

# Exhibit C

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ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AMENDING CHAPTER 21.64 OF THE MONTEREY COUNTY CODE RELATING TO THE ESTABLISHMENT OF THE DEVELOPMENT EVALUATION SYSTEM AND AMENDING TITLE 21 OF THE MONTEREY COUNTY CODE RELATING TO THE DEVELOPMENT EVALUATION SYSTEM REQUIREMENTS FOR ALL NON-COASTAL ZONING DISTRICTS.**

**County Counsel Summary**

*This ordinance amends Chapter 21.64 to Title 21 (non-coastal zoning ordinance) of the Monterey County Code to establish a process by which the Board of Supervisors may adopt the Development Evaluation System to evaluate certain developments in the non-coastal unincorporated area of Monterey County. The ordinance also specifically provides for adoption by the Board of Supervisors of Development Evaluation System program for the non-coastal unincorporated area of Monterey County, to be known as the “Development Evaluation System Procedures.” The purpose of the Development Evaluation System is to establish a systematic, consistent, predictable, and quantitative method for decision-makers to evaluate developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity outside of Community Areas, Rural Centers and Affordable Housing Overlay districts to implement the 2010 Monterey County General Plan policy LU-1.19.*

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 proposes to amend Chapter 21.64 of Title 21 (non-coastal zoning ordinance) of the Monterey County Code and add subsection xxx to establish a process by which the Board of Supervisors may adopt the Development Evaluation System program for evaluating certain developments.

C. Community Areas, Rural Centers, and Affordable Housing Overlay districts have been established as top priority areas for development within unincorporated Monterey County . To that end, the 2010 General Plan Land Use Element Policy LU-1.19 requires establishment of a Development Evaluation System to provide a systematic, consistent, predictable, and quantitative method for decision makers to evaluate developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity outside of those priority areas. This ordinance implements the policy by providing for the Board of Supervisors to

adopt a Development Evaluation System (DES) program, which would define DES terms and establish applicability and exemption criteria, evaluation milestones, evaluation criteria, and provide specific performance criteria for supporting/documenting a project's score as well as assurance mechanisms. The DES is intended to be a tool serving two purposes in the discretionary decision process: 1) allow staff an opportunity to quantitatively and constructively advise the applicant of the development's overall quality through the entire permit process and 2) provide a tool for the hearing body to assess the critical aspects of a project. Because of the discretionary approval process, project's that receive a passing score are not guaranteed approval and project's that receive a failing score are not guaranteed denial.

D. This ordinance is intended to implement General Plan Policy LU-1.19 to quantitatively evaluate development in light of the policies of the General Plan and the implementing regulations, resources and infrastructure, and the overall quality of the development; thereby concentrating development within the established top priority areas. The Final Environmental Impact Report (FEIR) for the 2010 General Plan was certified by the Board of Supervisors on October 26, 2010. It determined that implementation of the General Plan would potentially result in the physical division of established communities. However, implementation of Policy LU-1.19, as well as additional land use policies listed, would expressly avoid the division of an established community, and would promote managed growth in specific locations in coordination with sound planning principles, resulting in a less than significant impact. An addendum to the EIR has been prepared pursuant to CEQA Guidelines section 15164 for adoption of this ordinance because none of the conditions described in CEQA Guidelines section 15162 calling for the preparation of a subsequent or supplemental EIR have occurred. The ordinance does not propose substantial changes that would require major revisions in the EIR due to involvement of new significant environmental effects or a substantial increase in the severity of significant effects previously identified by the EIR, nor are there changes in circumstances or new information of substantial importance that would involve new significant environmental effects or a substantial increase in the severity of significant effects previously identified by the EIR. As found by the FEIR, the Development Evaluation System in inland Monterey County would minimize impacts of physical division of established communities resulting from these developments outside of established top priority areas, but would not reduce significant effects to a level of no impact.

E. The Board of Supervisors may by resolution adopt, and may from time to time amend, the "County of Monterey Development Evaluation System Procedure Manual" to explain and implement 2010 General Plan Policy LU-1.19 and this Chapter of the Monterey County Code. The manual shall explain the specific applicability, procedures and requirements of this Chapter and shall include the elements of the Development Evaluation System Package for submittal. If any provisions of the Development Evaluation System Procedure Manual conflict with any provisions of this Chapter, the provisions of this Chapter shall prevail.

SECTION 2. Section 21.64.xxx is added to the Monterey County Code to read as follows:

**21.64.xxx Regulations for Projects Subject to the Development Evaluation System.**

A. Purpose. The purpose of this Chapter is to establish a systematic, consistent, predictable, and quantitative method for decision-makers to evaluate certain developments located outside of established top priority areas for development.

B. Applicability. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts.

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

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

3. If an applicant disagrees with a project's applicability determination, an appeal of the determination may be filed pursuant to Chapter 21.82 of the Monterey County Code. The applicant shall submit a report or other technical information prepared by qualified professional that compares project related impacts with professional standards set for thresholds for water, wastewater, and/or traffic with the appeal.

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

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

2. "Agricultural Advisory Committee (AAC)" means the committee that advises and makes recommendations to the Monterey County Board of Supervisors, and other county boards, commissions and departments, on matters affecting, or of interest to, the agricultural industry.

3. "California Environmental Quality Act (CEQA)" refers to State law requiring environmental review of land use projects (Public Resources Code section 21000 et seq.).

4. "Cluster Development" means a development design where the structures or lots or structures and lots are located on a focused portion of the property to be developed rather than spread throughout the property.

5. "Community Area" means areas designated as Community Areas as specified in 2010 General Plan Policy LU-2.21.

6. "Conservation" means planned management of natural resources to prevent waste, destruction, or neglect.

7. “Infill” means development of unused, vacant, underutilized, or undeveloped land that is substantially surrounded by other urban uses.
8. “Mixed-Use” means a development incorporating a range of diverse uses, such as office, commercial, institutional, and residential, into a single building or complex.
9. “Off-site” means off the lot on which the development is proposed.
10. “On-site” means on the lot on which the development is proposed.
11. “Preservation” means the use of long-term or permanent safeguards to guarantee the viability of natural or man-made resources.
12. “Rural Center” means areas designated as Rural Centers as specified in 2010 General Plan Policy LU-2.27.
13. “Transitional Housing” means a project that has as its purpose facilitating the movement of homeless individuals and families to permanent housing within a reasonable amount of time (usually 24 months). Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental or physical disabilities and homeless families with children.
14. “Workforce Housing” means housing that is priced where it is affordable to households earning between 120%-180% of the County median income. Workforce I means housing that is priced where it is affordable to households earning between 120%-150% of the County median income. Workforce II means housing that is priced where it is affordable to households earning between 150%-180% of the County median income.
15. “Winery, Artisan” means a winery that produces between 2,000 and 50,000 cases per year, with a Winery Tasting Facility up to 2,500 square feet in size.
16. “Winery, Full-Scale” means a winery that produces more than 50,000 cases per year.
17. “Winery Tasting Facility” means a bonded Winery Tasting Facility, also known as an “on or off winery premise,” as provided by federal law under the jurisdiction of the Tax and Trade Bureau. A Winery Tasting Facility shall accommodate wine tasting, an administrative office, retail sales of associated wine and wine related items, events, warehousing, and storage. Winery Adjunct Uses may be considered as accessory to a Winery Tasting Facility when specifically requested and addressed as part of the discretionary permit application for the Winery Tasting Facility or as a subsequent permit application process.
18. “Viable Agricultural Use” means the ability of a farmer or group of farmers to productively farm on a given piece of land or in a specific area, maintain an economically viable

farm business, keep the land in agriculture long-term, and steward the land so it will remain productive into the future.

D. Regulations. Projects to which this ordinance applies shall be subject to the following:

1. Evaluation Milestones. Projects shall be evaluated during three specific milestones of the permit process.

a. Preliminary Evaluation. The applicant shall submit a preliminary DES package along with their Development Review Committee Meeting (DRC) application and the project's DES evaluation shall be discussed during the DRC meeting. After the meeting, the applicant shall be provided with the project's preliminary scores along with their formal permit application package.

b. Formal Application Evaluation. The applicant shall submit a formal DES package along with their formal application. The project shall be evaluated during the application's completeness review and the formal application DES score shall be provided to the applicant along with the letter deeming the project "Complete" pursuant to the Permit Streamline Act.

c. Post CEQA Evaluation. After a project has completed its respective environmental review, the post CEQA evaluation shall occur. The post-CEQA evaluation will be the final project DES score. The applicant and appropriate authority shall be provided with the project's final score.

2. Evaluation Criteria. Projects shall be evaluated in light of the following criteria using the evaluation contained in the DES Summary Score Sheet Guide:

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

3. Supporting Documentation. In order for projects to receive scores based on the evaluation criteria specified above, the applicant shall submit the appropriate supporting

documentation specified in the 'DES Score Sheet Guide' to the Chief of RMA-Planning for review and approval.

4. Required Conditions of Approval. To ensure a project maintains the specific development component(s) for which scores were awarded, the applicant shall agree to specific conditions of approval applicable throughout the life of the project.

5. DES Score Sheet. Points awarded for respective projects shall be tallied and recorded in the DES Score Sheet and provided to the applicant after each evaluation milestone specified in Section 21.64.xxx.D.1 of this Chapter.

6. Presentation of Scores to the Appropriate Authority. The project's final DES score shall be attached to the hearing staff report for consideration. A project's respective scores shall provide an additional method for the decision maker to evaluate the project at the discretionary hearing. Project's receiving a passing score of 70 points or more are considered "passing", but are not automatically approved. Project's receiving a failing score of 69 points or less are considered "failing", but are not automatically denied.

E. The Board of Supervisors may by resolution adopt, and may from time to time amend, the "County of Monterey Development Evaluation System Procedure Manual" to establish guidelines to explain and implement this Chapter. The manual shall explain the specific applicability, procedures and requirements of this Chapter and shall include the elements of the Development Evaluation System Package for submittal such as the DES Package Submittal Form, the DES Score Sheet Guide, and the DES Score Sheet. If any provisions of the Development Evaluation System Procedure Manual conflict with any provisions of this Chapter, the provisions of this Chapter shall prevail.

F. Projects Exempt from the DES. Developments listed in 21.64.xxx.E.1 may be found exempt from this Chapter if they meet the Measurement Criteria for Exemption listed in 21.64.xxx.2.a, b, c, and d and include the Exemption Assurance Mechanism in 21.64.xxx.3.a.

1. The following development may be exempt from this Chapter:

a. Subdivisions for the separation of existing vineyard/crop land(s) from an existing winery/processing facility.

b. Subdivisions for the separation of different varietals, crops, or orchards for finance and/or lending purposes.

c. Subdivisions for the separation of existing lands farmed by owners from lands farmed by lessees.

d. Subdivisions for separation of agricultural lands for estate purposes to provide individual family members a unique property to continue the existing agricultural use.



e. Developments of long-term affordable housing exclusively for agricultural employees as defined in Section 50517.5(g)(1) of the California Health and Safety Code.

f. Artisan wineries, full-scale wineries, winery tasting rooms, food service facilities such as restaurants and delicatessens, and inns within the Agricultural and Winery Corridor Plan (AWCP) area. The development type in the shall not exceed the facility limitations prescribed by the AWCP

2. Projects requesting consideration for exemption to this Chapter shall meet all of the measurement criteria for exemption below:

a. Review by the Agricultural Advisory Committee (AAC). The project shall be reviewed by and receive a recommendation from the AAC stating it should qualify for an exemption from this Chapter.

b. The applicant shall demonstrate that the acreage of affected lots resulting from a subdivision will be equal to, or greater than, the minimum lot size to support the viable agricultural use of the land and as prescribed by zoning.

c. The applicant shall demonstrate that the proposed uses incorporated in the project are restricted to only those that support, maintain and/or enhance the existing viable agricultural use of the property.

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

3. Projects requesting consideration for exemption to this Chapter shall incorporate the exemption assurance mechanism below:

a. The applicant shall agree to a condition of approval requiring recordation of a Deed Restriction of an Agricultural Conservation Easement conveyed over the subject property. The recorded document shall clearly explain the project description, agree that any future subdivision of the affected land shall be equal or greater than the minimum lot size for viable agricultural use; agree that future uses on the property shall be limited to those that support, maintain and/or enhance the existing viable agricultural use of the property; agree that the property(ies) associated with the project are subject to the Deed Restriction or Conservation Easement for the life of the permit; and agree that removal of any or all restrictions prior to the sunset date shall require an amendment to the discretionary permit.

SECTION 3. Subsection F of Section 21.10.070 of the Monterey County Code is added to read as follows:

F. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Section 21.64.xxx.

SECTION 4. Subsection F of Section 21.12.070 of the Monterey County Code is added to read as follows:

F. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Section 21.64.xxx.

SECTION 5. Subsection C of Section 21.14.070 of the Monterey County Code is added to read as follows:

C. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Section 21.64.xxx.

SECTION 6. Subsection C of Section 21.16.070 of the Monterey County Code is added to read as follows:

C. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Section 21.64.xxx.

SECTION 7. Subsection C of Section 21.18.080 of the Monterey County Code is added to read as follows:

C. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Section 21.64.xxx.

SECTION 8. Subsection C of Section 21.20.080 of the Monterey County Code is added to read as follows:

C. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Section 21.64.xxx.

SECTION 9. Subsection C of Section 21.22.080 of the Monterey County Code is added to read as follows:

C. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and

Affordable Housing Overlay districts shall be subject to the regulations contained in Section 21.64.xxx.

SECTION 10. Subsection D of Section 21.24.080 of the Monterey County Code is added to read as follows:

D. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Section 21.64.xxx.

SECTION 11. Subsection D of Section 21.26.080 of the Monterey County Code is added to read as follows:

D. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Section 21.64.xxx.

SECTION 12. Subsection D of Section 21.28.080 of the Monterey County Code is added to read as follows:

D. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Section 21.64.xxx.

SECTION 13. Subsection E of Section 21.30.070 of the Monterey County Code is added to read as follows:

E. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Section 21.64.xxx.

SECTION 14. Subsection D of Section 21.32.070 of the Monterey County Code is added to read as follows:

D. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Section 21.64.xxx.

SECTION 15. Subsection E of Section 21.34.070 of the Monterey County Code is added to read as follows:

E. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Section 21.64.xxx.

SECTION 16. Subsection C of Section 21.36.070 of the Monterey County Code is added to read as follows:

C. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Section 21.64.xxx.

SECTION 17. Section 21.38.080 of the Monterey County Code is added to read as follows:

21.38.080 Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Section 21.64.xxx.

SECTION 18. Subsection C of Section 21.40.070 of the Monterey County Code is added to read as follows:

C. Developments of five or more lots or units and developments of equivalent or greater traffic, water, or wastewater intensity located outside of Community Areas, Rural Centers and Affordable Housing Overlay districts shall be subject to the regulations contained in Section 21.64.xxx.

SECTION 19. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 20. EFFECTIVE DATE. This ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this \_\_\_\_ day of \_\_\_\_\_, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
, Chair,  
Monterey County Board of Supervisors

A T T E S T:

VALERIE RALPH  
Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM BY:

\_\_\_\_\_  
Wendy S. Strimling  
Senior Deputy County Counsel

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