

**ORDINANCE NO. 3424 C.S.**

**AN OMNIBUS ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY  
AMENDING THE MONTEREY CITY CODE**

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN, as follows:

**SECTION 1.** The Monterey City Code shall be amended to reflect the following new departmental and division titles:

- a. All references to the titles of "Community Development Director" (or "Director of Community Development"), "Planning Director," and "Public Works Director" (or "Director of Public Works") shall be replaced by the single title of "Deputy City Manager of Plans and Public Works" wherever such titles may appear in the City Code.
- b. All references to the "Community Development Department" (or "Department of Community Development"), "Planning Department," and "Public Works Department" (or "Department of Public Works") shall be replaced by the single departmental title of "Department of Plans and Public Works" wherever such titles may appear in the City Code.
- c. The title of "City Clerk" shall be replaced by the title of "Director of Information Resources/City Clerk" in Chapter 25 (Personnel) Section 25-2.14. All remaining references to the title of "City Clerk" in the City Code shall remain unchanged.
- d. All references to the division head title of "Building Official" shall be replaced by the title of "Chief of Inspection Services/Building Official" wherever such title may appear in the City Code.

**SECTION 2.** The currently untitled Monterey City Code Chapters 1, 22, 25 and 31.5 shall be given the following titles:

- a. Chapter 1 – General Provisions
- b. Chapter 22 – Offenses/Nuisances
- c. Chapter 25 – Personnel/Human Resources
- d. Chapter 31.5 – Storm Water Management

**SECTION 3.** Chapter 6 (Animals and Fowl), Article 2, Section 6-16.1 of the Monterey City Code shall be amended to read as follows:

**"Sec. 6-16.1 Dogs Prohibited at Certain Public Events.**

No person shall permit any dog in their possession or under their control to be present at any public event or place where the City Council has previously declared dogs to be prohibited and where adequate warning signs are posted. This provision shall not apply to a blind or visually impaired, deaf or hearing impaired, or disabled person accompanied by a properly leashed or harnessed guide dog, signal dog, or service dog."

**SECTION 4.** Chapter 9 (Building Regulations) of the Monterey City Code shall be amended as follows:

- a. A new Article 1.0 (Adoption of Building and Related Codes) is added to Chapter 9 and shall read as follows:

**"ARTICLE 1.0**

**ADOPTION OF BUILDING AND RELATED CODES**

**Sec. 9-0.1 Adoption of Codes.**

Except as otherwise amended by this chapter and Chapter 13 of this city code, the following model codes are hereby adopted pursuant to Monterey City Ordinance No. 3398 (effective January 1, 2008) and are incorporated in this chapter by reference and made a part hereof as if fully set forth herein:

1. 2007 California Building Code and Appendix Chapter J (2006 International Building Code);
2. 2007 California Mechanical Code (2006 Uniform Mechanical Code);
3. 2007 California Plumbing Code, including Chapter 16 (2006 Uniform Plumbing Code);
4. 2007 California Electrical Code (2005 National Electrical Code);
5. 1997 Uniform Administrative Code;
6. 2006 International Property Maintenance Code;
7. 2006 International Existing Building Code;
8. 2007 California Fire Code including Appendix Chapter 1 and Appendices A, B, C, D, M and R (2006 International Fire Code).

**Sec. 9-0.2 Exemption for pending applications.**

1. The provisions of the 2007 editions of the California Building Code, the California Mechanical Code, the California Plumbing Code, the California Electrical Code, and the California Fire Code, the 2006 International Property Maintenance Code, and the 2006 International Existing Building Code as adopted and amended herein, shall not

apply to any building or structure for which application for a building permit was made prior to January 1, 2008. Such buildings or structure shall be erected, constructed, enlarged, altered or repaired in accordance with the provisions of this chapter in effect at the date of said application.

2. All other applications shall be processed in accordance with the provisions of the 2007 editions of the California Building Code, the California Mechanical Code, the California Plumbing Code, the California Electrical Code, and the California Fire Code, the 2006 International Property Maintenance Code, and the 2006 International Existing Building Code, all as adopted and amended herein."

- b. The existing Article 1 (Amendments to Uniform Codes) of Chapter 9 shall be renumbered as Article 1.5 as follows:

**"ARTICLE 1.5  
AMENDMENTS TO UNIFORM CODES"**

**SECTION 5.** Chapter 10 (Cementerio El Encinal) of the Monterey City Code shall be amended to incorporate the revisions set forth below.

- a. Sections 10-1 through 10-4 of Article 1 are amended to read as follows:

**"Sec. 10-1. Office of Cemetery Coordinator established.**

The office of Coordinator of Cementerio El Encinal is hereby established.

**Sec. 10-2. Appointment of additional officers.**

The City Manager may, in his discretion, subject to budgetary approval of the City Council, appoint a Cemetery Coordinator, assistant coordinator, and such other officers as are necessary to operate the cemetery. The City Manager may require appointed officers to be bonded. The cost of such bonds shall be paid from cemetery operating funds.

**Sec. 10-3. Maintenance and operation.**

The maintenance and operation of Cementerio El Encinal shall be vested in the Cemetery Coordinator. All City officers and employees assigned to duty or work at such cemetery shall be subordinate to, and shall carry out the lawful instructions of, the Cemetery Coordinator in connection with their work and duties at such cemetery.

**Sec. 10-4. Rules and regulations.**

The following shall be the rules and regulations for the government of Cementerio El Encinal:

- (a) Applications for lots or graves shall be made at the cemetery office or at such other office as designated by the Cemetery Coordinator.
- (b) The fee for all lots and graves shall be paid prior to the delivery of a deed for such lot or grave. All burial expenses shall be paid prior to the burial service unless, in the discretion of the Cemetery Coordinator, the burial expense may be billed.
- (c) Burials may be permitted on Sundays or City holidays for an additional charge.
- (d) Planting, cutting or trimming of trees, shrubbery or other growing plants shall not be permitted without an order from the Cemetery Coordinator or his authorized representative.
- (e) No dogs will be allowed in the cemetery except properly leashed or harnessed guide dogs for the blind or visually impaired, signal dogs for the deaf or hearing impaired, or service dogs for individuals with any other disability.
- (f) No construction or demolition of any structure shall be permitted without a permit from the Cemetery Coordinator or his authorized representative.
- (g) No markers, monuments or tablets will be permitted unless they are of marble, granite or bronze with not less than 80 square inches of surface and a maximum of 560 square inches of surface on a single lot. Only two markers are allowed per single lot and only one marker allowed per half lot. All concrete borders will be installed under the direction of cemetery staff.
- (h) All markers, monuments and tablets placed in the cemetery shall be placed flush with the ground. No vertical markers are allowed.
- (i) Materials for granite, marble, or concrete work will be allowed to remain around the work under construction not longer than ten days, and all refuse must be removed from such site when the work is completed. The Cemetery Coordinator may refuse to grant a permit for subsequent construction to any person or entity violating this regulation.
- (j) No walls, copings or fences of any description shall be permitted around any lots or graves, provided, however, that no existing wall, coping or fence shall be removed unless such wall, coping or fence is in such a state of disrepair that it is unsightly or dangerous, at which time the Cemetery Coordinator may order its removal. Written notice will be sent to the indenture holder or next of kin at least two weeks before removal.
- (k) Additional cemetery rules and policies may be adopted by resolution of the City Council in order to ensure that basic cemetery management practices and procedures are carried out."

- b. A new Section 10-5 is added to Article 1 to read as follows:

"Sec. 10-5. Reserved Areas.

Blocks 1 through 35 inclusive and Blocks 40 through 54 inclusive shall be reserved for the exclusive use of members of Monterey Masonic Lodge No. 217. Such reservation is made in consideration of grants of land made by such organizations for inclusion in Cementerio El Encinal. The burial and other fees for these lots shall also be in conformity with agreements made with such organizations at the time this land was granted to the City."

- c. A new Section 10-6 is added to Article 1 to read as follows:

"Sec. 10-6. Lot Buy Back.

The City shall have first right of refusal to buy back any lot within Cementerio El Encinal. Lot owners shall provide sufficient proof of legal ownership in order to sell a lot back to the City or, in the event City declines to purchase the lot, to any third party purchaser."

- d. Article 2 (Financial Provisions and Perpetual Care) of Chapter 10, comprised of previously numbered Sections 10-5 through 10-8 inclusive, is hereby deleted in its entirety.

**SECTION 6.** Chapter 13 (Fire Protection) of the Monterey City Code shall be amended to incorporate the revisions set forth below:

- a. A new Section 13-0.1 is added to Article 1 to read as follows:

"Sec. 13-0.1. Adoption of 2007 California Fire Code (Ord 3398, 11/07)

Except as otherwise amended by this chapter, the 2007 California Fire Code, including Appendix Chapter 1 and Appendices A, B, C, D, M, and R (2006 International Fire Code), is hereby adopted pursuant to Monterey City Ordinance No. 3398 (effective January 1, 2008) and is incorporated in this city code by reference and made a part hereof as if set forth fully herein."

- b. The existing Section 13-1 of Article 1 shall be renumbered as Section 13-0.2 and is amended in pertinent part to read as follows:

"Sec. 13-0.2. Amendments to California Fire Code.

The 2007 California Fire Code, including Appendix Chapter 1 and Appendices A, B, C, D, M, and R (2006 International Fire Code), is hereby amended as follows:

Appendix Chapter 1 Section 101.1 is amended...*[continuation of existing text].*"

- c. A new Section 13-0.3 is added to Article 1 to read as follows:

"Sec. 13-0.3. Exemption for pending applications.

1. The provisions of the 2007 California Fire Code as adopted and amended herein, shall not apply to any building or structure for which application for a building permit was made prior to January 1, 2008. Such buildings or structure shall be erected, constructed, enlarged, altered or repaired in accordance with the provisions of this chapter in effect at the date of said application.
2. All other applications shall be processed in accordance with the provisions of the 2007 California Fire Code as adopted and amended herein."

- d. Section 13-1.1 (Penalties for Violations) of Article 1 shall be renumbered as Section 13-1 and is amended to read as follows:

"Section 13-1. Penalties for Violations.

Violation of any adopted fire code or City amendment thereto by any person shall constitute a misdemeanor and upon conviction thereof, shall be punishable by fine as set forth in Monterey City Code Section 1-7. In addition, any such violation, including but not limited to the failure to pay any fire inspection fee imposed by the City, may be enforced by the procedures set forth in the City's Administrative Remedies Ordinance (MCC Sections 1-9 through 1-11).

**SECTION 7.** Chapter 17 (Harbor and Marina), Section 17-16.2 of the Monterey City Code shall be amended to read as follows:

"Sec. 17-16.2 No Dogs Allowed Upon Wharf.

No person shall permit any dog under his or her ownership, care, charge, or control to be upon Wharf No. 1. This section shall not apply to properly leashed or harnessed guide dogs for the blind or visually impaired, signal dogs for the deaf or hearing impaired, or service dogs for individuals with any other disability."

**SECTION 8.** Chapter 20 (Motor Vehicles and Traffic) of the Monterey City Code shall be amended to incorporate the revisions set forth below.

- a. Section 20-1 (Definitions) of Article 1 is amended by adding the new definition of "Traffic Engineer" to read as follows:

"Traffic Engineer. The City's Traffic Engineer, or his or her designee."

- b. Section 20-11 of Article 2 is amended to read as follows:

"Sec. 20-11 City Traffic Engineer -- office established; appointment.

The office of City Traffic Engineer is hereby established. The Traffic Engineer shall exercise the powers and duties with respect to traffic as provided in this Chapter. Whenever the Traffic Engineer is required or authorized to place or maintain official traffic control services or signals, he may cause such devices or signals to be placed or maintained."

- c. Section 20-16 of Article 2 is amended to read as follows:

"Sec. 20-16 Directing traffic -- authority of Police Officers, Firefighters, and other trained persons.

Officers of the Police Department, firefighters from the Fire Department, and such officers as are assigned by the Chief of Police, are hereby authorized to direct all traffic by voice, hand, audible or other signal in conformance with traffic laws.

In addition, City employees who are temporarily or permanently appointed by City to regulate traffic and who are trained pursuant to a training program approved by the Chief of Police per California Vehicle Code §21100(e) may also direct and regulate traffic under the following conditions:

- (a) In the event of a fire, flood, accident or other emergency;
- (b) In the event that official traffic control devices are disabled or otherwise inoperable;
- (c) At the site of road or street construction or maintenance; or
- (d) At locations requiring traffic direction in order to expedite the orderly flow of traffic and to safeguard pedestrians."

- d. Section 20-67 (Stopping, Standing or Parking Restricted Generally) of Article 6 is amended by revising subsection 20-26(k) thereof to read as follows:

"(k) In any area where the Chief of Police determines that such area is necessary for the use of any City, County or State police department, sheriff's department or highway patrol, when such area is indicated by appropriate signs or by red paint upon the curb surface."

- e. The following sections of Chapter 20 shall be amended by deleting the titles of "City Engineer," "City Manager," and "Director of Public Works" wherever they appear in said sections, and replacing them with the titles "Traffic Engineer":

- 1. Section 20-78 (Same --12 Minute Zones);
- 2. Section 20-95 (Establishment and Use of Parking Meter Zones);
- 3. Section 20-111 (Restrictions on Vehicles Entering or Leaving Parking Lots); and
- 4. Section 20-112 (When Parking Toward Curb Required).

**SECTION 9.** Chapter 23 (Parks and Lakes), Section 23-8 (Dogs, Horses, and Other Animals Prohibited in Certain Recreation Areas) of the Monterey City Code shall be amended by revising the last paragraph of subsection 23-8(a) thereof to read as follows:

“Leashed or harnessed guide dogs for the blind or visually impaired, signal dogs for the deaf or hearing impaired, or service dogs for individuals with any other disability, are excepted from this section and shall be permitted in all park and recreation areas.”

**SECTION 10.** Chapter 24 (Pawnbrokers) of the Monterey City Code shall be amended to incorporate the revisions set forth below.

- a. Section 24-3 (License Application) is amended to read as follows:

“Section 24-3. License Application.

Before any license to engage in or carry on any business as pawnbroker is granted, the applicant desiring such a license shall file a written application with the Finance Director setting forth the following information:

- A. The exact nature of the business to be carried on;
- B. The type of ownership of the business or establishment, i.e., whether individual, partnership, or corporation, etc.;
- C. The names, complete residence addresses and residence telephone numbers of all owners of the business; and, if any such owner is a corporation, of the principal officers of such corporation;
- D. The name under which the business is to be conducted;
- E. The location of the proposed business for which the license is sought, the business mailing address if different than the location of business, and the telephone number of the establishment where the business is to be conducted; and
- F. Whether any license or permit to engage in the type of business for which the license hereunder is sought has previously been denied to the applicant or suspended or revoked; and if so, the circumstances of said denial, suspension or revocation.”

- b. Section 24-4 (Approval by Chief of Police) is amended to read as follows:

“Sec. 24-4 Approval by Chief of Police.

Upon receiving an application for a license to engage in business as a pawnbroker, the Finance Director shall refer the application to the Chief of Police for investigation. The Chief of Police shall thereupon conduct an investigation into the applicant’s criminal record, which investigation shall include obtaining fingerprints from the applicant.



The Chief of Police may, in his discretion, require a personal interview of the applicant, and may request further relevant information.

No license shall be issued by the Finance Director unless the Chief of Police has first approved its issuance. The Chief of Police may refuse to approve the issuance of such license on any of the following grounds:

- A. That the applicant, based on his or her criminal record, would be a poor risk in that particular business;
- B. That the applicant has had a previous license to engage in such business revoked or suspended by the City of Monterey or some other jurisdiction, or
- C. That the conduct of the business at the location in question would not be in the interest of the public health, safety or welfare.

The Chief of Police shall notify the Finance Director and the applicant of his approval or denial of said license in writing within thirty (30) days of the date of application."

- c. Section 24-5 (Residence Requirement – Pawnbrokers) shall be deleted in its entirety.

**SECTION 11.** Chapter 28 (Purchasing Ordinance) of the Monterey City Code shall be amended to incorporate the revisions set forth below.

- a. Section 28-15 (Bidding), subsection (a), is amended to read as follows:

"(a) In the event of an emergency caused by fire, flood, earthquake, storm, or similar disaster that poses a serious threat to the public safety, the Mayor or City Manager may order the suspension of normal bidding or purchasing requirements for projects related to abatement of the impacts or effects of such emergency. The City Council shall, if possible, ratify such emergency suspension of procedures within seventy-two (72) hours and consider whether further suspension of procedures is required to abate the impacts of the emergency."

- b. Section 28-25 (Purchasing Process), subsection (b), is amended to read as follows:

"(b) Informal Bid Procedure

- 1. Purchase of supplies, materials, services and equipment estimated in value at three thousand dollars (\$3,000) or more and thirty thousand dollars (\$30,000) or less, as such amounts may be amended every five (5) years as set forth below, may be made by the City informally without observing the formal bidding procedures prescribed in Section 28-25(a). Such purchases shall, unless infeasible, be based on at least three informal bids or quotes and shall be awarded to the lowest responsible

bidder. The three thousand dollar (\$3,000) and thirty thousand dollar (\$30,000) limits shall be automatically increased by five hundred dollars (\$500) and five-thousand dollars (\$5,000), respectively, on July 1, 2010, and by the same amount each fifth year thereafter.

2. Purchases of vehicles, rolling stock and similar equipment estimated in value at five thousand dollars (\$5,000) or more and fifty five thousand dollars (\$55,000) or less, as such amounts may be amended every five (5) years as set forth below, may be made by the City informally without observing the procedures prescribed in Section 28-25(a). Such purchases shall, unless infeasible, be based on at least three informal bids or quotes and shall be awarded to the lowest responsible bidder. The five thousand dollar (\$5,000) and fifty-five thousand dollars (\$55,000) limits shall be automatically increased by five hundred dollars (\$500) and five thousand dollars (\$5,000), respectively, on July 1, 2010, and by the same amount each fifth year thereafter."

**SECTION 12.** Chapter 32 (Streets, Sidewalks, and Public Property) of the Monterey City Code shall be amended to incorporate the revisions set forth below.

- a. Section 32-24 of Article 4 (Sidewalk Repair and Maintenance) is amended to read as follows:

"Sec. 32-24. Duty of property owners, City permittees, etc., to repair, etc.; exception.

The owners of lots or portions of lots adjacent to any portion of a public street or place when that street or place is improved, or when the area between the property line of the adjacent property and the street line is maintained as a park or parking strip, shall maintain any sidewalk in such condition that the sidewalk will not endanger persons or property, and maintain it in a condition which will not interfere with the public safety or convenience in the use of those walks or areas save and except as to those conditions created or maintained in, upon, along or in connection with such sidewalk by any person other than the owner, under and by virtue of any permit or right granted to him by law, or by the City authorities in charge thereof, and such persons shall be under a like duty in relation thereto, save and except as to defects in any sidewalk caused by street trees or the roots thereof."

- b. Section 32-25, subsections (a) and (b) thereof, of Article 4 (Sidewalk Repair and Maintenance), are amended to read as follows:

"Sec. 32-25. Notice to adjacent property owner to repair sidewalks.

(a) When any portion of a sidewalk is out of repair, or pending reconstruction, and in condition to endanger persons or property, or in condition to interfere with the public safety or convenience in the use of such sidewalk, the City Engineer or his or her designee shall notify the owner or

person in possession of the property adjacent to that portion of such sidewalk so out of repair to repair the sidewalk.

(b) Such notice to repair may be given by delivering a written notice personally to the owner or to the person in possession of the property adjacent to the sidewalk so out of repair, or by mailing a postal card postage prepaid, to the person in possession of such property, or to the owner thereof at his last known address as the same appears on the last equalized assessment rolls of the City, or to the name and address of the person owning such property as shown in the records of the office of the City Clerk.

...[continuation of existing text]."

c. Section 32-27 of Article 4 (Sidewalk Repair and Maintenance) is amended to read as follows:

"Sec. 32-27. Same -- filing of report of costs and assessments.

Upon the completion of the repair pursuant to Section 32-26, the City Engineer shall prepare and file with the City Council a report specifying the repairs which have been made, the cost of the repairs, a description of the real property adjacent to which the repairs have been made and the assessment against each lot or parcel of land proposed to be levied to pay the cost thereof. Any such report may include repairs to any number of parcels of property, whether contiguous to each other or not."

d. Section 32-31 (Attachment of lien upon property liable for costs of repairs; collection of costs with taxes) of Article 4 shall be deleted in its entirety.

**SECTION 13.** Chapter 37 (Preservation of Trees and Shrubs) of the Monterey City Code shall be amended to incorporate the revisions set forth below.

a. Section 37-2 (Definitions) is amended in pertinent part to read as follows:

"(A) 'Certified Arborist' and 'Certified Consulting Arborist' shall mean an individual who has demonstrated knowledge and competency through obtainment of the current International Society of Arboriculture arborist certification, or who is a member of the American Society of Consulting Arborists.

(B) 'City Forester' and 'Urban Forester' shall mean the Monterey City Forester or his or her authorized designee.

...[no change to existing subsection (C)].

(D) 'Irreparable Damage' shall mean any action undertaken foreseeably leading to the death or permanent injury of the tree, or which places the tree in a hazardous condition or in an irreversible state of decline. This includes, but is not limited to, cutting, topping, girdling, poisoning, vandalizing, trenching or excavating within the dripline, altering the

grade, paving in excess of 50 percent of the dripline, excessive watering of oak trees, and excessive pruning.

...[no change to existing subsection (E)].

(F) 'Dripline' shall mean the outermost edge of the tree's canopy. When depicted on a map, the dripline will appear as an irregular shaped circle that follows the contour of the tree's branches as seen from overhead, or a minimum of fifteen (15) times the trunk diameter, measured 4'6" off the ground at DSH (Diameter Standard Height).

(G) 'Excessive Pruning' shall mean removing in excess of one quarter (25 percent) or greater of the functioning leaf, stem, or root area of a tree. Pruning in excess of 25 percent is injurious to the tree and is prohibited unless approval is granted by the City Forester prior to initiating the work. Excessive pruning typically results in the tree appearing as a "bonsai", "lion's-tailed", "lollipopped" or overly thinned.

...[no change to existing subsections (H) through (O)]."

b. A new Section 37-2.5 (Protection of trees during construction) shall be added to Chapter 27 to read as follows:

"Sec. 37-2.5 Protection of trees during construction."

All public or private construction projects requiring acquisition of a building permit shall comply with the tree protection guidelines established by City in order to safeguard and protect any trees affected by said construction."

c. Section 37-3 (Cutting, pruning, damaging, or removal of trees from public areas; permit required) is amended to read as follows:

"Sec. 37-3 Cutting, pruning, damaging, or removal of trees from public areas - permit required; view trimming."

It shall be unlawful for any person to cut, prune, top, damage or remove, or cause to be cut, pruned, topped, damaged or removed, any tree or shrub in any City-owned park, green belt or other public area unless pursuant to a permit issued by the City Forester. In addition, it shall be unlawful to damage or remove, or to cause the damage or removal of, any tree in the public right-of-way unless pursuant to a permit issued by the City Forester.

In addition, any application for a permit to cut, prune, top or remove, or cause to be cut, pruned, topped or removed, any tree on public property for the purpose of view enhancement shall be required to demonstrate compliance with the conditions set forth in the City's view trimming

guidelines, in addition to any other permit application requirements established by the City."

- d. Section 37-4 (City removal, cutting, pruning in public areas) is amended to read as follows:

"Sec. 37-4 City removal, cutting, pruning in public areas.

The City shall, at no cost to adjoining property owners, remove, cut, prune, and trim any tree in the City right-of-way where found to be potentially dangerous to health and safety by the City Forester, where necessary to encourage growth in adjacent areas in compliance with good forestry practices as specified in ANSI/Z133 Tree Care Standards, or to provide required visibility and clearances for vehicular and pedestrian traffic safety."

- e. Section 37-6 (Non-emergency removal, cutting, pruning by utilities) is amended to read as follows:

"Sec. 37-6 Non-emergency removal, cutting, pruning by utilities.

Duly authorized personnel of utility companies may, with the approval of the City Forester, obtain an area tree removal permit authorizing cutting, pruning, trimming or removal of trees which are threatening to disrupt utility service, provided that the City Forester is notified of the specifics of any removal work a minimum of twenty four (24) hours before the start of work. Such cutting, pruning, trimming, or removal shall be the minimum required to meet the ANSI/Z133 Utility Trimming Standards."

- f. Section 37-7 (Planting within improved City right-of-way; permission required) is amended to read as follows:

"Sec. 37-7. Planting within improved City right-of-way; permission required.

No person shall plant, or cause to be planted, any tree, shrub, or other growing material, except ground cover, within the improved City right-of-way/sidewalk area or parks without permission from the Park Superintendent. In granting approval the Park Superintendent may impose reasonable conditions, including continued maintenance by the applicant; may determine the type of plant material used; and may determine the location of plant material in order that there will not be an additional maintenance burden placed on the City and that the planting will not interfere with vehicular movement and parking."

- g. Section 37-8 (Removal or damaging trees on private property; permit required) is amended to read as follows:

"Sec. 37-8 Removal or damaging trees on private property; permit required."

No person shall remove, damage or relocate, or cause to be removed, damaged or relocated, any tree on any private property within the City unless the City Forester has issued a permit, or unless exempt as set forth below. Normal pruning or trimming of trees on private property is expressly permitted. Normal pruning for health and maintenance will generally conform to *Tree Pruning Guidelines* established by the International Society of Arboriculture. "Excessive pruning" as defined in Section 37-2 (G) without prior approval is a violation of permit requirements and is prohibited. Trees that die or are irreparably damaged as a result of "excessive pruning" shall require replacement in addition to any other penalty imposed under these regulations. The use of certified Arborists is encouraged to avoid excessive pruning damage."

- h. Section 37-10 (Processing of permits; standards for permits), subsections 37-10(A)(4) and (B)(1) thereof, are amended as set forth below:

1. Subsection 37-10(A)(4) is amended to read as follows:

"(4) If the tree removal is proposed to clear vacant property or to provide room for a new building and / or addition, the application shall require submittal of a concurrent development plan to the Division of Planning, Engineering and Environmental Compliance."

2. Subsection 37-10(B)(1) is amended to read as follows:

"(1) The condition of the tree with respect to disease; hazardous conditions caused by the tree including but not limited to its proximity to existing structures or high pedestrian traffic areas such as parking lots, playgrounds and pedestrian walkways; its status as an undesirable non-native species; or its interference with utility services that cannot be controlled or remedied through reasonable preservation and/or preventive procedures and practices."

- i. Section 37-11 (Conditions of removal/mitigation measures), subsections 37-11(B) and (C) thereof, are amended as set forth below:

1. Subsection 37-11(B) is amended to read as follows:

"(B) One replacement tree. Applications approved by the City Forester based on the determination that the tree(s) should be

removed for reasons of health, safety, proximity to existing structures, walkways and/or traffic areas, or by the condition of the tree as a host to a plant or insect or disease which endangers other adjacent healthy trees, and where the impact can not be mitigated without removal, shall require replacement at a ratio of one replacement for each removal in a size and species selected by the City Forester. The replacement tree shall be planted preferably on-site."

2. Subsection 37-11(C) is amended to read as follows:

"(C) Up to 3 replacement trees. Applications approved by the Division of Planning, Engineering and Environmental Compliance or by the Architectural Review Committee upon appeal or referral from the City Forester, or as part of a concurrent development application, shall be subject to conditions that require up to three (3) replacement trees for each removal, in a size and species selected by the City Forester. The replacement trees shall be planted preferably on-site."

- j. Section 37-15 (Civil penalty) is amended to read as follows:

"Sec. 37-15 Civil penalty.

Notwithstanding the availability of criminal penalties for violation of the provisions of this Chapter, any person who violates any provision of this Chapter shall be subject to the administrative citation and administrative remedies processes set forth in Article 2 of Chapter 1 of the City Code, and shall also be liable to the City by way of civil penalty. The amount of said penalty shall be established and conform to standards adopted by City Council Resolution."

**SECTION 14.** Chapter 38 (Zoning Ordinance) of the Monterey City Code shall be amended to incorporate the revisions set forth below.

- a. Section 38-23 (R-1 Residential Single-Family District) is amended by revising the second paragraph of subsection C.1 thereof to read as follows:

"Lots of record that do not meet these standards as of July 1, 1985 may be joined with adjacent lots and subdivided into parcels less than standard, if the Planning Commission first finds that the subdivision results in closer adherence to the standards of this section than by leaving the lots as separate parcels."

- b. Section 38-24 (R-2 Residential Low-Density Multifamily Dwelling District) is amended by revising the second paragraph of subsection C.1 thereof to read as follows:

"Lots of record that do not meet these standards as of July 1, 1985 may be joined with adjacent lots and subdivided into parcels less than standard, if the Planning Commission first finds that the subdivision results in closer adherence to the standards of this section than by leaving the lots as separate parcels."

c. Section 38-25 (R-3 Residential Medium-Density Multifamily Dwelling District) is amended by revising subsections 38-25.D(m) and 38-25.E thereof as follows:

1. Subsection 38-25.D(m) is amended to read as follows:

"(m) 20 feet for two story multifamily structures. Single-Family two-story structures shall conform to the R-1 zone setbacks including reduced setback permitted on parcels less than 100 feet in depth."

2. Subsection 38-25.E is amended to read as follows

"E. Development Standards for R-3 Lots Less than 5,000 Square Feet. The following special development standards shall apply to all R-3 lots less than 5,000 square feet."

d. Section 38-29 (C-2 Community Commercial District) is amended by revising the use classification for "Warehouse and Storage – Small Scale" under subsection 38-29.B to read as follows:

"Warehouse and Storage – Limited U"

e. Section 38-30 (C-3 General Commercial District) is amended by revising the development regulations for "Parking and Loading" under subsection 38-30.C to read as follows:

"Parking and Loading See Article 18"

f. Section 38-74a (Survey Procedures) is amended by revising subsection 38-74a.B.2 thereof to read as follows:

"2. Procedure for Removal from the Reconnaissance Survey List or Adopted Survey List. The Historic Preservation Commission may remove properties from a Reconnaissance Survey List or Adopted Survey List if an Intensive Survey is prepared and the property is determined not eligible for historic zoning."



- g. Section 38-161 (Required Findings) is amended by revising subsection 38-161.B.1 thereof to read as follows:

"B. For Variances.

1. That, because of special circumstances or conditions applicable to the subject property (including size, shape, topography, location, or surroundings), strict application of the requirements of this ordinance deprives such property of privileges enjoyed by other property in the vicinity and under an identical zoning classification;

...[continuation of existing subsections]."

- h. Section 38-191 (Required Plans and Materials) is amended by deleting the existing language in its entirety and replacing it to read as follows:

"Sec. 38-191 Required Plans and Materials.

Submittal requirements shall be developed and maintained by the City of Monterey Division of Planning, Engineering and Environmental Compliance. "

- i. Section 38-206 (Right of Appeal -- Interested Parties; Definition) is amended by deleting the existing language in its entirety and replacing it to read as follows:

"38-206 Right of Appeal.

Any interested party shall have the right of appeal."

- j. Section 38-210 (Hearing Date -- Notice) is amended by revising the second paragraph of subsection 38-210.B to read as follows:

"The Deputy City Manager of Plans and Public Works shall cause notice of the time, place, and purpose of the hearing to be given, as follows:

1. Publication of notice of hearing in a newspaper of general circulation in the City of Monterey not less than five days prior to date of hearing.
2. Mailing of notice of appeal hearing consistent with current Architectural Review Committee procedures for appeals of Architectural Review Committee action and administrative actions on Architectural Review Committee matters.
3. Mailing of notice as prescribed in Section 38-159.

...[continuation of existing text]."

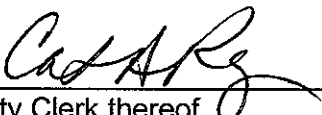
**SECTION 15.** All ordinances and parts of ordinances in conflict herewith are hereby repealed.

**SECTION 16.** This ordinance shall be in full force and effect thirty (30) days from and after its final passage and adoption.


PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 17th day of February 2009 by the following votes:

AYES:	5	COUNCILMEMBERS:	Della Sala, Downey, Haferman, Selfridge, Sollecito
NOES:	0	COUNCILMEMBERS:	NONE
ABSENT:	0	COUNCILMEMBERS:	NONE

ATTEST:

  
\_\_\_\_\_  
City Clerk thereof

APPROVED:

  
\_\_\_\_\_  
Mayor of Said City

STATE OF CALIFORNIA  
COUNTY OF MONTEREY  
CITY OF MONTEREY

I, Bonnie L. Gawf, CITY CLERK OF THE CITY OF MONTEREY, AND EX-OFFICIO CLERK OF THE COUNCIL THEREOF, HEREBY CERTIFY THAT THE FOREGOING ORDINANCE WAS DULY PASSED TO PRINT IN THE OFFICIAL NEWSPAPER OF SAID CITY BY THE COUNCIL THEREOF ON THE 3<sup>rd</sup> DAY OF February 2009, BY THE FOLLOWING VOTE:

AYES:	5	COUNCILMEMBERS:	Della Sala, Downey, Haferman, Selfridge, Sollecito
NOES:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

PUBLICATION: February 7, 2009

  
CITY CLERK OF SAID CITY