

## MONTEREY COUNTY PLANNING COMMISSION

<b>MEETING:</b> July 11, 2007 9:00 a.m.	<b>AGENDA NO.:</b> 1
<b>SUBJECT:</b> Public hearing to consider an a recommendation to the Board of Supervisors on a Negative Declaration and an ordinance deleting Chapters 16.08.520-606 (Grading), 16.12.170-200 (Erosion Control), 18.50.090-.110 (Water Conservation), 18.52 (Building and Construction), 18.56.100 (Wildfire Protection), 20.90 (Zoning, Coastal Zone), and 21.84 (Zoning, Non-Coastal) and amending Chapter 1.20 of the Monterey County Code relative to the enforcement of the Monterey County Code	
<b>DEPARTMENT:</b> RMA/Planning Department and Building Services Department	

### RECOMMENDATION:

It is recommended that the Planning Commission recommend that the Board of Supervisors:

1. Adopt a Negative Declaration (Exhibit B); and,
2. Adopt an ordinance (Exhibit C) deleting Chapters 16.08.520-606 (Grading), 16.12.170-200 (Erosion Control), 18.50.090-.110 (Water Conservation), 18.52 (Building and Construction), 18.56.100 (Wildfire Protection), 20.90 (Zoning, Coastal Zone), and 21.84 (Zoning, Non-Coastal) and amending Chapter 1.20 of the Monterey County Code relative to the enforcement of the Monterey County Code.

### SUMMARY:

There are currently multiple County ordinances addressing zoning, building, grading, erosion control and water conservation. Each ordinance has its own enforcement authority plus there is an overall authority to enforce based on Chapter 1.20 of the County Code. While there are similarities among the enforcement provisions of the various ordinances, there are some differences that result in inconsistency in the enforcement process. That inconsistency is often confusing for the public and staff and reduces the effectiveness of the enforcement program. The attached ordinance will replace the current enforcement provisions of ordinances related to zoning, building, grading, erosion control and water conservation and amend current provisions for the enforcement of the County Code found in Chapter 1.20 of the County Code. The result will be a single set of authorities and tools for the enforcement of those codes.

The ordinance was reviewed with various interest groups in the County. The resulting draft ordinance has addressed the issues raised with previous drafts. While there may be some ongoing issues raised in the hearing process, the current draft is more concise and internally consistent than previous drafts. The tools that the ordinance provides will significantly improve enforcement processes.

An initial study (IS) was prepared for the draft ordinance by Rincon Consultants, Inc. Rincon finds that:

“Overall, the proposed project streamlines enforcement of the Monterey County Code by including all provisions relative to Code enforcement in one location and transferring responsibility of enforcement to the Enforcement Officer. As defined in the proposed ordinance, the Enforcement Officer is “any Department Head as designated by the Personnel Policy and Practices Resolution of the County of Monterey and their designees” (Chapter 1.20.03). In

contrast, the existing Code permits “any official or citizen of the County” to enforce the provisions of the Code “in any manner required or permitted by law” (existing Chapter 1.20.020). The proposed ordinance additionally defines the authority and powers of the Enforcement Officer, including, but not limited to: the issuance of citations; entrance upon a property to perform inspections, examinations and surveys; and making arrests.

In addition, the proposed amendments to Chapter 1.20 are generally more stringent than existing provisions proposed for deletion. For example, Chapter 1.20.05 (Violations) specifies that any person violating any provision of the Monterey County code is guilty of a misdemeanor unless it is charged as an infraction, punishable by fine or imprisonment (the existing Code simply states that violations may be addressed through civil action). This Chapter additionally specifies that each day of a Code violation constitutes a separate offense and may be charged and punished separately.

It should be noted that the proposed project consists of deletions and amendments to the Monterey County Code which facilitate improved enforcement of the Monterey County Code.”

The Initial Study was circulated through the State Clearinghouse. No comments were received.

DISCUSSION:

Key points of the ordinance as discussed in Exhibit A.

OTHER AGENCY INVOLVEMENT:

The ordinance was developed in consultation with the land use departments, County Counsel and members of the public.

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Dale Ellis, AICP  
Interim Director of Building Services  
Resource Management Agency

Attachments: Exhibit A: Ordinance Discussion  
Exhibit B: Initial Study  
Exhibit C: Draft Ordinance

## EXHIBIT A

### Key points of the ordinance:

1. Purpose and Intent: It is the express purpose and intent of the ordinance to provide a complete and consistent set of tools to use in enforcing the County Code and to reduce the complexity of the current processes. The ordinance will provide for both administrative and court based processes for resolution of violations. The result will be a more efficient process that can resolve violations more quickly than current processes.
2. Violations (1.20.05): All violations of the County Code are deemed to be a public nuisance. As such, a broad spectrum of enforcement tools and remedies become available to address those violations. In addition to the broad category of “all violations,” buildings in an unreasonable state of partial construction, violation of the conditions of a discretionary permit, work after posting a stop work order and knowingly making a false report are specifically identified as violations. Each day of a violation is considered a separate offense.
3. Citation as an Infraction or a Misdemeanor (1.20.05 D): Violations may be cited as an infraction or a misdemeanor. Either type of citation does require court action. Infractions are similar to traffic citations whereby the person cited may either pay the fine or request a court appearance. If the fine is paid, there is no further action unless there is a subsequent citation. Current fines for infractions are \$250 for the first citation, \$500 for the second and \$1,000 for third. A misdemeanor citation is handled through the District Attorney’s office and does require court appearances. If the person cited is convicted, the court may order additional sanctions including an order to correct. Currently fines for misdemeanors are up to \$1,000 or six months in jail or both.
4. Prohibition on the Issuance of Permits (1.20.06): The prohibition on the issuance of permits will continue to be used. This prohibits County departments from issuing any permits on property where there are known to be violations unless the permit is specifically required to correct the violation. This requirement may be waived to allow issuance of permits for “...remedial, protective or preventative work to deal with an emergency ...or to protect the public health safety and welfare.”
5. Restoration (1.20.07): The ordinance strengthens the provisions for restoration of disturbed sites as part of the correction process. It clarifies that an alternative to restoration is to be considered only if the restoration would endanger the public health safety and welfare, potentially cause greater harm to the environment or is not feasible. If restoration is not required an alternative is then required.
6. Notices of Violation (1.20.09): Notices of violation will continue to be used. The NOV is a recorded document that identifies the property, nature of violations and actions required to correct the violations. The NOV serves as constructive notice to the owner and other interested parties that violations exist on the property. While the NOV is not a lien, most lending institutions will not fund a loan against the property until the violation is resolved. This is a proven, effective tool particularly when owners are seeking to sell or refinance their property.

7. Compliance Agreements (1.20.10): The ordinance will codify the use of compliance agreements between the County and the responsible party. The agreement would establish the nature of the violation, the corrective action to be taken, the timeframe for correction, cost of enforcement to be paid and potential additional penalties should the compliance agreement be violated. Compliance agreements are an acknowledgement of the responsible person that a violation(s) exists and the mutual understanding and agreement on the means of resolving a violation.
8. Administrative Citations and Penalties (1.20.11): This is a significant new tool and would be key in the administrative citation and penalty process. This will allow the enforcing officer to cite a for violation and assess financial penalties in addition to requiring correction of the violation. This process would not require action through the court system. Penalties would be \$100 for the first citation, \$200 for a second citation within a year and \$500 for the third citation within a year.
9. Summary and Administrative Abatement (1.20.13 and 14): The ordinance includes specific provisions for the County to take direct action to abate a violation. While these authorities already exist in law, incorporation into the ordinance clarifies any question about the authority to abate, the process and potential penalties. This process would allow the County, for example, to remove an illegal structure when normal efforts and due process to cause removal have not been successful (administrative abatement). The process would also allow the County to take immediate action to abate a violation when there is an imminent life safety hazard exists that requires immediate correction or elimination (summary abatement).
10. Enforcement Appeals (1.20.15): The ordinance significantly changes the enforcement appeals process. Under current processes, person charged with a violation wishing to appeal the determination of an enforcing officer has multiple, extensive appeal processes. The ordinance would establish that all appeals go to an independent hearing officer. While there is no intention to deprive any person of their appeal rights and due process, it is the intention to consolidate those multiple appeal avenues into a single process leading to a hearing before an independent hearing officer.
11. Hearing Officer (1.20.16): The ordinance would require an administrative law judge who is not a direct employee of the County or dependent on the County for a major portion of their livelihood to act as the hearing officer. Both the enforcing officer and the responsible party would present their case to the hearing officer. The burden of proof would be on the County to prove the existence of the violation. The hearing officer would render a decision either to confirm, reject or modify the action of the enforcing officer. The decision of the hearing officer would be final barring a subsequent court action.

Use of an ALJ assures a high level of independent decision making on appeals. There will, however, be a significant cost associated with an appeal. That cost will be born by the appellant and may be viewed as a barrier to appellants.
12. Recovery of costs (1.20.17): The ordinance provides a number of means for collection of penalties, fees and costs of enforcement in the event the responsible person does not pay those costs in a timely manner.

13. Code Enforcement Penalties Fund (1.20.18): The ordinance establishes a code enforcement penalties fund. Penalties and recovered costs of enforcement would be paid into this fund to defray the cost of the code enforcement program and to provide funds to pay for the cost of abatement of violations when the County takes direct action to abate a violation. Currently penalties and fines are charged and paid through the Court system to the State. Most of the monies collected in that circumstance are retained by the State.

**EXHIBIT B**

**MONTEREY COUNTY**

RESOURCE MANAGEMENT AGENCY

PLANNING & BUILDING INSPECTION DEPARTMENT

168 WEST ALISAL ST., 2<sup>nd</sup> FLOOR, SALINAS, CA 93901

PHONE: (831) 755-5025 FAX: (831) 755-9516



***INITIAL STUDY/  
NEGATIVE DECLARATION***

***I. BACKGROUND INFORMATION***

<b>Project Title:</b>	Code Enforcement Draft Ordinance
<b>File No.:</b>	PD070116
<b>Project Location:</b>	Countywide
<b>Name of Property Owner:</b>	Not Applicable
<b>Name of Applicant:</b>	County of Monterey
<b>Assessor's Parcel Number(s):</b>	Multiple
<b>Acreage of Property:</b>	Countywide
<b>General Plan Designation:</b>	Not Applicable
<b>Zoning District:</b>	Not Applicable
<b>Lead Agency:</b>	Monterey County Planning Department
<b>Prepared By:</b>	Rincon Consultants, Inc.
<b>Date Prepared:</b>	April 30, 2007
<b>Contact Person:</b>	Dale Ellis, Acting Director of Building Services
<b>Phone Number:</b>	(831) 755-5191

## II. DESCRIPTION OF PROJECT

### A. Project Description:

The proposed project includes amendments to Chapter 1.20 of the Monterey County Code (Enforcement of Code) and the deletion of several Chapters of the existing Monterey County Code relative to Code Enforcement. The following Chapters would be deleted and replaced with amendments to Chapter 1.20:

- Chapter 16.08.520-606 (Grading)
- Chapter 16.12.170-200 (Erosion Control)
- Chapter 18.50.060-110 (Building and Construction; Water Conservation Measures)
- Chapter 18.52 (Building and Construction; Enforcement/Administrative and Legal Procedures/Penalties)
- Chapter 18.56.100 (Wildfire Protection Standards in State Responsibility Areas)
- Chapter 20.90 (Coastal Zoning, Enforcement)
- Chapter 21.84 (Non-Coastal Zoning, Enforcement, Administrative and Legal Procedures, Penalties)

The proposed Code Enforcement Draft Ordinance provides the definitions, authority and alternative measures to enforce the Code. Included in these measures are both judicial and administrative remedies, compliance agreements, notice of violation, prohibition against issuance of permits, administrative citations, summary and administrative abatement, restoration, appeals and recovery of enforcement costs and penalties. The ordinance also establishes a Code Enforcement Penalties Fund that will be used to defray the County's cost for enforcement as well as fund certain enforcement activities.

Table 1 compares the above listed Chapters to be deleted from the Monterey County Code to the proposed amendments to Chapter 1.20 intended to replace them (Source: IX. 1, 3, 4).

**Table 1 Comparison of Chapters to be Deleted and Proposed Amendments**

Code to be Deleted	Proposed Chapter 1.20 Amendments	Summary of Change
<b>16.08.520-606 (Grading)</b>		
16.08.520 (Violation-- Removal of Notice)	1.20.09 (Notice of Violation)	<ul style="list-style-type: none"> <li>• Transfers responsibility to the Enforcement Officer</li> <li>• Requires the officer to record a notice of compliance within 10 working days (existing Code does not provide a timeline).</li> <li>• States that the recorded notice of compliance shall have the effect of canceling the recorded notice of violation.</li> </ul>
16.08.600 (Civil Enforcement)	1.20.05 (Violations)	<ul style="list-style-type: none"> <li>• Defines violations of the County Code as a public nuisance and declares it unlawful for any person to undertake any action contrary to the Code.</li> <li>• Provides clarification that any person violating any provision of Monterey County Code is guilty of a misdemeanor unless it is charged as an infraction, punishable by fine or imprisonment (existing Code simply states that violations may be addressed through civil action).</li> <li>• Specifies that each day of Code violation constitutes a separate offense and may be charged and punished separately.</li> </ul>
16.08.601 (No Construction or Use in Violation)	1.20.05 (Violations)	<ul style="list-style-type: none"> <li>• Existing Code states that no building shall be constructed in violation of the Grading Ordinance.</li> <li>• Proposed amendment outlines punishment for constructing a building in violation of County Code, including fines and</li> </ul>

**Table 1 Comparison of Chapters to be Deleted and Proposed Amendments**

Code to be Deleted	Proposed Chapter 1.20 Amendments	Summary of Change
		imprisonment.
16.08.602 (All County Officials Shall Aid Enforcement)	1.20.06 (Issuance of Permits, Licenses and Entitlements)	<ul style="list-style-type: none"> <li>• Requires that applications for permits for previously completed projects, in violation of the Code, pay for all accrued costs of enforcement prior to determining the application complete.</li> <li>• Allows the Enforcement Officer to waive this provision as needed.</li> </ul>
16.08.603 (Civil Enforcement Against Nuisance)	This section was previously repealed and replaced by the current 1.20	<ul style="list-style-type: none"> <li>• No Change</li> </ul>
16.08.604 (Each Day is a Violation)	This section was previously repealed and replaced by the current 1.20	<ul style="list-style-type: none"> <li>• No Change</li> </ul>
16.08.605 (Cost of Civil Enforcement)	This section was previously repealed and replaced by the current 1.20	<ul style="list-style-type: none"> <li>• No Change</li> </ul>
16.08.606 (Remedies Cumulative)	This section was previously repealed and replaced by the current 1.20	<ul style="list-style-type: none"> <li>• No Change</li> </ul>
<b>16.12.170-200 (Erosion Control)</b>		
16.12.170 (Violations)		
a. Right of Entry	1.20.04 C (Authority of Powers).	<ul style="list-style-type: none"> <li>• Transfers responsibility from the Director of Planning Inspection to the Enforcement Officer.</li> <li>• Removes specification that the Enforcement Officer must present credentials and request entry, or make reasonable effort to locate the owner or other persons having charge or control of the premises (if unoccupied) and request entry.</li> </ul>
b. Work Stoppage	1.20.04 E (Authority of Powers)	<ul style="list-style-type: none"> <li>• Transfers responsibility from the Director of Planning Inspection to the Enforcement Officer.</li> <li>• Allows notice to be given orally or in writing that work must be stopped (existing Code requires posting a Stop Work notice at the site in question).</li> <li>• Specifies that notice must be given to the responsible person engaged in doing or causing such work to be done.</li> </ul>
c. Record of Violation	1.20.09 A (Notice of Violation)	<ul style="list-style-type: none"> <li>• Transfers responsibility from the Director of Building Inspection to the Enforcement Officer.</li> <li>• Outlines the information that must be included in the notice of violation, including the Code sections in violation and a reference to potential consequences.</li> <li>• Requires the notice of violation to include a list of necessary corrections to bring the property into compliance (existing Code states that the notice <i>may</i> require that specific conditions are adhered to in correction of the problem).</li> </ul>
16.12.190 (Penalties)	This section was previously repealed and replaced by the current 1.20	<ul style="list-style-type: none"> <li>• No Change</li> </ul>
16.12.200 (Enforcement)		
A. Arrest and Citation	1.20.04 F (Authority of Powers)	<ul style="list-style-type: none"> <li>• Transfers responsibility from the Director of Planning Inspection to the Enforcement Officer.</li> <li>• Clarifies that the officer can only arrest a person without a warrant if the violation occurs in the presence of the Enforcement Officer (existing Code only requires a reasonable cause to believe that the person has committed an infraction in their presence).</li> <li>• Specifies that the officer can only arrest a person by issuing a misdemeanor field citation or by affecting a citizen's arrest</li> </ul>



**Table 1 Comparison of Chapters to be Deleted and Proposed Amendments**

<b>Code to be Deleted</b>	<b>Proposed Chapter 1.20 Amendments</b>	<b>Summary of Change</b>
		with the assistance of a peace officer.
B. Duty of Sheriff and Other Officers to Enforce	1.20.04 A, B (Authority of Powers)	<ul style="list-style-type: none"> <li>• Transfers enforcement authority from the Sheriff of the County of Monterey to the Enforcement Officer.</li> <li>• Authorizes Enforcement Officers to gain compliance with the provisions of the Monterey County Code and issue citations.</li> </ul>
C. Duty of Other County Officials; Permits and Licenses	1.20.06 (Issuance of Permits, Licenses and Entitlements)	<ul style="list-style-type: none"> <li>• Allows the issuance of permits, licenses or entitlements that are in violation of the County Code if such permit, license or entitlement is part of the administrative remedy for the violation.</li> </ul>
D. Repealed	This section was previously repealed and replaced by the current 1.20	<ul style="list-style-type: none"> <li>• No Change</li> </ul>
E. Costs of Civil Enforcement	1.20.17 (Recovery of Civil Penalties and Abatement Costs)	<ul style="list-style-type: none"> <li>• Specifies that the Enforcement Officer collect all civil penalties and related administrative penalties by the use of legal means.</li> <li>• Allows the responsible person to appeal the demand to bay within ten calendar days.</li> <li>• Outlines administrative procedures to recover civil penalties and abatement costs as a special assessment.</li> </ul>
<b>18.50.060-110 ( Building and Construction; Water Conservation Measures)</b>		
18.50.090 Penalties. Repealed.	This section was previously repealed and replaced by the current 1.20	<ul style="list-style-type: none"> <li>• No Change</li> </ul>
18.50.100 (Enforcement)	1.20.04 A, B (Authority of Powers);1.20.06 (Issuance of Permits, Licenses and Entitlements)	<ul style="list-style-type: none"> <li>• Transfers the primary responsibility of Code Enforcement from the Director of Planning and Building inspection to the Enforcement Officer.</li> <li>• Allows the issuance of permits, licenses or entitlements that are in violation of the County Code if such permit, license or entitlement is part of the administrative remedy for the violation.</li> </ul>
18.50.110 Civil Enforcement Against Nuisance		
A. Public Nuisance.	1.20.05 A (Violations)	<ul style="list-style-type: none"> <li>• Simplifies the definition of Code violations as a public nuisance.</li> </ul>
B. Repealed.	This section was previously repealed and replaced by the current 1.20	<ul style="list-style-type: none"> <li>• No Change</li> </ul>
C. Repealed.	This section was previously repealed and replaced by the current 1.20	<ul style="list-style-type: none"> <li>• No Change</li> </ul>
D. No Further Action.	1.20.06 (Issuance of Permits, Licenses and Entitlements)	<ul style="list-style-type: none"> <li>• Removes the restriction that no other action shall be taken on any application filed by or on behalf of a person, firm, or corporation in violation of the County Code until the action in violation has been concluded or resolved.</li> <li>• Allows the issuance of permits, licenses or entitlements that are in violation of the County Code if such permit, license or entitlement is part of the administrative remedy for the violation.</li> </ul>
<b>18.52 (Building and Construction; Enforcement/Administrative and Legal Procedures/Penalties)</b>		
18.52.020 (Authority to Enforce)	1.20.04 (Authority and Powers)	<ul style="list-style-type: none"> <li>• Transfers investigation authority from the Building Official to the Enforcement Officer.</li> <li>• Authorizes Enforcement Officers to gain compliance with the provisions of the Monterey County Code and issue citations.</li> </ul>
18.52.030 (Nonconformance to Provisions Declared)	1.20.02 (Applicability); 1.20.05 (Violations)	<ul style="list-style-type: none"> <li>• Transfers responsibility from the Building Official to the Enforcement Officer.</li> <li>• Defines violations of the County Code as a public nuisance</li> </ul>

**Table 1 Comparison of Chapters to be Deleted and Proposed Amendments**

<b>Code to be Deleted</b>	<b>Proposed Chapter 1.20 Amendments</b>	<b>Summary of Change</b>
Nuisance)		and declares it unlawful for any person to undertake any action contrary to the Code. <ul style="list-style-type: none"> <li>• Specifies that, where the provisions of this Chapter conflict with the provisions of other County Codes, Chapter 1.20 shall prevail.</li> </ul>
18.52.040 (Violation)		
A-C. Prohibitions	1.20.05 A (Violations)	<ul style="list-style-type: none"> <li>• Clarifies that it is unlawful for any person to undertake any action contrary to the Code.</li> </ul>
D. Repealed	This section was previously repealed and replaced by the current 1.20	<ul style="list-style-type: none"> <li>• No Change</li> </ul>
18.52.050 (Violations of Conditions of Permits)	1.20.05 B, E (Violations)	<ul style="list-style-type: none"> <li>• Simplifies the definition of Code violations as a public nuisance.</li> <li>• Strengthens language regarding violations of the Code by specifying that each day of Code violation constitutes a separate offense and may be charged and punished separately.</li> </ul>
18.52.060 Repealed.	This section was previously repealed and replaced by the current 1.20	<ul style="list-style-type: none"> <li>• No Change</li> </ul>
18.52.070 Repealed.	This section was previously repealed and replaced by the current 1.20	<ul style="list-style-type: none"> <li>• No Change</li> </ul>
18.52.080 Repealed.	This section was previously repealed and replaced by the current 1.20	<ul style="list-style-type: none"> <li>• No Change</li> </ul>
18.52.090 (Enforcement by Administrative Process, Powers of Enforcing Officer)		
A-D Repealed	This section was previously repealed and replaced by the current 1.20	<ul style="list-style-type: none"> <li>• No Change</li> </ul>
E Entry.	1.20.04 (Authority and Powers)	<ul style="list-style-type: none"> <li>• Transfers responsibility to the Enforcement Officer.</li> <li>• Removes specification that no enclosed building or structure shall be entered without the express permission of the owner or occupant.</li> </ul>
F. Repealed.	This section was previously repealed and replaced by the current 1.20	<ul style="list-style-type: none"> <li>• No Change</li> </ul>
G. Stop Work	1.20.04 (Authority and Powers)	<ul style="list-style-type: none"> <li>• Transfers responsibility from the Building Official to the Enforcement Officer.</li> <li>• Allows notice to be given orally or in writing that work must be stopped (existing Code requires notice in writing).</li> </ul>
18.52.100 (Notice of Violation Recordation)	1.20.09 (Notice of Violation)	<ul style="list-style-type: none"> <li>• Transfers responsibility to the Enforcement Officer</li> <li>• Requires the officer to record a notice of compliance within 10 working days (existing Code does not provide a timeline).</li> </ul>
18.52.110 (Removal of Notice of Violation)	1.20.15 (Administrative Enforcement Appeals); 1.20.09 (Notice of Violation)	(1.20.15) <ul style="list-style-type: none"> <li>• Transfers receipt of appeals from the Building Official to the County Administrative Officer.</li> <li>• Specifies that appeals must be filed in writing within ten working days from the date of service.</li> <li>• Outlines information to be included in an appeal and specifies that the County Administrative Officer shall not</li> </ul>

**Table 1 Comparison of Chapters to be Deleted and Proposed Amendments**

Code to be Deleted	Proposed Chapter 1.20 Amendments	Summary of Change
		<ul style="list-style-type: none"> <li>• accept an appeal stated in generalities.</li> <li>• Requires that an appeal fee be paid for appeals of administrative determinations.</li> <li>• Clarifies that the receipt of a written appeal shall stay all action.</li> <li>• Requires the Administrative Officer to schedule a hearing within 15 working days after receiving appeal.</li> <li>• Specifies that any party whose property or actions are the subject of an appeal who fails to appear at the hearing is deemed to waive the right to a hearing.</li> </ul> <p>(1.20.09)</p> <ul style="list-style-type: none"> <li>• Requires the officer to record a notice of compliance within 10 working days once the officer determines that all violations have been corrected and all administrative penalties have been paid.</li> </ul>
18.52.120 (Refusal to Issue Permits, licenses or Other Entitlement)	1.20.06 (Issuance of Permits, Licenses and Entitlements)	<ul style="list-style-type: none"> <li>• Allows the issuance of permits, licenses or entitlements that are in violation of the County Code if such permit, license or entitlement is part of the administrative remedy for the violation.</li> </ul>
18.52.130 (Restoration of Land Required Before Application Complete)	1.20.07 (Restoration)	<ul style="list-style-type: none"> <li>• Redefines restoration to include and reconstruction of natural features of the land (existing Code includes only reconstruction of natural features of the land which have been removed or changed in violation of the Code).</li> <li>• Requires that restoration plans be submitted to the Director of the Resource Management Agency, rather than the Director of Planning and Building Inspection.</li> <li>• Requires the plan to include all physical work to be done, a performance period to ensure reestablishment of the soil and vegetation, bonding, and independent monitoring, if needed, to assure the long term success of the restoration work (existing Code requires only a time period to be defined).</li> <li>• Provides an additional instance in which an alternative to restoration may be considered (when restoration work would potentially cause greater harm to the property or environment that currently exists on the property).</li> <li>• Specifies that restoration can only be infeasible due to economic, environmental, social and technical factors (existing Code states that restoration may be infeasible due to circumstances beyond the control of the applicant or the property owner).</li> <li>• Requires that an alternative comparable to the cost to restore the property to its pre-violation state be required if restoration is deemed infeasible. States that the alternative must be implemented prior to deeming the violation corrected.</li> </ul>
18.52.140 (Fees for Retroactive Permit Application)	1.20.06 B (Issuance of Permits, Licenses and Entitlements)	<ul style="list-style-type: none"> <li>• Changes the fee for permit applications for previously completed projects, in violation of the Code, from twice the amount normally charged for the application to all accrued costs of enforcement prior to determining the application complete.</li> </ul>
<b>18.56.100 (Wildfire Protection Standards in State Responsibility Areas)</b>		
18.56.100 (Enforcement)	1.20.04 (Authority and Powers); 1.20.05 (Violations)	<ul style="list-style-type: none"> <li>• Transfers responsibility of enforcement from the Director to the Enforcement Officer.</li> </ul>
<b>20.90 (Coastal Zoning, Enforcement)</b>		
20.90.010 (Conformance to Provisions Required)	1.20.06 (Issuance of Permits, Licenses and Entitlements)	<ul style="list-style-type: none"> <li>• Allows the issuance of permits, licenses or entitlements that are in violation of the County Code if such permit, license or entitlement is part of the administrative remedy for the violation.</li> </ul>
20.90.020 (Authority to	1.20.04 (Authority of	<ul style="list-style-type: none"> <li>• Transfers responsibility of enforcement from the Director of</li> </ul>

**Table 1 Comparison of Chapters to be Deleted and Proposed Amendments**

<b>Code to be Deleted</b>	<b>Proposed Chapter 1.20 Amendments</b>	<b>Summary of Change</b>
Enforce)	Powers)	Planning and Building Inspection to the Enforcement Officer.
20.90.030 (Nonconformance to Provisions Declared a Nuisance)	1.20.05 (Violations)	<ul style="list-style-type: none"> <li>• Simplifies the definition of Code violations as a public nuisance.</li> </ul>
20.90.040 (Violations)	1.20.05 (Violations)	<ul style="list-style-type: none"> <li>• Defines violations of the County Code as a public nuisance and declares it unlawful for any person to undertake any action contrary to the Code.</li> <li>• Provides clarification that any person violating any provision of Monterey County Code is guilty of a misdemeanor unless it is charged as an infraction, punishable by fine or imprisonment (existing Code simply states that violations may be addressed through civil action).</li> <li>• Specifies that each day of Code violation constitutes a separate offense and may be charged and punished separately.</li> </ul>
20.90.050 (Violations of Conditions of Permits)	1.20.05 (Violations)	<ul style="list-style-type: none"> <li>• Existing Code states that no building shall be constructed in violation of any permit approved under the authority of Title 20.</li> <li>• Proposed amendment outlines punishment for constructing a building in violation of County Code, including fines and imprisonment.</li> </ul>
20.90.060 (Fines and Imprisonment)	1.20.12 (Fines and Penalties)	<ul style="list-style-type: none"> <li>• Sets a maximum civil penalty of \$10,000 per violation of the County Code for each day of violation.</li> </ul>
20.90.070 (Abatement and Injunction)	1.20.12 (Fines and Penalties); 1.20.13 (Summary Abatement)	<ul style="list-style-type: none"> <li>• Transfers responsibility to the Enforcement Officer.</li> <li>• Elaborates upon summary abatement (existing Code simply states that the County may do so).</li> <li>• Specifies that the Enforcement Officer pursue only the minimum level of abatement deemed necessary to eliminate the immediate hazard.</li> <li>• Sets a maximum civil penalty of \$10,000 per violation of the County Code for each day of violation.</li> </ul>
20.90.080 (Remedies, Cumulative)	1.20.02 (Applicability); 1.20.08 (Administrative Remedies)	<ul style="list-style-type: none"> <li>• Removes the statement that remedies are cumulative and not exclusive.</li> <li>• Replaces it with the statement that provisions of Chapter 1.20 may be used independently or in conjunction with other remedies within the Monterey County Code or in other law to correct a violation(s) of the Code.</li> <li>• Specifies that, where the provisions of this Chapter conflict with the provisions of other County Codes, Chapter 1.20 shall prevail.</li> </ul>
20.90.090 (Enforcement by Administrative Process, Powers of Enforcing Officer)	1.20.04 (Authority of Powers)	<ul style="list-style-type: none"> <li>• Transfers the primary responsibility of Code Enforcement from the Director of Planning and Building inspection to the Enforcement Officer.</li> <li>• Authorizes Enforcement Officers to gain compliance with the provisions of the Monterey County Code and issue citations.</li> <li>• Removes specification that no enclosed building or structure shall be entered without the express permission of the owner or occupant.</li> </ul>
20.90.100 (Notice of Violation Recordation)	1.20.09 (Notice of Violation)	<ul style="list-style-type: none"> <li>• Further outlines the information that must be included in the notice of violation, including the Code sections in violation and a reference to potential consequences.</li> <li>• Requires the officer to record a notice of compliance within 10 working days.</li> </ul>
20.90.110 (Removal of Notice of Violation)	1.20.15 (Administrative Enforcement Appeals); 1.20.09 (Notice of Violation)	<ul style="list-style-type: none"> <li>(1.20.15)</li> <li>• Transfers receipt of appeals from the Zoning Administrator to the County Administrative Officer.</li> <li>• Specifies that appeals must be filed in writing within ten working days from the date of service.</li> </ul>

**Table 1 Comparison of Chapters to be Deleted and Proposed Amendments**

Code to be Deleted	Proposed Chapter 1.20 Amendments	Summary of Change
		<ul style="list-style-type: none"> <li>• Outlines information to be included in an appeal and specifies that the County Administrative Officer shall not accept an appeal stated in generalities.</li> <li>• Requires that an appeal fee be paid for appeals of administrative determinations.</li> <li>• Clarifies that the receipt of a written appeal shall stay all action.</li> <li>• Requires the Administrative Officer to schedule a hearing within 15 working days after receiving appeal.</li> <li>• Specifies that any party whose property or actions are the subject of an appeal who fails to appear at the hearing is deemed to waive the right to a hearing.</li> </ul> <p>(1.20.09)</p> <ul style="list-style-type: none"> <li>• Requires the officer to record a notice of compliance within 10 working days once the officer determines that all violations have been corrected and all administrative penalties have been paid.</li> </ul>
20.90.120 (Refusal to Issue Permits, Licenses or Other Entitlements)	1.20.06 (Issuance of Permits, Licenses and Entitlements)	<ul style="list-style-type: none"> <li>• Allows the issuance of permits, licenses or entitlements that are in violation of the County Code if such permit, license or entitlement is part of the administrative remedy for the violation.</li> </ul>
20.90.130 (Restoration of Land Required Before Application Deemed Complete)	1.20.07 (Restoration)	<ul style="list-style-type: none"> <li>• Redefines restoration to include and reconstruction of natural features of the land (existing Code includes only reconstruction of natural features of the land which have been removed or changed in violation of the Code).</li> <li>• Requires that restoration plans be submitted to the Director of the Resource Management Agency, rather than the Director of Planning and Building Inspection.</li> <li>• Requires the plan to include all physical work to be done, a performance period to ensure reestablishment of the soil and vegetation, bonding, and independent monitoring, if needed, to assure the long term success of the restoration work (existing Code requires only a time period to be defined).</li> <li>• Provides an additional instance in which an alternative to restoration may be considered (when restoration work would potentially cause greater harm to the property or environment that currently exists on the property).</li> <li>• Specifies that restoration can only be infeasible due to economic, environmental, social and technical factors (existing Code states that restoration may be infeasible due to circumstances beyond the control of the applicant or the property owner).</li> <li>• Requires that an alternative comparable to the cost to restore the property to its pre-violation state be required if restoration is deemed infeasible. States that the alternative must be implemented prior to deeming the violation corrected.</li> </ul>
20.90.140 (Fees for Retroactive Permit Application)	1.20.06 B (Issuance of Permits, Licenses and Entitlements)	<ul style="list-style-type: none"> <li>• Changes the fee for permit applications for previously completed projects, in violation of the Code, from twice the amount normally charged for the application to all accrued costs of enforcement prior to determining the application complete.</li> </ul>
20.90.150 (Conflict in Enforcement Provisions)	1.20.02 (Applicability)	<ul style="list-style-type: none"> <li>• Specifies that, where the provisions of this Chapter conflict with the provisions of other County Codes, Chapter 1.20 shall prevail (existing Code states that other Ordinances shall prevail over Chapter 20.90).</li> </ul>
<b>21.84 (Non-Coastal Zoning, Enforcement, Administrative and Legal Procedures, Penalties)</b>		
21.84.010 (Conformance to Provisions Required)	1.20.06 (Issuance of Permits, Licenses and Entitlements)	<ul style="list-style-type: none"> <li>• Allows the issuance of permits, licenses or entitlements that are in violation of the County Code if such permit, license or entitlement is part of the administrative remedy for the violation.</li> </ul>

**Table 1 Comparison of Chapters to be Deleted and Proposed Amendments**

<b>Code to be Deleted</b>	<b>Proposed Chapter 1.20 Amendments</b>	<b>Summary of Change</b>
21.84.020 (Authority to Enforce)	1.20.04 (Authority of Powers)	<ul style="list-style-type: none"> <li>• Transfers responsibility of enforcement from the Director of Planning and Building Inspection to the Enforcement Officer.</li> </ul>
21.84.030 (Nonconformance to Provisions Declared a Nuisance).	1.20.05 (Violations)	<ul style="list-style-type: none"> <li>• Simplifies the definition of Code violations as a public nuisance.</li> </ul>
21.84.040(Violations)	1.20.05 (Violations)	<ul style="list-style-type: none"> <li>• Defines violations of the County Code as a public nuisance and declares it unlawful for any person to undertake any action contrary to the Code.</li> <li>• Provides clarification that any person violating any provision of Monterey County Code is guilty of a misdemeanor unless it is charged as an infraction, punishable by fine or imprisonment (existing Code simply states that violations may be addressed through civil action).</li> <li>• Specifies that each day of Code violation constitutes a separate offense and may be charged and punished separately.</li> </ul>
21.84.050 (Violations of Conditions of Permits)	1.20.05 (Violations)	<ul style="list-style-type: none"> <li>• Existing Code states that no building shall be constructed in violation of any permit approved under the authority of Title 21.</li> <li>• Proposed amendment outlines punishment for constructing a building in violation of County Code, including fines and imprisonment.</li> </ul>
21.84.060 (Fines and Imprisonment)	1.20.12 (Fines and Penalties)	<ul style="list-style-type: none"> <li>• Sets a maximum civil penalty of \$10,000 per violation of the County Code for each day of violation.</li> </ul>
21.84.070 (Abatement and Injunction)	1.20.12 (Fines and Penalties); 1.20.13 (Summary Abatement)	<ul style="list-style-type: none"> <li>• Transfers responsibility to the Enforcement Officer.</li> <li>• Elaborates upon summary abatement (existing Code simply states that the County may do so).</li> <li>• Specifies that the Enforcement Officer pursue only the minimum level of abatement deemed necessary to eliminate the immediate hazard.</li> <li>• Sets a maximum civil penalty of \$10,000 per violation of the County Code for each day of violation.</li> </ul>
21.84.080 (Remedies, Cumulative)	1.20.02 (Applicability); 1.20.08 (Administrative Remedies)	<ul style="list-style-type: none"> <li>• Removes the statement that remedies are cumulative and not exclusive.</li> <li>• Replaces it with the statement that provisions of Chapter 1.20 may be used independently or in conjunction with other remedies within the Monterey County Code or in other law to correct a violation(s) of the Code.</li> <li>• Specifies that, where the provisions of this Chapter conflict with the provisions of other County Codes, Chapter 1.20 shall prevail.</li> </ul>
21.84.090 (Enforcement by Administrative Process, Powers of Enforcing Officer)	1.20.04 (Authority of Powers)	<ul style="list-style-type: none"> <li>• Transfers the primary responsibility of Code Enforcement from the Director of Planning and Building inspection to the Enforcement Officer.</li> <li>• Authorizes Enforcement Officers to gain compliance with the provisions of the Monterey County Code and issue citations.</li> <li>• Removes specification that no enclosed building or structure shall be entered without the express permission of the owner or occupant.</li> </ul>
21.84.110 (Removal of Notice of Violation)	1.20.15 (Administrative Enforcement Appeals); 1.20.09 (Notice of Violation)	<p>(1.20.15)</p> <ul style="list-style-type: none"> <li>• Transfers receipt of appeals from the Zoning Administrator to the County Administrative Officer.</li> <li>• Specifies that appeals must be filed in writing within ten working days from the date of service.</li> <li>• Outlines information to be included in an appeal and specifies that the County Administrative Officer shall not accept an appeal stated in generalities.</li> <li>• Requires that an appeal fee be paid for appeals of administrative determinations.</li> <li>• Clarifies that the receipt of a written appeal shall stay all</li> </ul>

**Table 1 Comparison of Chapters to be Deleted and Proposed Amendments**

Code to be Deleted	Proposed Chapter 1.20 Amendments	Summary of Change
		<ul style="list-style-type: none"> <li>action.</li> <li>• Requires the Administrative Officer to schedule a hearing within 15 working days after receiving appeal.</li> <li>• Specifies that any party whose property or actions are the subject of an appeal who fails to appear at the hearing is deemed to waive the right to a hearing.</li> </ul> <p>(1.20.09)</p> <ul style="list-style-type: none"> <li>• Requires the officer to record a notice of compliance within 10 working days once the officer determines that all violations have been corrected and all administrative penalties have been paid.</li> </ul>
21.84.120 (Refusal to Issue Permits, Licensees or Other Entitlements)	1.20.06 (Issuance of Permits, Licenses and Entitlements)	<ul style="list-style-type: none"> <li>• Allows the issuance of permits, licenses or entitlements that are in violation of the County Code if such permit, license or entitlement is part of the administrative remedy for the violation.</li> </ul>
21.84.130 (Restoration of Land Required Before Application Deemed Complete)	1.20.07 (Restoration)	<ul style="list-style-type: none"> <li>• Redefines restoration to include and reconstruction of natural features of the land (existing Code includes only reconstruction of natural features of the land which have been removed or changed in violation of the Code).</li> <li>• Requires that restoration plans be submitted to the Director of the Resource Management Agency, rather than the Director of Planning and Building Inspection.</li> <li>• Requires the plan to include all physical work to be done, a performance period to ensure reestablishment of the soil and vegetation, bonding, and independent monitoring, if needed, to assure the long term success of the restoration work (existing Code requires only a time period to be defined).</li> <li>• Provides an additional instance in which an alternative to restoration may be considered (when restoration work would potentially cause greater harm to the property or environment that currently exists on the property).</li> <li>• Specifies that restoration can only be infeasible due to economic, environmental, social and technical factors (existing Code states that restoration may be infeasible due to circumstances beyond the control of the applicant or the property owner).</li> <li>• Requires that an alternative comparable to the cost to restore the property to its pre-violation state be required if restoration is deemed infeasible. States that the alternative must be implemented prior to deeming the violation corrected.</li> </ul>
21.84.140 (Fees for Retroactive Permit Application)	1.20.06 B (Issuance of Permits, Licenses and Entitlements)	<ul style="list-style-type: none"> <li>• Changes the fee for permit applications for previously completed projects, in violation of the Code, from twice the amount normally charged for the application to all accrued costs of enforcement prior to determining the application complete.</li> </ul>

Overall, the proposed project streamlines enforcement of the Monterey County Code by including all provisions relative to Code enforcement in one location and transferring responsibility of enforcement to the Enforcement Officer. As defined in the proposed ordinance, the Enforcement Officer is “any Department Head as designated by the Personnel Policy and Practices Resolution of the County of Monterey and their designees” (Chapter 1.20.03). In contrast, the existing Code permits “any official or citizen of the County” to enforce the provisions of the Code “in any manner required or permitted by law” (existing Chapter 1.20.020). The proposed ordinance additionally defines the authority and powers of the Enforcement Officer, including, but not limited to: the issuance of citations; entrance upon a property to perform inspections, examinations and surveys; and making arrests.

In addition, the proposed amendments to Chapter 1.20 are generally more stringent than existing provisions proposed for deletion. For example, Chapter 1.20.05 (Violations) specifies that any person violating any provision of the Monterey County code is guilty of a misdemeanor unless it is charged as an infraction, punishable by fine or imprisonment (the existing Code simply states that violations may be addressed through civil action). This Chapter additionally specifies that each day of a Code violation constitutes a separate offense and may be charged and punished separately.

It should be noted that the proposed project consists of deletions and amendments to the Monterey County Code which facilitate improved enforcement of the Monterey County Code. The deletions and amendments would not in themselves accommodate new development or development in areas where it could not otherwise occur.

### ***III. PROJECT CONSISTENCY WITH OTHER APPLICABLE LOCAL AND STATE PLANS AND MANDATED LAWS***

Use the list below to indicate plans applicable to the project and verify their consistency or non-consistency with project implementation.

General Plan/Area Plan	<input checked="" type="checkbox"/>	Air Quality Mgmt. Plan	<input type="checkbox"/>
Specific Plan	<input type="checkbox"/>	Airport Land Use Plans	<input type="checkbox"/>
Water Quality Control Plan	<input type="checkbox"/>	Local Coastal Program-LUP	<input type="checkbox"/>

**General Plan.** As discussed under Section II (Description of Project) above, the proposed project streamlines enforcement of the Monterey County Code and provides for more stringent enforcement provisions. As a result, the proposed project would result in improved enforcement and subsequent compliance with the Monterey County Code. Compliance with provisions of the Code would improve compliance with the Monterey County General Plan. Therefore, the proposed project would facilitate compliance with the Monterey County General Plan.

**CONSISTENT**



#### ***IV. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED AND DETERMINATION***

##### **A. FACTORS**

The environmental factors checked below would be potentially affected by this project, as discussed within the checklist on the following pages.

- |  |  |   |
|--|--|---|
| <input type="checkbox"/> Aesthetics                  | <input type="checkbox"/> Agriculture Resources   | <input type="checkbox"/> Air Quality            |
| <input type="checkbox"/> Biological Resources        | <input type="checkbox"/> Cultural Resources      | <input type="checkbox"/> Geology/Soils          |
| <input type="checkbox"/> Hazards/Hazardous Materials | <input type="checkbox"/> Hydrology/Water Quality | <input type="checkbox"/> Land Use/Planning      |
| <input type="checkbox"/> Mineral Resources           | <input type="checkbox"/> Noise                   | <input type="checkbox"/> Population/Housing     |
| <input type="checkbox"/> Public Services             | <input type="checkbox"/> Recreation              | <input type="checkbox"/> Transportation/Traffic |
| <input type="checkbox"/> Utilities/Service Systems   |  |   |

Some proposed applications that are not exempt from CEQA review may have little or no potential for adverse environmental impact related to most of the topics in the Environmental Checklist; and/or potential impacts may involve only a few limited subject areas. These types of projects are generally minor in scope, located in a non-sensitive environment, and are easily identifiable and without public controversy. For the environmental issue areas where there is no potential for significant environmental impact (and not checked above), the following finding can be made using the project description, environmental setting, or other information as supporting evidence.

- Check here if this finding is not applicable

**FINDING:** For the above referenced topics that are not checked off, there is no potential for significant environmental impact to occur from either construction, operation or maintenance of the proposed project and no further discussion in the Environmental Checklist is necessary.

**EVIDENCE:**The project will have no quantifiable adverse environmental effect on the categories not checked above, as follows:

1. Aesthetics: The proposed project consists of deletions and amendments to the Monterey County Code which facilitate improved enforcement of the Monterey County Code. The deletions and amendments would not in themselves accommodate new development or development in areas where it could not otherwise occur. Consequently, the project would have no impacts on scenic vistas, scenic resources, or visual character. In addition, the project would not create any new sources of light or glare. There would be no impact (Source: IX.1)

2. Agricultural Resources: The proposed project consists of modifications to the Monterey County Code which facilitate improved enforcement of the Monterey County Code. The deletions and amendments would not in themselves accommodate new development or development in areas where it could not otherwise occur. Consequently, the project would not have any direct or indirect effect relating to agricultural resources (Source: IX.1).
3. Air Quality: Because the project would not accommodate new development or development in areas where it could not otherwise occur, no additional traffic- or construction-related emissions would be generated. Consequently, the proposed project would not conflict with or obstruct the implementation of an Air Quality Management Plan, nor would it violate any air quality standard or result in a cumulatively considerable net increase of any criteria pollutant for which the region is in non-attainment. There would be no impact (Source: IX.1).
4. Biological Resources: The proposed project consists of modifications to the Monterey County Code which facilitate improved enforcement of the Monterey County Code. The modifications would not in themselves accommodate new development or development in areas where it could not otherwise occur. Consequently, the project would not result in impacts to sensitive habitats, special-status plant or animal species, or wildlife corridors (Source: IX.1). The project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance, and would not conflict with any Habitat Conservation Plan or other approved local, regional, or state habitat conservation plan (Source: IX.1).

Chapter 1.20.07 (Restoration) would replace Chapters 18.52.130, 20.90.130, and 21.84.130 (Restoration of Land Required before Application Deemed Complete) (Source: IX. 3, 4). Compared to these Chapters, the proposed amendments would (refer to Table 1):

- Require restoration of natural features whether or not those features were changed in violation of the Code;
- Prohibit restoration if restoration may actually result in greater damage to the property;
- Limit claims of infeasibility; and
- Require an adequate alternative if restoration is infeasible.

Overall, the above revisions to the code would facilitate improved and more efficient restoration of biological resources, where code violations may result in impacts to such resources. This would potentially be a beneficial impact related to biological resources.

5. Cultural Resources: The proposed code modifications would not in themselves accommodate new development or development in areas where it could not otherwise occur. Consequently, the project would not have any direct effect on historic, archaeological, or paleontological resources (Source: IX.1).

6. Geology/Soils: The proposed project consists of modifications to the Monterey County Code which facilitate improved enforcement of the Monterey County Code. The deletions and amendments would not in themselves accommodate new development or development in areas where it could not otherwise occur. Consequently, the project would not expose people or structures to potential adverse effects including risk of loss, injury, or death from fault rupture, seismic ground shaking, seismic-related ground failure, or landslides. Similarly, the project would not result in substantial erosion or loss of topsoil, or expose people or structures to unstable or expansive soils (Source: IX.1).
7. Hazards/Hazardous Materials: The proposed project consists of modifications to the Monterey County Code and would not result in the transport, use, or dispose of hazardous materials. There would be no impact related to hazards or hazardous materials (Source: IX.1).
8. Hydrology and Water Quality: The proposed code modifications would not in themselves accommodate new development or development in areas where it could not otherwise occur. Consequently, the project would not violate any water quality standards or waste discharge requirements, deplete groundwater supplies or interfere with groundwater recharge, alter an existing drainage pattern, contribute runoff which would exceed the capacity of stormwater drainage systems, or place housing or structures within a 100-year flood hazard area. There would be no impact (Source: IX.1)
9. Land Use/Planning: The proposed modifications to the Monterey County Code would not accommodate new development or development in areas where it could not otherwise occur. Consequently, the project would not physically divide an established community or conflict with any applicable land use plan, policy or regulation. As discussed under Section II (Description of Project), the proposed project streamlines enforcement of the Monterey County Code and provides for more stringent enforcement provisions. As a result, the proposed project effectively provides for greater consistency with the Monterey County General Plan, County Area Plans, and County Code. There would be no impact (Source: IX.1).
10. Mineral Resources: The proposed modifications to the Monterey County Code would not accommodate new development or development in areas where it could not otherwise occur. Consequently, the project would not impact mineral resources (Source: IX.1).
11. Noise: The proposed project consists of modifications to the Monterey County Code which facilitate improved enforcement of the Monterey County Code. The deletions and amendments would not in themselves accommodate new development or development in areas where it could not otherwise occur. Consequently, the project would not have any direct or indirect effect relating to construction noise, transportation noise, or the exposure of sensitive receptors to noise in excess of County standards. There would be no impact (Source: IX.1).

12. Population/Housing: The project would have no impacts on the local or regional population or housing situation as the proposed project would not involve any action associated with population growth or housing displacement (Source: IX.1).
13. Public Services: The project would not result in increased demand for public services as it would not involve an increase local population (Source: IX.1).
14. Recreation: No parks, trail easements, or other recreational opportunities would be adversely impacted by the proposed project. The proposed modifications to the Monterey County Code would not create demands to justify construction of new facilities (Source: IX.1).
15. Transportation: The proposed project consists of modifications to the Monterey County Code which facilitate improved enforcement of the Monterey County Code. The deletions and amendments would not in themselves accommodate new development or development in areas where it could not otherwise occur. Consequently, the project would not generate additional traffic compared to what could currently be generated. No impacts to local traffic, emergency access, or air traffic patterns would result. The proposed revisions would not conflict with adopted transportation policies, plans or programs (Source: IX.1).
16. Utilities/Service Systems: The project would not result in an increase in population, structures our housing. Therefore, it would not require utilities or services (Source: IX.1).

## **B. DETERMINATION**

On the basis of this initial evaluation:

- I find that the proposed project **COULD NOT** have a significant effect on the environment, and a **NEGATIVE DECLARATION** will be prepared.
- I find that although the proposed project could have a significant effect on the environment there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A **MITIGATED NEGATIVE DECLARATION** will be prepared.
- I find that the proposed project **MAY** have a significant effect on the environment, and an **ENVIRONMENTAL IMPACT REPORT** is required.
- I find that the proposed project **MAY** have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An **ENVIRONMENTAL IMPACT REPORT** is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or **NEGATIVE DECLARATION** pursuant to applicable standards, and

(b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature	Date
Shandell Brunk	Associate Planner

**V. EVALUATION OF ENVIRONMENTAL IMPACTS**

- 1) A brief explanation is required for all answers except “No Impact” answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A “No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A “No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project would not expose sensitive receptors to pollutants, based on project-specific screening analysis).
- 2) All answers must take into account the whole action involved, including offsite as well as onsite, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.
- 4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level mitigation measures from Section XVII, "Earlier Analyses," may be cross-referenced).
- 5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
  - a) Earlier Analysis Used. Identify and state where they are available for review.
  - b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant

to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

- c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.
- 6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
  - 7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
  - 8) The explanation of each issue should identify:
    - a) The significance criteria or threshold, if any, used to evaluate each question; and
    - b) The mitigation measure identified, if any, to reduce the impact to less than significance.

**VI. ENVIRONMENTAL CHECKLIST**

1. AESTHETICS		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>					
a)	Have a substantial adverse effect on a scenic vista? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Substantially degrade the existing visual character or quality of the site and its surroundings? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion, Analysis and Conclusions:** See Sections II and IV.

**2. AGRICULTURAL RESOURCES**

<b>Would the project:</b>	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion/Conclusion/Mitigation:** See Sections II and IV.

**3. AIR QUALITY**

<b>Would the project:</b>	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in significant construction-related air quality impacts? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Expose sensitive receptors to substantial pollutant concentrations? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Create objectionable odors affecting a substantial number of people? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion, Analysis and Conclusions:** See Sections II and IV.

<b>4. BIOLOGICAL RESOURCES</b>				
<b>Would the project:</b>	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations or by the California Department of Fish and Game or US Fish and Wildlife Service? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion, Analysis and Conclusions:** See Sections II and IV.

<b>5. CULTURAL RESOURCES</b>				
<b>Would the project:</b>	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Cause a substantial adverse change in the significance of a historical resource as defined in 15064.5? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to 15064.5? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>



<b>5. CULTURAL RESOURCES</b>		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>					
c)	Directly or indirectly destroy a unique paleontological resource, site or unique geologic feature? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Disturb any human remains, including those interred outside of formal cemeteries? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion, Analysis and Conclusions:** See Sections II and IV.

<b>6. GEOLOGY AND SOILS</b>		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>					
a)	Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i)	Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii)	Strong seismic ground shaking? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii)	Seismic-related ground failure, including liquefaction? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv)	Landslides? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Result in substantial soil erosion or the loss of topsoil? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e)	Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion, Analysis and Conclusions:** See Sections II and IV.

<b>7. HAZARDS AND HAZARDOUS MATERIALS</b>		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>					
a)	Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e)	For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f)	For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g)	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h)	Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion, Analysis and Conclusions:** See Sections II and IV.

## 8. HYDROLOGY AND WATER QUALITY

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Violate any water quality standards or waste discharge requirements? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Otherwise substantially degrade water quality? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j) Inundation by seiche, tsunami, or mudflow? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion, Analysis and Conclusions:** See Sections II and IV.

<b>9. LAND USE AND PLANNING</b>		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>					
a)	Physically divide an established community? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Conflict with any applicable habitat conservation plan or natural community conservation plan? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion, Analysis and Conclusions:** See Sections II and IV.

<b>10. MINERAL RESOURCES</b>		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>					
a)	Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion, Analysis and Conclusions:** See Sections II and IV.

<b>11. NOISE</b>		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project result in:</b>					
a)	Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<b>11. NOISE</b>				
<b>Would the project result in:</b>	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion, Analysis and Conclusions:** See Sections II and IV.

<b>12. POPULATION AND HOUSING</b>				
<b>Would the project:</b>	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion, Analysis and Conclusions:** See Sections II and IV.

<b>13. PUBLIC SERVICES</b>		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project result in:</b>					
Substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:					
a)	Fire protection? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Police protection? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c)	Schools? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d)	Parks? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e)	Other public facilities? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion, Analysis and Conclusions:** See Sections II and IV.

<b>14. RECREATION</b>		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
<b>Would the project:</b>					
a)	Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b)	Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion, Analysis and Conclusions:** See Sections II and IV.

<b>15. TRANSPORTATION/TRAFFIC</b>				
<b>Would the project:</b>	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that result in substantial safety risks? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in inadequate emergency access? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Result in inadequate parking capacity? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion, Analysis and Conclusions:** See Sections II and IV.

<b>16. UTILITIES AND SERVICE SYSTEMS</b>				
<b>Would the project:</b>	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**16. UTILITIES AND SERVICE SYSTEMS**

<b>Would the project:</b>	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g) Comply with federal, state, and local statutes and regulations related to solid waste? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion, Analysis and Conclusions:** See Sections II and IV.

**VII. MANDATORY FINDINGS OF SIGNIFICANCE**

<b>Does the project:</b>	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? (Source: IX.1)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**Discussion, Analysis and Conclusions:**



**(a) No Impact.** Based upon the analysis throughout this Initial Study, the proposed code modifications would not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory.

**(b) No Impact.** The proposed project consists of modifications to the Monterey County Code which facilitate improved enforcement of the Monterey County Code. The deletions and amendments would not in themselves accommodate new development or development in areas where it could not otherwise occur. As a result, there would be no impact related to agricultural resources, air quality, cultural resources, geology/soils, hazards/hazardous materials, hydrology/water quality, land use/planning, mineral resources, noise, population/housing, public services, recreation, or transportation/traffic. Revisions to Chapter 1.20.07 (Restoration) would result in improved and more frequent and restoration. As described in this Initial Study, biological resource impacts would potentially be beneficial. When considered in combination with the effects of past projects, current projects, and probable future projects in the County, the proposed project would not result in impacts which are cumulatively considerable.

**(c) No Impact.** The proposed project would not create substantial adverse effects on human beings, either directly or indirectly.

## ***VIII. FISH AND GAME ENVIRONMENTAL DOCUMENT FEES***

### **Assessment of Fee:**

For purposes of implementing Section 735.5 of Title 14, California Code of Regulations: If based on the record as a whole, the Planner determines that implementation of the project described herein, will result in changes to resources A-G listed below, then a **Fish and Game Document Filing Fee** must be assessed. Based upon analysis using the criteria A-G, and information contained in the record, state conclusions with evidence below.

- A) Riparian land, rivers, streams, water courses, and wetlands under state and federal jurisdiction.
- B) Native and non-native plant life and the soil required to sustain habitat for fish and wildlife;
- C) Rare and unique plant life and ecological communities dependent on plant life, and;
- D) Listed threatened and endangered plant and animals and the habitat in which they are believed to reside.
- E) All species of plant or animals listed as protected or identified for special management in the Fish and Game Code, the Public Resources Code, and the Water Code, or regulations adopted there under.
- F) All marine terrestrial species subject to the jurisdiction of the Department of Fish and Game and the ecological communities in which they reside.
- G) All air and water resources the degradation of which will individually or cumulatively result in the loss of biological diversity among plants and animals residing in air or water.

**De minimis Fee Exemption:** For purposes of implementing Section 735.5 of the California Code of Regulations: A *De Minimis Exemption* may be granted to the **Environmental Document Fee** if there is substantial evidence, based on the record as a whole, that there **will not** be changes to the above named resources (A-G) caused by implementation of the project. Using the above criteria, state conclusions with evidence below, and follow Planning and Building Inceptions Department Procedures for filing a de minimis exemption.

**Conclusion:** The project **will not** be required to pay the fee.

**Evidence:** Based on the record as a whole as embodied in the Planning and Building Inspection files pertaining to PLN070116 and the attached Initial Study / Proposed Negative Declaration, implementation of the project described herein will not affect any of the above named resource in Section VIII.

## ***IX. REFERENCES***

1. Draft Code Enforcement Ordinance
2. Existing Code Enforcement Ordinance (Chapter 1.20 of the Monterey County Code)
3. Deleted Section Matrix. Provided by Shandell Brunk, Project Planner.
4. Monterey County Code Chapters Proposed for Deletion.
  - a. Chapters 16.08.520-606 (Grading)
  - b. Chapters 16.12.170-200 (Erosion Control)
  - c. Chapters 18.50.060-110 (Building and Construction; Water Conservation Measures)
  - d. Chapter 18.52 (Building and Construction; Enforcement/Administrative and Legal Procedures/Penalties)
  - e. Chapter 18.56.100 (Wildfire Protection Standards in State Responsibility Areas)
  - f. Chapter 20.90 (Coastal Zoning, Enforcement)
  - g. Chapter 21.84 (Non-Coastal Zoning, Enforcement, Administrative and Legal Procedures, Penalties)

## ***X. EXHIBITS***

None.

**EXHIBIT C**

**ORDINANCE NO.**

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, DELETING CHAPTERS 16.08.520-606 (GRADING), 16.12.170-200 (EROSION CONTROL), 18.50.090-.110 (WATER CONSERVATION), 18.52 (BUILDING AND CONSTRUCTION), 18.56.100 (WILDFIRE PROTECTION), 20.90 (ZONING, COASTAL ZONE), AND 21.84 (ZONING, NON-COASTAL) AND AMENDING CHAPTER 1.20 OF THE MONTEREY COUNTY CODE RELATIVE TO THE ENFORCEMENT OF THE MONTEREY COUNTY CODE**

County Counsel Synopsis

*This ordinance deletes and amends certain provisions of the Monterey County Code relative to the enforcement of the Monterey County Code. The provisions of this ordinance may be used independently or in conjunction with other enforcement remedies. The ordinance provides the definitions, authority and alternative measures to enforce the Code. Included in these measures are both judicial and administrative remedies, compliance agreements, notice of violation, prohibition against issuance of permits, administrative citations, summary and administrative abatement, restoration, appeals and recovery of enforcement costs and penalties. The ordinance also establishes a Code Enforcement Penalties Fund that will be used to defray the County's cost for enforcement as well as funds certain enforcement activities.*

The Board of Supervisors of the County of Monterey ordains as follows:

**SECTION 1:** Chapters 16.08.520-606, 16.12.170-200, 16.30, 18.50.090-.110, 18.52.010-140, 18.56.100, 20.90, 21.84, and 20.104 are hereby repealed in their entirety.

**SECTION 2:** Chapter 1.20 of the Monterey County Code is hereby amended in its entirety to read:

Chapter 1.20  
**ENFORCEMENT OF THE MONTEREY COUNTY CODE**

Sections:

- 1.20.01 Purpose and Findings
- 1.20.02 Applicability
- 1.20.03 Definitions
- 1.20.04 Authority and Powers
- 1.20.05 Violations
- 1.20.06 Issuance of Permits, Licenses and Entitlements
- 1.20.07 Restoration
- 1.20.08 Administrative Remedies
- 1.20.09 Notice of Violation
- 1.20.10 Compliance Agreements

1.20.11	Administrative Citations
1.20.12	Fines and Penalties
1.20.13	Summary Abatement
1.20.14	Administrative Abatement
1.20.15	Administrative Enforcement Appeals
1.20.16	Appointment and Authority of the Hearing Officer
1.20.17	Recovery of Civil Penalties and Abatement Costs
1.20.18	Code Enforcement Penalties Fund

### **1.20.01 PURPOSE AND FINDINGS**

The Board of Supervisors finds:

- A. The enforcement of the Monterey County Code and applicable state codes throughout the County is an important public service.
- B. Code enforcement is vital to protection of the public's health, safety and quality of life.
- C. Enforcement depends upon clear and precise regulations that can be effectively applied by a range of administrative remedies as well as judicial proceedings.
- D. That a comprehensive code enforcement system that uses a combination of administrative and judicial remedies is critical to gain code compliance. Judicial remedies are traditional remedies to enforce laws by filing criminal and civil actions in a court of law. Administrative remedies are designed to provide fair and efficient methods of enforcing the provisions of the County Code without the required expense and consumption of time that judicial actions may require.
- E. The assessment of civil penalties through an administrative hearing procedure for code violations is a necessary alternative method of code enforcement.
- F. There is a need to establish an appeal process for the administrative decisions provided for in this Chapter through use of an independent, impartial hearing officer. It is the purpose and intent of the Board of Supervisors to afford due process of law to any person who is directly affected by an administrative action and to establish a forum to efficiently, expeditiously and fairly resolve issues raised in those actions.
- G. That the collection of civil and administrative penalties, nuisance abatement costs and the cost to the County to investigate and abate violations are appropriate means of defraying the County's cost for its code enforcement activities.
- H. The collection of civil penalties, costs and fees assessed for code enforcement violations is important in deterring future violations and maintaining the integrity of the county's code enforcement system.
- I. There is a need to create and maintain a funding source for the administration and operation of code enforcement activities in the County.

### **1.20.02 APPLICABILITY**

The provisions of this Chapter are applicable to the enforcement of all Monterey County Codes. These provisions may be used by an Enforcement Officer independently or in conjunction with other remedies within the Monterey County Code or in other law to correct a violation(s) of the Monterey County Code. Where the provisions of this Chapter conflict with the provisions of other County Codes, this Chapter shall prevail.

### 1.20.03 DEFINITIONS

As used in this Chapter, the following shall have the following meanings:

- A. Abate or Abatement means any action taken by County of Monterey to remove or alleviate a public nuisance including, but not limited to, demolishing, removal, repair, boarding and securing or replacement property.
- B. Abatement notice means a notice issued by an Enforcement Officer which requires a responsible person to abate a public nuisance.
- C. Administrative citation means a written notice of code violations including the administrative penalties assessed that is issued to the responsible person by the Enforcement Officer.
- D. Administrative penalties means the amount in penalties assessed for each administrative citation issued for the same violation by the Enforcement Officer.
- E. Administrative enforcement order means an order issued by an enforcement hearing officer after a hearing requiring a responsible person to correct violations, abate a public nuisance, pay civil penalties, administrative penalties and reasonable cost to the County for its code enforcement activities as authorized or required by this code and applicable state codes.
- F. Code enforcement performance bond means a bond posted to ensure compliance with the Monterey County Code, applicable state codes, a judicial decree or administrative enforcement order.
- G. Compliance Agreement means a written agreement between the Enforcement Officer and the responsible person setting forth the mutually agreed to means and schedule by which a violation is to be abated.
- H. County Administrative Officer means that person appointed as the County Administrative Officer pursuant to Monterey County Code Section 2.12.030 and their designees.
- I. Director of the Resource Management Agency means that person appointed as the Director of the Resource Management Agency pursuant to Monterey County Code Section 2.27.020 and their designees.
- J. Disputing party means any person responsible for alleged violations, interested or involved citizens who may have complained to the County about the alleged violations, crime victims and appropriate representatives from the County.
- K. Enforcement case means any complaint or case on file with the County that involves alleged violations of the Monterey County Code or applicable provisions of state law.
- L. Enforcement Officer means any Department Head as designated by the Personnel Policy and Practices Resolution of the County of Monterey and their designees.
- M. Feasible means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technical factors.
- N. Financial institution means any person that holds a recorded mortgage, deed of trust, loan, note or similar instrument on a property.
- O. Hearing Officer means that person appointed by the County Administrative Officer to hear and decide appeals pursuant to Section 1.20.16 of this Chapter.
- P. Imminent life safety hazard means any condition that creates a present and immediate danger to life, property, health or public safety.
- Q. Legal interest means any interest that is represented by a document including but not limited to, a lease agreement, deed of trust, quitclaim deed, mortgage, judgment lien, tax or assessment lien, mechanic's lien or other similar instrument which is recorded with the County recorder.
- R. Notice and order means a document used to provide notice of Monterey County Code or applicable state code violations and orders a responsible person to correct the violations.

- S. Notice of compliance means a document by an Enforcement Officer stating that a property complies with the requirements listed in a notice of violation and that the responsible person or property owner has paid all administrative and civil penalties and reasonable costs of enforcement.
- T. Notice of violation means a written notice prepared by an Enforcement Officer that informs a responsible person of code violations and directs compliance.
- U. Nuisance abatement lien means a lien recorded to collect outstanding actual and reasonable nuisance abatement costs and associated administrative costs for abatement.
- V. Person means any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, limited liability company, business trust, organization or the manager, lessee, agent, servant, officer or employee of any of them or any other entity which is recognized by law as the subject of rights or duties.
- W. Property owner means the record owner of real property.
- X. Public nuisance means the maintenance or use of property in the County in a manner that violates any provision of the Monterey County Code.
- Y. Responsible person means a person who an Enforcement Officer determines is responsible for causing or maintaining a violation of the Monterey County Code. The term "responsible person" may include but is not limited to the person responsible for a violation, a property owner, property manager, business manager, tenant, person with a legal interest in real property or person in possession of real property or contractor otherwise responsible for violations who proximately causes or maintains a violation of the Monterey County Code. An Enforcement Officer shall make a good faith effort to identify the responsible party based on the facts and circumstances surrounding each case.
- Z. Unreasonable state of partial construction means it has been more than one year since construction started and:
  - 1) The construction work or required improvements have not been diligently pursued; and,
  - 2) The appearance of the structure or the building site substantially detract from the appearance of the neighborhood or reduce property values in the immediate neighborhood; or
  - 3) The condition of the structure or the building site is detrimental to the public health, safety and welfare.
- AA. Written includes printed, typewritten, electronically mailed, photocopied, facsimile and any other item of writing as listed in California Evidence Code Section 250.

#### **1.20.04 AUTHORITY AND POWERS**

- A. All Enforcement Officers have the authority and powers included herein and as otherwise specified by law necessary to gain compliance with the provisions of the Monterey County Code and applicable state codes for which they are responsible.
- B. All Enforcement Officers, pursuant to the provisions of Section 836.5 of the Penal Code of the State of California, are hereby designated and authorized to issue citations.
- C. Enforcement Officers are authorized to enter upon any property or premises to ascertain whether the provisions of the Monterey County Code or applicable state codes are being obeyed, and to make any examinations, inspections and surveys as may be necessary in the performance of their enforcement duties. These may include the taking of photographs, samples or other physical evidence.
- D. All inspections, entries, examinations and surveys requiring the Enforcement Officer to go on the property in question shall be conducted in a reasonable and lawful manner. If an owner, occupant or agent refuses permission to enter or inspect, or is not

available, the Enforcement Officer may seek an administrative inspection warrant pursuant to the California Code of Civil Procedure sections 1822.50 and 1822.51.

- E. Whenever any work is being done contrary to the provisions of County Code, the Enforcement Officer may order the work stopped by notice orally or in writing served to the responsible person engaged in doing or causing such work to be done and such person shall immediately stop such work until authorized by the Enforcement Officer to proceed with the work.
- F. Enforcement Officers are authorized to arrest without a warrant any person who has violated the County Code provided the violation occurs in the presence of the Enforcement Officer. The Enforcement Officer can only arrest a person by issuing a misdemeanor field citation or by affecting a citizen's arrest with the assistance of a peace officer.
- G. Whenever a notice is required to be given under this Chapter, the notice shall be served by posting the notice conspicuously on or in front of the property and any one of the following:
  - a. Personal service; or,
  - b. Regular mail; or,
  - c. Certified mail, postage prepaid, return receipt requested.

If a notice sent by certified mail is returned unsigned, then service shall be deemed effective pursuant to regular mail, provided the notice that was sent by regular mail is not returned.

- H. Service by certified or regular mail shall be deemed effective five days after the date of mailing. The failure of any person with an interest in the property to receive any notice served in accordance with this section shall not affect the validity of any proceedings taken under this Code.
- I. When pursuant to this Chapter or state law a document is recorded with the County Recorder, recordation shall provide constructive notice of the information contained in the recorded documents.
- J. The Director of the Resource Management Agency is authorized to reduce fines and abatement costs when, pursuant to criteria adopted by the Board of Supervisors, it is determined that such fines, penalties and abatement costs would create an extreme financial hardship.

### **1.20.05 VIOLATIONS**

- B. Violation of the County Code is hereby declared to be a public nuisance. It shall be unlawful for any person as principal, agent, employee, landlord, tenant or otherwise to permit, allow or cause the set-up, alteration, erection, construction enlargement, conversion, or maintenance of any building or structure contrary to the provisions of the Monterey County Code and/or to permit, allow or cause the establishment, operation or maintenance of any use of the land, structure, or premise, which is contrary to the provisions of the Monterey County Code.
- C. Any building or structure in an unreasonable state of partial construction is a violation of the Monterey County Code.
- D. Any person violating any provision of Monterey County Code, including the violation of any conditions of a discretionary permit, is guilty of a misdemeanor unless it is charged as an infraction. Any person be convicted of a misdemeanor or an infraction under the provisions of this Code shall be punishable by a fine not to exceed that which the California Penal Code establishes for a misdemeanor or infraction offense or by imprisonment of not more than six months or by both fine and imprisonment in the case

of a misdemeanor.

- E. It is prohibited to continue work on any property after a stop work order, notice of violation or citation has been issued by an Enforcement Officer.
- F. Each day or portion of a day that any person violates or continues to violate this Title constitutes a separate offense and may be charged and punished separately without awaiting conviction on any prior offense.
- G. The violation of any condition imposed on any permit issued under the authority of the Monterey County Code is a violation of the Monterey County Code.
- H. Any false report of a code violation made knowingly by any person is a violation of the Monterey County Code.

#### **1.20.06 ISSUANCE OF PERMITS, LICENSES AND ENTITLEMENTS**

- A. No department, commission, or employee of the County of Monterey which is vested with the duty or authority to issue or approve permits, licenses or other entitlements shall issue or approve such permits, licenses or other entitlements nor determine a discretionary permit complete for any use of property where there is a violation of the County Code unless such permit, license or other entitlement is the, or part of the, administrative remedy for the violation. No other permits may be issued on that property until all violations on the property are corrected.
- B. Application for permits for any use for which a permit is required and where the use has been constructed, placed on the property, operated or has been otherwise established or initiated prior to the application for the permit, in violation of this Title, shall be required to pay all accrued costs of enforcement prior to determining the application complete.
- C. The provisions of this Section may be waived by the Enforcement Officer for remedial, protective, or preventative work needed to deal with an emergency situation or to protect the public health, safety and welfare.

#### **1.20.07 RESTORATION**

- A. No application for a discretionary permit required under provisions of the Monterey County Code shall be deemed complete if there is a violation on said property of a County ordinance that regulates grading, vegetation removal or tree removal until the property has been restored to its pre-violation state.
- B. Restoration includes, but is not limited to, the revegetation of the land with native plants and trees and the reconstruction of natural features of the land.
- C. Plans for restoration shall be submitted to and approved by the Director of the Resource Management Agency prior to the commencement of restoration. The plan shall include all physical work to be done, a performance period to ensure reestablishment of the soil and vegetation, bonding and independent monitoring, if needed, to assure the long term success of the restoration work. .
- D. The Director of the Resource Management Agency shall refer the restoration plan to the Planning Commission for public hearing when the restoration work is a project under CEQA and a mitigated negative declaration or environmental impact report has been prepared.
- E. An alternative to restoration shall not be considered unless the Director of the Resource Management Agency determines that:
  - 1. Restoration would endanger the public health or safety; or,
  - 2. Restoration would potentially cause greater harm to the property or environment than currently exists on the property, or,



3. Restoration is not feasible due to economic, environmental, social, and technical factors.
- F. Should restoration not be required pursuant to 1.20.070E, an alternative comparable to the cost to restore the property to its pre-violation state shall be required. A written agreement for the implementation, bonding and monitoring of the alternative shall be required and approved by the Director of the Resource Management Agency and be implemented prior to deeming the violation corrected.

### **1.20.08 ADMINISTRATIVE REMEDIES**

Whenever the County, through one of its Enforcement Officers, determines that a violation of the Monterey County Code or applicable state code exists, the County may pursue any administrative remedy or combination of the administrative remedies outlined in Sections 1.20.08 through 1.20.14 of this Chapter as allowed in or in keeping with applicable State statute(s) or regulation(s).

### **1.20.09 NOTICE OF VIOLATION**

- A. Whenever an Enforcement Officer determines that a violation of the Monterey County Code or applicable state code exists, the Enforcement Officer may issue and record a notice of violation to a responsible person. The notice of violation shall include the following information:
1. The name of the property's record owner;
  2. Street address;
  3. The code sections in violation;
  4. A description of the property's condition which violates the applicable codes;
  5. A list of necessary corrections to bring the property into compliance;
  6. A deadline or specific date to correct the violations listed in the notice of violation;
  7. Reference to the potential consequences, specifically including recordation of a notice of violation and refusal to issue permits, should the property remain in violation after the expiration of the compliance deadline.
  8. State a time and place for meeting with the Code Enforcement Officer at which time the responsible person may present evidence to the satisfaction of the Enforcement Officer as to why the notice shall not be recorded. The responsible person shall be provided at least 10 days notice of the time and place of the meeting.
  9. A description of a meet and confer process.
  10. A brief description of the procedure to appeal the notice of violation, including time limitations.
  11. A statement of intention to record the notice of violation unless there is a determination that a violation does not exist or a written appeal is filed.
- B. When the Enforcement Officer determines that the violations listed on a notice of violation are corrected and all administrative penalties and costs of enforcement have been paid, the Enforcement Officer shall record a notice of compliance within 10 working days. The recorded notice of compliance shall have the effect of canceling the recorded notice of violation.

### **1.20.10 COMPLIANCE AGREEMENTS**

- A. The Enforcement Officer may enter into a compliance agreement with a responsible person as a means of correcting a violation. The purpose of a compliance agreement is to

obtain compliance within a realistic specified timeframe.

- B. The compliance agreement shall be in writing and shall include the following information:
  - C. The name of the property's record owner;
  - D. Street address;
  - E. The code sections in violation;
  - F. A description of the property's condition, which violates the applicable codes;
  - G. A list of necessary corrections to bring the property into compliance;
  - H. A specific date to correct the violations; and,
  - I. The cost of enforcement and the means by which the cost is to be paid.
- C. A compliance agreement can be amended with the mutual agreement of the Enforcement Officer and responsible person.
- D. Failure of the responsible person to meet the terms and conditions of the compliance agreement in the time and manner established in the compliance agreement shall void the agreement.
- E. Should the compliance agreement be voided the Enforcement Officer may pursue such remedies as deemed necessary to correct the violation.
- F. A compliance agreement shall not exceed a period of six months. The Enforcement Officer may extend the compliance agreement if it is shown that due to unanticipated circumstances beyond their control the responsible person was unable to meet the terms of the agreement.

#### **1.20.11 ADMINISTRATIVE CITATIONS**

- A. Any responsible person may be issued an administrative citation by the Enforcement Officer.
- B. The Enforcement Officer shall attempt to obtain the signature of the responsible person on the administrative citation. If the responsible person refuses or fails to sign the administrative citation, the failure or refusal to sign shall not affect the validity of the citation and subsequent proceedings. If no one can be located at the property, the administrative citation shall be posted in a conspicuous place on or near the property and a copy shall be mailed to the responsible person and the property owner in the manner prescribed by Chapter 1.20.04 F.
- C. The administrative citation shall:
  - 1. State the date and location of the violations and the approximate time the violations were observed.
  - 2. List the code sections violated and describe how the sections are violated.
  - 3. Describe the action(s) required to correct the violations.
  - 4. Require the responsible person to immediately correct the violations.
  - 5. Explain the consequences of failure to correct the violations.
  - 6. State the amount of fine imposed for the violations.
  - 7. Explain how the fine shall be paid and the time period by which it shall be paid, and the consequences of failure to pay the fine.
  - 8. Include and explain the right to appeal.
  - 9. Include the signature of the Enforcement Officer.
  - 10. The signature of the responsible person if that person can be located.
- C. Fines for Administrative Citations are:
  - 1. First citation: \$100.00;
  - 2. Second citation within a period of one year: \$200.00;

3. Each additional citation within a period of one year: \$500.00.
- D. Administrative fines collected pursuant to this chapter shall be deposited in the code enforcement penalties fund established pursuant to Chapter 1 20.18.

### **1.20.12 FINES AND PENALTIES**

- A. Application for permits for any use for which a permit is required and where the use has been constructed, placed on the property, operated or has been otherwise established or initiated prior to the application for the permit, in violation of this Title, shall require a fee of twice the amount normally charged for the application.
- B. Any person convicted of a misdemeanor under the provisions of this code, unless provision is otherwise made, shall be punishable by a fine of not more than \$10,000.00 or by imprisonment in the County Jail for a period of not more than six months or by both fine and imprisonment.
- C. Any person convicted of an infraction under the provisions of this Code, unless provision is otherwise herein made, shall be punishable by fine as follows:
  1. First conviction: not to exceed \$100.00;
  2. Second conviction within a period of one year: not to exceed \$200.00;
  3. Each additional violation of the same ordinance within a period of one year: not to exceed \$500.00.
- D. In addition to any other remedy provided by this Code, any provision of this Code may be enforced by injunction issued by the Superior Court upon a suit brought by the County of Monterey. As part of a civil action filed to enforce provisions of this Code, a court may assess a maximum civil penalty of \$10,000.00 per violation of the County Code for each day during which any person commits, continues, allows or maintains a violation of any provision of this code.
- E. Payment of fines shall not excuse the failure to correct the violations nor shall it bar further enforcement action by the County should the violation not be corrected.
- F. Should the responsible person fail to pay the fine within the time specified on the citation the Enforcement Officer may pursue any remedy to collect the fine.
- G. As part of any enforcement action, the County has the authority to require a responsible person to post a performance bond to ensure compliance with the Monterey County Code, applicable state codes or any judicial action.
- H. Pursuant to California Penal Code Section 372, and California Code of Civil Procedure Section 731, the County has the authority to judicially abate public nuisances by filing criminal or civil nuisance actions
- I. Pursuant to California Government Code Section 38773 7, upon the entry of a second or subsequent civil or criminal judgment within a two-year period that finds an owner of property responsible for a condition that may be abated in accordance with California Government Code Section 38773.5, a court may order the owner to pay triple the costs of the abatement. These costs shall not include conditions abated pursuant to Section 17980 of the California Health and Safety Code.

### **1.20.13 SUMMARY ABATEMENT**

- A. Whenever an Enforcement Officer determines that there exists an imminent threat to life or the environment exists that requires immediate correction or elimination, the Enforcement Officer may exercise any or all of the following powers without prior notice to the responsible person:
  1. Order the immediate vacation of any occupants or tenants and prohibit

- occupancy until all repairs are completed; or,
  - 2. Post the premises as unsafe, substandard or dangerous; or,
  - 3. Board, fence or secure the building or site; or,
  - 4. Raze and grade that portion of the building or site to prevent further collapse and remove any hazard to the general public; or,
  - 5. Make any minimal emergency repairs as necessary to eliminate any imminent hazard; or,
  - 6. Take any other action as appropriate under the circumstances.
- B. An Enforcement Officer shall pursue only the minimum level of abatement deemed necessary to eliminate the immediate hazard. Actual and reasonable costs incurred by the County during the summary abatement process shall be assessed and recovered against the responsible person through the procedures outlined in Section 1.20.17.
- C. The Enforcement Officer may also pursue any administrative or judicial remedy to abate any remaining public nuisance

#### **1.20.14 ADMINISTRATIVE ABATEMENT**

- A. When an Enforcement Officer determines that a public nuisance exists an abatement notice may be issued to the responsible person or property owner to abate the public nuisance.
- B. The abatement notice shall:
- 1. State the date and location of the violations and the approximate time the violations were observed.
  - 2. List the code sections violated and describe how the sections are violated.
  - 3. Describe the action(s) required to correct the violations.
  - 4. Require the responsible person to immediately correct the violations.
  - 5. Explain the consequences of failure to correct the violations.
  - 6. State the amount of penalty imposed for the violations.
  - 7. Explain how the penalty shall be paid and the time period by which it shall be paid, and the consequences of failure to pay the penalty.
  - 8. Include an explanation of the right to appeal.
  - 9. Include the signature of the Enforcement Officer.
  - 10. The signature of the responsible person if that person can be located.
- C. The abatement notice shall be served by any one of the methods of service listed in Chapter 1.20.04 F of this Code.
- D. The Enforcement Officer shall establish a time frame for compliance based on the nature and severity of the nuisance.
- E. The responsible person may appeal the abatement notice within ten calendar days from the date of service of the abatement notice pursuant to Section 1.20.15.
- F. The public nuisance may be abated by County personnel or by a private contractor. County personnel or a private contractor can enter upon private property in a reasonable and lawful manner to abate the public nuisance. Interference with the County's abatement of the public nuisance by a property owner or responsible person is a misdemeanor.
- G. When abatement is completed, a report describing the work performed and an itemized account of the total actual and reasonable abatement costs shall be prepared by the Enforcement Officer. The report shall contain the names and addresses of the responsible persons or property owners of each parcel, the tax assessor's parcel number and a legal description of the property.
- J. All actual and reasonable administrative and actual costs incurred by the County in

abating the public nuisance may be assessed and recovered against the responsible person pursuant to the provisions set forth in Chapter 1.20.17

### **1.20.15 ADMINISTRATIVE ENFORCEMENT APPEALS**

- A. All appeals of determinations of an Enforcement Officer shall only be considered pursuant to Sections 1.20.15 and 1.20.16 of this Chapter.
- B. Any responsible person aggrieved by the determination of the Enforcement Officer as to the existence of a violation of the Monterey County Code may file an appeal of that determination within ten working days from the date of service.
- C. The appeal shall be made in writing and filed with the County Administrative Officer. The appeal of an administrative determination shall be accompanied by an appeal fee in an amount established by resolution of the Board of Supervisors. The appeal fee is a deposit against the cost of the appeal process to the County.
- D. The appellant shall specifically state in the notice of appeal:
  - 1. The identity of the appellant and their interest in the decision;
  - 2. The identity of the decision appealed or the conditions appealed;
  - 3. A clear, complete, but brief, statement of the reasons why the determination of the Enforcement Officer is in error;
  - 4. The specific reasons the appellant disagrees with the findings, or decision made or conditions imposed by the Enforcement Officer.
- D. The County Administrative Officer shall not accept an appeal stated in generalities.
- E. The receipt of a written appeal shall stay all actions, and put in abeyance all approvals or permits which may have been granted, pending the effective date of the decision of the Hearing Officer unless such cessation would result in the continuation of a life, health, safety or environmental risk.
- F. Within 15 working days after receiving the written notice of appeal, the County Administrative Officer shall schedule a date, time, and place for the hearing.
- G. Written notice of the date, time and place of the hearing shall be served on the responsible person at least ten working days prior to the date of the hearing pursuant to Chapter 1.20.04 E of the Monterey County Code.
- H. Any party whose property or actions are the subject of an appeal and who fails to appear at the hearing is deemed to waive the right to a hearing and to an adjudication of the issues related to the hearing, provided that proper notice of the hearing has been provided.

### **1.20.16 APPOINTMENT AND AUTHORITY OF THE HEARING OFFICER**

- A. The County Administrative Officer shall appoint a Hearing Officer to consider any appeal filed under Section 1.20.15. The Hearing Officer shall be Administrative Law Judge who is not a County employee or dependent upon the County for a major portion of their livelihood.
- B. The Hearing Officer shall retain jurisdiction over the subject matter of the appeal process for the purposes of conducting hearings, granting a continuance, deciding the appeal, ensuring compliance with an administrative enforcement order, modifying an administrative enforcement order, or granting a new hearing.
- C. Formal rules of evidence and discovery do not apply. Each party shall have the opportunity to present witnesses and evidence in support of their case. The County shall actively participate in the appeal process and represent its decisions relative to the code enforcement action.

- D. The preponderance of evidence standard shall be used by the Hearing Officer in deciding the issues of an appeal.
- E. The County bears the burden of proof at an appeal hearing to establish the existence of a violation of the Monterey County Code or applicable state code.
- F. A written decision of the Hearing Officer shall be issued within 30 days of the appeal hearing. The decision shall be served on all parties pursuant to Chapter 1.20.04 F of the Monterey County Code.
- G. The decision shall become final on the date of service of the order.
- H. Judicial review of an administrative enforcement order may be sought pursuant to California Code of Civil Procedure Section 1094.5.
- I. It is unlawful for a party to an appeal hearing who has been served with a copy of the final decision of the Hearing Officer to fail to comply with the decision. Failure to comply with the decision may be prosecuted as an infraction or a misdemeanor.

#### **1.20.17 RECOVERY OF CIVIL PENALTIES AND ABATEMENT COSTS**

- A. The Enforcement Officer may collect all civil penalties and related administrative penalties by the use of all legal means, including referral to the Revenue Manager or County Counsel or District Attorney.
- B. After the County has abated a public nuisance, the Enforcement Officer shall prepare an itemized account of the total actual and reasonable abatement costs. That account and a demand to pay shall be served on the responsible person or property owner.
- C. The responsible person may appeal the demand to pay within ten calendar days from the date of service by filing a written request to appeal to a hearing officer. Upon receiving a written appeal, an Enforcement Officer shall follow the procedures set forth in Chapter 1.20.15 and .16.
- D. If the Hearing Officer orders that abatement costs be charged as a personal obligation of the responsible person, the Enforcement Officer shall collect the obligation by use of all appropriate legal means including a nuisance abatement lien pursuant to Government Code Section 38773.1.
- E. Once a final administrative decision or judicial order establishes the amount of civil penalties, abatement costs, administrative fees and costs that may be charged against the property as a special assessment, the Enforcement Officer shall prepare and record a notice of special assessment and deliver the notice to the County auditor to place on the County assessment roll pursuant to Government Code Section 3877.3.5.
- F. The Enforcement Officer shall record a cancellation of special assessment notice with the Monterey County Recorder within 10 working days when either: (i) the responsible person or property owner pays in full the abatement costs; or (ii) the Monterey County auditor or tax collector posts a lien on the property pursuant to Government Code Section 38773.5.

#### **1.20.18 CODE ENFORCEMENT PENALTIES FUND**

- A. The Monterey County Code Enforcement Penalties Fund is hereby established. Each Department may establish its own account for said fund.
- B. All monies recovered by payment of the charges for the cost of enforcement, administrative penalties, or assessment of liens on the sale or transfer of the property shall be remitted to the County revenue officer or tax collector who shall credit the appropriate amount to the code enforcement penalties fund of the enforcing department(s) as provided in this Chapter or, alternatively use the monies to reimburse the department responsible for the subject code enforcement action where appropriate- All funds

collected from code enforcement actions shall be deposited into a separate fund and used for the supplemental financing of code enforcement programs or alternatively to reimburse the department(s) responsible for the subject code enforcement action.

**SECTION 3. 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 4. EFFECTIVE DATE.**

This Ordinance shall become effective on the 31<sup>st</sup> day after its adoption.

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

AYES:

NOES:

ABSENT:

ABSTAIN:

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

Attest:  
LEW C. BAUMAN, Clerk  
to the Board of Supervisors

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

APPROVED AS TO FORM:  
Charles McKee, County Counsel

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