defined in California Health and Safety Code Section 116275(o), as these sections may be amended from time to time.

p. "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.

q. "Source" means a well, spring, lake, stream, or hookup with an approved public water supply. It excludes water from a water storage tank or facility.

15.06.030 Applicability.

This Chapter applies in the unincorporated area of the County of Monterey.

15.06.040 POU and POE Treatment Device Requirements.

A. For small public water systems, local small water systems, and state small water systems, a POU Treatment Device is not permitted for treatment of microbial contaminants, volatile organic chemicals, organic chemicals that pose an inhalation risk, or radon.

B. With Director approval, a small public water system may be permitted to use POU or POE treatment devices in lieu of centralized treatment for the purpose of reducing contaminants to achieve compliance with one or more maximum contaminant levels established by Chapter 15, Division 4 of Title 22 of the California Code of Regulations.

C. With Director approval, a local or state small water system may be permitted to use POU or POE treatment devices in lieu of centralized treatment for the purpose of reducing contaminants to achieve compliance with one or more maximum contaminant levels established by Chapter 15, Division 4 of Title 22 of the California Code of Regulations, if all of the following are met:

1. The water system meets the requirements of the Monterey County Code.
2. The water system is an existing permitted water system pursuant to Chapter 15.04 of the Monterey County Code.
3. The water system has applied for a permit amendment under Section 15.04.070 to operate a POU or POE treatment device.
 - a. If the water system does not have a valid water system agreement or other applicable organizational agreement, the permit amendment application shall be signed by at fifty percent (50%) plus one (1) of the water system owners.
 - b. A permit amendment to allow a POU or POE treatment device in conformance with Chapter 15.06 of the Monterey County Code shall be limited to not more than three (3) years or until funding for centralized treatment or consolidation is available, whichever occurs first. After three (3) years, the Director may approve subsequent permit amendments for additional three (3) year increments if the water system meets the requirements of this Chapter.
4. The Director determines that centralized treatment for achieving compliance is not economically feasible pursuant to Section 15.06.050.
5. The Director determines that consolidation with another water system is not feasible pursuant to Section 15.06.060.
6. The Director has approved each of the following:
 - a. POU and POE Treatment Strategy pursuant to Section 15.06.080.

- b. POU and POE Operations and Maintenance Program pursuant to Section 15.06.090.
- c. POU and POE Monitoring Program pursuant to Section 15.06.100.
- 7. The Director determines that there is no substantial community opposition pursuant to Section 15.06.110.
- 8. The water system ensures that each residential unit, dwelling unit, commercial building or other establishment or institution served by the water system has a POU or POE treatment device installed pursuant to this Chapter.

15.06.050 Immediate Economic Feasibility of Centralized Treatment.

A. To meet the feasibility of the centralized treatment analysis requirements of Section 15.06.040(C)(4), a water system shall submit to the Director information demonstrating that installation of centralized treatment is not economically feasible as follows in this Section.

B. When comparing the costs of centralized treatment to the use of a POU or POE treatment device, a water system serving residential customers shall submit to the Director information, such as census tract data for the applicable zip code for the water system, for the property owners of the residential connections demonstrating the following:

- 1. The estimated annual cost of centralized treatment, per household, is more than one percent (1%) of the median household income of each of the property owners served by the water system; and
- 2. One of the following:
 - a. If the annual median household income of the property owners served by the water system is equal to or less than the statewide annual median household income, the estimated annual cost of centralized treatment, per household, plus the median annual water bill from the most recent twelve (12) months per household is more than one and one-half percent (1.5%) of the annual median household income of the property owners served by the water system; or
 - b. If the annual median household income of the property owners served by the water system is greater than the statewide annual median household income, the estimated annual cost of centralized treatment, per household, plus the median annual water bill from the most recent twelve (12) months per household is more than two percent (2%) of the annual median household income of the property owners served by the water system.

C. When comparing the costs of centralized treatment to the use of a POU or POE treatment device, a water system with a connection that serves only non-residential users shall

submit to the Director information on that connection that demonstrates centralized treatment is not immediately economically feasible. Information shall include a declaration signed under penalty of perjury by the Chief Financial Officer or equivalent for the business entity.

15.06.060 Immediate Economic Feasibility of Consolidation.

A. To meet the feasibility of consolidation analysis requirements of Section 15.06.040(C)(5), a water system shall submit to the Director information demonstrating that consolidation with another system is not feasible as follows in this Section.

B. When comparing the costs of consolidation to the use of a POU or POE treatment device, a water system serving residential customers shall submit to the Director information, such as census tract data for the applicable zip code for the water system, for the residential connections demonstrating the following:

1. The estimated annual cost of consolidation, per household, is more than one percent (1%) of the median household income of each of the property owners served by the water system; and
2. One of the following:
 - a. If the annual median household income of the property owners served by the water system is equal to or less than the statewide annual median household income, the estimated annual cost of centralized treatment, per household, plus the median annual water bill from the most recent twelve (12) months per household is more than one and one-half percent (1.5%) of the annual median household income of the property owners served by the water system; or
 - b. If the annual median household income of the property owners served by the water system is greater than the statewide annual median household income, the estimated annual cost of consolidation, per household, plus the median annual water bill from the most recent twelve (12) months per household is more than two percent (2%) of the annual median household income of the property owners served by the water system.

C. When comparing the costs of consolidation to the use of a POU or POE treatment device, a water system with a connection that serves only non-residential users shall submit to the Director information on that connection that demonstrates consolidation is not immediately economically feasible. Information shall include a declaration signed under penalty of perjury by the Chief Financial Officer or equivalent for the business entity.

D. The cost analysis in subsections (B) or (C) of this Section shall not be required if the water system provides evidence that there is not another permitted water system within one-quarter (1/4) mile that is willing to serve the water system.

15.06.070 POU and POE Treatment Device Technical Requirements.

A. Each POU and POE treatment device must:

1. Be independently certified in accordance with the American National Standard Institute ("ANSI") standard if the ANSI has issued a product standard applicable to the specific type of POU or POE treatment device;
2. Be approved by the Director, following a review of, without limitation, the POU or POE unit's design, construction, treatment performance, and available field or pilot test results;
3. Be installed, controlled, operated, and maintained by the water system or a person under contract with the water system, to ensure proper operation, maintenance, monitoring, and compliance with this Chapter and applicable drinking water standards;
4. Be equipped with a mechanical warning (e.g., alarm, light, etc.) that alerts consumers when a unit needs maintenance or is no longer operating in a manner that assures the unit is producing effluent meeting state and federal drinking water standards, unless the device is equipped with an automatic shut-off mechanism that prevents the flow of water under such circumstances; and
5. Be equipped with a totalizing flow meter, if requested by the Director.

B. Except as provided in subsection (C) of this Section, 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 drinking water standards under local 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, and shall be conducted for no less than two (2) months.
3. After completion of the pilot testing, the water system shall submit a report to the Director describing the results and findings of the pilot testing.

C. With Director approval, a water system may be exempt from, or be subject to, a reduced level of pilot testing if the water system demonstrates to the Director that the POU or POE treatment device proposed for use has been tested under equivalent water quality and flow conditions, and the limitations, criteria, and effluent verification in subsection (B) of this Section can be ascertained and are reported to the Director.

15.06.080 POU and POE Treatment Strategy.

Prior to installing a POU or POE treatment device, a water system shall submit a POU/POE Treatment Strategy for review and obtain Director approval of the Strategy. At a minimum, the POU/POE Treatment Strategy shall include all of the following:

- A. A description of the compliance issues for which the POU or POE treatment device is being proposed to address, and the manner by which the use of a POU or POE treatment device will achieve compliance.
- 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 residential and non-residential premises within the water system's service area.
- C. The water system's authority to require each property owner to accept a POU or POE treatment device in lieu of centralized treatment and to take an action, such as discontinuing service, if a property owner fails to accept a POU or POE treatment device. In the absence of said authority, the water system shall submit a strategy to achieve one hundred percent (100%) compliance.
- D. The basis for the POU or POE treatment device selection.
- E. The qualifications and identification of the person responsible for the POU or POE treatment device installation, operation, maintenance, and water quality sampling and analyses.
- F. A consumer education program to be implemented prior to and following installation of the POU or POE treatment device.
- G. 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.
- H. Identification of applicable local regulatory requirements.
- I. A plan to be used in the event an installed POU or POE treatment device fails to produce water that meets drinking water standards that includes:
 - 1. A consumer notification protocol, along with example notices, consistent with Section 15.04.080; and
 - 2. A plan for provision of an alternative water supply, meeting drinking water standards, to consumers served by such installed POU or POE treatment devices.
- J. 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 (or more frequent) notices informing the consumers:
 - a. That only the taps for which a POU or POE treatment device is installed provide water meeting drinking water standards; and
 - b. Of information pertaining to the mechanical warning or shut-off mechanism required pursuant to Section 15.06.070(A)(5), including a telephone number that connects the consumer to water system personnel or recording system that shall be accessible by water system personnel twenty-four (24)-hours a day, seven (7) days a week, for the purpose of providing the consumer a reliable means of notifying personnel when the mechanical warning or shut-off mechanism is activated.

K. The anticipated schedules for:

1. The distribution of property owner meeting information;
2. The property owner meeting required pursuant to Section 15.06.110;
3. The distribution to property owners of the POU or POE treatment devices acceptance surveys;
4. POU or POE treatment system installation; and
5. The construction of centralized treatment.

L. An estimate of the percent of all property owners within the water system's service area who are expected to voluntarily allow installation of POU or POE devices, as well as a description of how the water system will address property owners who do not.

15.06.090 POU and POE Operations and Maintenance (O&M) Program.

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 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 drinking water standards;

3. The number and type of auxiliary POU or POE treatment device and parts necessary to ensure continuous effective treatment;
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. To ensure a POU or POE treatment device is properly operating and has not been bypassed, the treatment device shall be inspected by the water system no less often than every twelve (12) months, or when a POU or POE effluent is monitored pursuant to Section 15.06.100.

C. Based on the ongoing operation and maintenance of installed POU or POE treatment devices, a water system shall revise its POU/POE O&M Program as necessary to ensure continuous effective treatment and to ensure that systems produce effluent that meets drinking water standards. Revised POU/POE O&M Programs shall be submitted to the Director for review 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.

15.06.100 POU and POE Monitoring Program.

A. A water system shall submit a POU/POE Monitoring Program for review, and obtain Director approval of the Program. 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 (C) of this Section. Revised POU/POE Monitoring Programs 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 an MCL, 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 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.

15.06.110 Customer Survey/Ballot and Acceptance.

A. To meet the requirements of Section 15.06.040(C)(7), a water system shall schedule a meeting of owners of properties served by the water system and conduct an owner survey.

B. Prior to conducting a meeting of the property owners served by the water system, the water system shall submit a plan to the Director for review and acceptance, which includes all of the following for review:

1. A description of the water system's POU/POE Treatment Strategy.
2. The adverse health effects, as specified in the appendices in Section 64465 of Title 22 of the California Code of Regulations and State Water Board Chemicals of Concern (COC) Information Sheets.

3. POU/POE Operation and Maintenance Program and Monitoring Program information that necessitates consumer involvement.
4. The estimate of any anticipated increase in water bills that may result from utilization of POU or POE treatment devices.
5. The methods of distributing the voting ballots for the owner survey and sample ballots.

C. The water system shall provide the plan to those property owners in its service area after the Director has verified that the plan includes the required information, and at least thirty (30) days prior to conducting the property owner meeting.

D. After the property owner meeting, the water system shall distribute a ballot to all water system property owners served by the water system. The ballots shall be delivered in a manner designed to reach each property owner and include the language-specific options set forth below.

1. If Point-of-Use treatment is proposed, the ballot language shall be as follows:
 - a. "I vote FOR the use of Point-of-Use treatment devices."
 - b. "I vote AGAINST the use of Point-of-Use treatment devices."
2. If Point-of-Entry treatment is proposed, the ballot language shall be as follows:
 - a. "I vote FOR the use of Point-of-Entry treatment devices."
 - b. "I vote AGAINST the use of Point-of-Entry treatment devices."

E. Use of POU or POE treatment devices in lieu of centralized treatment or consolidation with another water system shall be considered to have no substantial community opposition if:

1. The sum of the number of non-voting property owners and the number of property owners voting against the POU or POE treatment system, is less than fifty percent (50%) of the total customers; and
2. No more than twenty-five percent (25%) of the total number of property owners voted against the POU or POE treatment system.

F. The voting results must be documented and delivered to all property owners within thirty (30) days of the vote. The results of the survey shall be provided to the Director as documentation of acceptance for the POU or POE treatment device.

15.06.120 Recordkeeping, Reporting, and Compliance.

A. A water system shall maintain the following records for at least ten (10) years and provide the records to the Director when requested:

1. Results of all water quality monitoring conducted pursuant to this Chapter;
2. The location and type of each installed POU or POE treatment device;
3. The date and type of maintenance and repairs performed; and
4. Verbal and written customer complaints received and the resulting corrective actions and/or responses.

B. A water system shall submit a quarterly report to the Director which includes the following:

1. Treated water quality monitoring results;
2. Source water monitoring; and
3. 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) of this Section shall be submitted to the Director within ten (10) days following the applicable reporting period.

D. A water system shall be in violation of the MCL if:

1. During a twelve (12) month interval, more than five percent (5%) of the results of the POU/POE effluent monitoring conducted pursuant to Section 15.06.100 exceed an MCL;
2. The POU/POE effluent fails to meet the applicable compliance determination requirements in this Chapter for an MCL; or
3. A residential unit, dwelling unit, commercial building, or other establishment or institution served by the water system does not have a POU or POE treatment device installed pursuant to this Chapter.

SECTION 10. 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 11. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this ____ day of _____, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

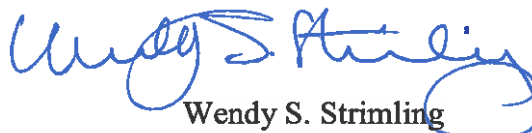
Luis A. Alejo, Chair
Monterey County Board of Supervisors

A T T E S T:

Valerie Ralph
Clerk to the Board of Supervisors

By: _____
Deputy

APPROVED AS TO FORM BY:


Wendy S. Strimling
Senior Deputy County Counsel