



Board Report

File #: ORD 21-004, **Version:** 1

Consider adoption of an ordinance to amend Chapter 16.10 of the Monterey County Code to prohibit unauthorized metal detection activity on the former Fort Ord in the unincorporated area of Monterey County [REF200039 - Metal Detection Prohibition].

Proposed CEQA Action: Categorically exempt per CEQA Guidelines section 15308.

RECOMMENDATION:

Staff recommends that the Board of Supervisors:

- a. Find the adoption of the ordinance categorically exempt pursuant to the California Environmental Quality Act Guidelines Section 15308, as the ordinance involves procedures for protection of the environment; and
- b. Adopt an ordinance to amend Chapter 16.10 of the Monterey County Code to prohibit unauthorized metal detection activity on the former Fort Ord in the unincorporated area of Monterey County.

SUMMARY/DISCUSSION:

On December 13, 2005, the Board of Supervisors adopted Ordinance No. 5012, enacting Chapter 16.10 of the Monterey County Code (MCC) to require special procedures for digging, excavation, and ground disturbance on the former Fort Ord in the unincorporated area of Monterey County. The purpose of the current regulations is to protect the public health and safety due to risks associated with potential remaining unexploded ordnance and explosives (UXO) (Attachment B).

The County Housing and Community Development Department (HCD) was notified by the State Department of Toxic Substances Control (DTSC) of a fairly recent incident on the former Fort Ord. The incident involved a trespasser utilizing a metal detection device, posing a potential public safety concern due to potential remaining UXO. In 2020, after this incident, the DTSC and the United States Environmental Protection Agency recommended local code changes to jurisdictions that own parcels within the former Fort Ord to include the prohibition of unauthorized metal detection activities to protect the public from UXO. Staff and County Counsel have consulted with DTSC on the proposed ordinance.

On March 23, 2021, the Board introduced the ordinance, waived reading, and set April 20, 2021 at 10:30 a.m. to consider adoption of the proposed ordinance (Attachment A). The draft ordinance would amend Chapter 16.10 of the MCC to add Section 16.10.042 to prohibit any person from engaging in any unauthorized metal detection activity on property located within the former Fort Ord in the unincorporated area of Monterey County (referred to in Chapter 16.10 as the “district”). This prohibition does not prevent metal detection activity if specifically authorized by the County as part of a permit for development or as part of a County project on County land or if authorized by a state and/or federal agency for remediation or similar purposes. The exception recognizes that metal detection may be required in some circumstances, such as for a development project or for remediation, in which case the activity could be allowed by the applicable governmental agency who would require the necessary procedures, training, or equipment for such activity.

CALIFORNIA ENVIRONMENTAL QUALITY ACT:

This ordinance is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15308 because the ordinance involves procedures for protection of the environment.

OTHER AGENCY INVOLVEMENT:

The Office of County Counsel has approved the ordinance as to form. HCD staff and County Counsel also consulted with DTSC. In accordance with Section 16.10.130 of the Monterey County Code, staff provided written notice of the draft ordinance to DTSC on March 3, 2021.

FINANCING:

Funding for staff time associated with drafting this ordinance for Board consideration is included in the Fiscal Year 2020-21 Adopted Budget for the former RMA, General Fund, Fund 001, Planning Appropriation Unit RMA110. Future staff time will be budgeted in the General Fund, Housing and Community Development Fund 001 Appropriation Unit HCD002.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action supports the Health & Human Services and Public Safety Board of Supervisors' Strategic Initiatives. If adopted, the ordinance supports the goal of improving health and quality of life through protection of the environment and the public safety by eliminating the potential encounter with UXO.

Check the related Board of Supervisors Strategic Initiatives:

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

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Approved by: Melanie Beretti, Housing and Special Programs Services Manager

Approved by: Mike Novo, AICP, Interim HCD Director

The following attachments are on file with the Clerk of the Board:

Attachment A - Proposed Ordinance amending Chapter 16.10

Attachment B - Chapter 16.10 Digging and Excavation on former Fort Ord (Existing Regulations)

cc: Front Counter Copy; Board of Supervisors; Melanie Beretti, Housing and Special Programs Services Manager; Shandy Carroll, Housing and Special Programs Supervisor; Fernanda Roveri (roveri@monterey.org <<mailto:roveri@monterey.org>>), City of Monterey; Brett Leary (brett.leary@dtsc.ca.gov <<mailto:brett.leary@dtsc.ca.gov>>), Department of Toxic Substances Control; Project File REF200039