

**ORDINANCE NO. 3436**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY  
AMENDING MONTEREY CITY CODE CHAPTER 33 (SUBDIVISIONS)  
AND CHAPTER 38 (ZONING)**

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

SECTION 1: Monterey City Code Section 33-9. Residential Condominium Subdivisions is hereby amended as follows:

Section 33-9. Residential Condominium Subdivisions (Ord 3402, 01/08).

In addition to all other applicable requirements of this Chapter, subdivisions which consist of condominiums or other similar legal vehicles to create new condominiums by new construction or by converting existing multiple family housing to individual ownership shall meet the requirements of this Section. All condominium subdivisions shall also conform to the Zoning Ordinance.

A. Permit Requirements. Tentative Map and Use Permit approval is required for all residential condominium applications.

B. Application Submittal Requirements. In addition to Preliminary Map and Tentative Map application submittal requirements described in Sections 33-51 and 33-57 of this Ordinance and Use Permit submittal requirements on file in the Planning Office, all residential condominium applications shall include:

1. Plans. Six (6) copies of architectural site plan, floor plan and architectural elevation drawings sufficient to describe all of the proposed improvements. These improvements shall include all buildings and structures, all pavement and walkways, all parking areas, all recreation areas, all trash and all storage areas, all trees existing and proposed, including those proposed for removal, and all landscape areas. The submitted plans shall include building area calculations, the total number of parking spaces provided and the ratio of parking spaces to units, open space calculations and the ratio of square feet of open space to units, and storage area calculations.

2. Conditions, Covenants and Restrictions. An outline of the proposed Conditions, Covenants and Restrictions (CC&R's) sufficient to describe the form of the Association and responsibilities for management of common areas. The outline shall include details on any special assessments, how assessments will be made, how the board will be selected, identify if super-majority votes will be required and for what action, discuss the "sinking fund", and identify the Association's and Developer's role in the "sinking fund".

3. Compliance with State Subdivision Map Act Provisions. A statement outlining the application's compliance with the current provisions of the State Subdivision Map Act provisions for condominium conversions, the City of Monterey Subdivision Ordinance, Chapter 33, and the City of Monterey Zoning Ordinance Section 38-26.

C. Additional Application Submittal Requirements for Residential Condominium Conversion Projects. In addition to submittal requirements outlined in Subsection A and B above, Residential Condominium Conversion applications shall be required to submit the following additional information:

1. Tenant Information. Tenant and rental information consisting of:
  - (a) The name of the authorized occupant(s) of the rental premises, the length of present occupation and expiration dates of present leases;
  - (b) A list of the names and unit numbers of all present tenants;
  - (c) A list of all presently vacant units within the project;
  - (d) Household demographics of all tenants including any potentially extreme hardship households as described in Section F.2.b. of this Ordinance, household income as identified in rental application; the number of children with ages, if known; and, pets;
  - (e) Identify any units that may be subsidized by rental assistance programs such as, but not limited to, Section 8 Housing or HOME Tenant Based Rental Assistance; and,
  - (f) Number of vehicles per household, if known.
2. Tenant Notification. A copy of all notices sent to tenants informing them of "Intent to Convert" and documentation of the date the notice was provided.
3. Existing Property Plans and Report Information. A property assessment report describing the condition, the normal useful life, and the remaining useful life of building and site features. The property assessment report shall include an existing site survey and assess all of the following features.
  - (a) Paving, walkways and hardscape areas such as brick, cobble stone or interlocking pavers;
  - (b) Site drainage;
  - (c) Foundations;
  - (d) Exterior walls;
  - (e) Roof structure and roof covering;
  - (f) Guard rails and steps;
  - (g) Glass, glazing and screens;
  - (h) Interior cabinets, counters, sinks, tubs and floor coverings;
  - (i) Electrical systems including analysis of compliance with current code standards and/or verify that systems are adequate under current code standard;
  - (j) Plumbing including assessment/constraints to add individual water meters;
  - (k) Heating and air-conditioning;
  - (l) Fire safety systems;
  - (m) Fire walls and draft stops;
  - (n) Exterior and interior insulation (sound and thermal);
  - (o) Weather stripping;
  - (p) Light and ventilation;
  - (q) Appliances to be left in the unit including age of appliance and form of documentation to establish age;
  - (r) Exterior lighting;
  - (s) Interior and exterior common or public areas;
  - (t) Landscaping including irrigation system and tree removals;
  - (u) Recreational facilities including swimming pool safety components and condition and age of support equipment;
  - (v) Security improvements, including fences and gates; and
  - (w) On-site parking spaces and calculated ratio of on-site parking spaces to units.

Qualified professionals other than licensed architects and engineers may prepare sections of the property assessment reports as long as the entire report is submitted under the responsible charge of and signed by a licensed architect or civil engineer.

4. Environmental, Structural, Seismic Resistance, Pest Control and Code Compliance Analysis Reports. Environmental, structural, seismic resistance, pest control and code compliance analysis reports consisting of:

(a) Comprehensive Environmental Survey Assessment to include asbestos sampling, paint chip sampling for lead-based paint and mold sampling;

(b) Detailed structural engineering assessment of the current seismic resistance condition of all structures based on review of building division records, site inspection and selective destructive testing as determined necessary by the Chief of Inspection Services/Building Official or Designee;

(c) A pest control report prepared by a person licensed to prepare such report;

(d) Analysis of existing improvements and their consistency with current code requirements. Identify improvements that do not conform with current code requirements and identify improvements needed to conform; and

(e) A summary report documenting the date and purpose for all building permits issued for the property.

5. Seismic Resistance Disclosure Statement. A disclosure statement that acknowledges the current seismic resistance condition of the site structures.

6. Proposed Improvement Schedule. A schedule of any and all improvements to be made to the project. Include in the schedule list all improvements proposed to correct deficiencies identified in the property report sections. Identify in the schedule all improvements that will be completed prior to applying for Final Map recordation and/or prior to the sale of individual units. Include any proposed schedule of phased unit sales.

7. Proposed Plans and Reports. Six (6) copies of a plot plan and architectural plans with at least the following information, drawn to scale:

(a) The location, height, gross floor area and architectural plans sufficient to describe the exterior appearance of all structures and proposed uses for each existing structure and unit to remain and for each proposed new structure;

(b) The location, use and type of surfacing for all open storage areas;

(c) The location, dimension size, access and screening of refuse areas;

(d) Identification of all existing open space and private open space and calculate the area difference between existing and proposed;

(e) The location of nearest bus stop and path of disabled accessible travel to the property;

(f) The location of all fire hydrants and emergency truck turnaround;

(g) The location and type of surfacing for all driveways, pedestrian ways, vehicle parking areas, and curb cuts;

(h) The location, height, and type of materials for walls or fences;

(i) The location of all landscaped areas, the type of landscaping, and method of irrigation;

(j) The location and description of all recreational facilities;

(k) The location and dimension size of all parking spaces. Calculate and show existing parking space to unit ratio and proposed ratio. Identify the location, size and number of parking spaces to be used in conjunction with each condominium unit and identify the number of spaces assigned to individual units. Identify and locate disabled accessible parking spaces. Identify and locate shared and visitor parking spaces.

(l) The location, type and size of all drainage pipes and structures;

(m) The location, type and size of all on-site and adjacent overhead utility lines;

and,

(n) A grading plan showing existing contours, building pad elevations, and percent slope for all driveways, parking areas, walkways, disabled accessible travel paths and pedestrian ways.

D. Development Standards for New Residential Condominium Projects and Residential Condominium Conversion Projects. New residential condominium developments and residential

condominium conversion projects are subject to land use and development standards set forth in Zoning Ordinance Section 38.26.

E. Minimum Improvement Standards for Residential Condominium Conversion Projects. In addition to development standards outlined in Zoning Ordinance Section 38.26, residential condominium conversions are subject to the following minimum improvement standards:

1. Noise and Sound Transmission. Units shall be improved to meet the noise transmission standards of the current Building Code to achieve a Sound Transmission Class (STC) and Impact Insulation Class (IIC), rating of 50. All units shall be field tested after improvements have been made to assure that the unit meets the STC standard. An acoustical engineer shall prepare a noise transmission report for the dwelling units. The report shall meet the standards for field-testing and provide certification that the STC rating of 50 is met.

2. Recycling and Waste Enclosures. Recycling and waste enclosures shall be subject to review and approval of the City Manager or Designee and shall conform to Recycling and Waste Enclosure Standards and Guidelines as adopted by the City of Monterey Planning Commission. Existing enclosures that do not conform to adopted standards and guidelines shall be upgraded to conform. All recycling and waste enclosures shall be disabled accessible to all dwelling units and shall be located no more than 150 feet from any unit.

3. Correction of Immediate Hazards. The Chief of Inspection Services/Building Official, Fire Chief, and the City Manager or Designees shall review the property reports, physically inspect the premises requested for conversion and shall submit a report upon the results of such inspection, including any identified Code violations to the Planning Commission and developer. The correction of any such violations shall be required as a Condition of Approval and they shall be corrected prior to recording the Final Map or Parcel Map, unless such Code violations are deemed to be immediately hazardous to the residents of the project, in which case they will be corrected in accordance with Notice of Compliance procedures. To insure that such corrections are complete, the Chief of Inspection Services/Building Official or Designee shall inspect the property prior to approval of the Final Map and provide to the City Engineer a report on the status of the required corrections. In the event that the corrections are not complete, the City Engineer will not approve the Final Map or Parcel Map for recordation.

4. Minimum Building and Site Improvements. A developer shall be required to provide the following building and site improvements to the property that is approved for conversion. All required improvements shall conform to the requirements of the current Building Code or other adopted code that is applied to building construction and other codes, including but not limited to, Mechanical Code, Plumbing Code and Fire Code. Additional property improvements may be required by the Chief of Inspection Services/Building Official or Designee if the improvements are determined necessary to correct deficiencies that are identified in the property reports and inspection. The minimum building and site improvements shall include:

(a) Building Improvements:

- (i) Verification of sound transmission rating;
- (ii) Handrails and guardrails, to standard;
- (iii) Deck flashing, to standard;
- (iv) Bedroom window size and egress, to standard;
- (v) Class A roof assembly; and,
- (vi) Tempered glass/glazing, to standard.

(b) Fire Protection Improvements:

- (i) Fire resistive ceiling and wall assembly;
- (ii) Fire separation (draft stops) in attic areas;
- (iii) Hard wire-smoke detectors;
- (iv) Fire alarms; and,
- (v) Fire sprinkler retrofit.

- (c) Electrical Improvements:
  - (i) GFCI (Ground Fault Circuit Interrupter) in kitchen, bath and exterior;
  - (ii) AFCI (Arc Fault Circuit Interrupter);
  - (iii) A minimum of two (2) small appliance circuits in kitchen; and,
  - (iv) Identification of the location of all electrical sub-panels.
- (d) Plumbing Improvements:
  - (i) Individual water heater per unit; and,
  - (ii) Separate water meter and shut-off per unit.
- (e) Gas and Electric Meter Improvements:
  - (i) Separate gas meter per unit; and,
  - (ii) Separate electrical meter per unit.
- (f) Mechanical Improvements:
  - (i) Furnace locations as authorized in current building code or other adopted code; and,
  - (ii) Exhaust fan in the bathroom, if there is no window ventilation.
- (g) Disabled Accessibility Improvements:
  - (i) Ten percent (10%) of units to be disabled accessible or adaptable; and,
  - (ii) A disabled accessible path of travel from all identified accessible parking spaces to all accessible units.
- (h) Swimming Pool Improvements:
  - (i) Anti-Entrapment devices, to standard; and,
  - (ii) Security fence and gate, to standard.

5. Off-site Improvements. Prior to approval of the Final Map, the developer shall construct or provide financial security with the City guaranteeing construction of improvements to City standards of any and all substandard or deficient street improvements on or adjacent to the project. These improvements may include, but are not necessarily limited to, curbs, gutters, sidewalks, ramps, driveways, drainage devices, and street trees. The constructed improvements or bond shall be approved by the City Engineer.

6. Pest Control Report Improvements. Prior to the approval of the Final Map, the developer shall repair or replace any damaged or infested areas in need of repair or replacement in accordance with the structural pest control report.

7. Major Repairs Summary Report. Prior to issuance of a Certificate of Occupancy by the Chief of Inspection Services/Building Official or Designee, the developer shall prepare a summary report to document all major repairs to building and mechanical systems made during the renovation in accordance to the building permit and/or identified as necessary due to discovery during the renovation.

F. Tenant Rights and Protections. Tenant rights and protections are established for residential condominium conversion projects as follows:

1. Tenant Notification. Each written notice required by this Section shall provide a clear statement of purpose. The notices cannot be combined or merged and they shall be provided separately according to the notification time periods described below. Each written notice required by this Section shall also include information on programs for purchase of units, programs offered by the City and the developer to assist in purchase of units, estimated costs to purchase a unit, including qualifying income and monthly payments, and the hardship provisions in paragraph F.2.b below. If these requirements are fulfilled and any other requirements set forth in Government Code Section 66427.1, the necessary Findings for Approval as set forth in Government Code Section 66427.1 can be made. Tenant notification consists of:

(a) Sixty (60) Day Intent to Convert Notice. Each of the tenants of the proposed project shall receive written notification of intention to convert at least sixty (60) days prior to the official filing of a Tentative Map. The 60-day notice shall advise the tenant that this is the first of

several notices that they are required to receive and that this is the first notice of the owner's intent to convert the building from rental to condominium ownership. The notice shall clearly indicate that: 1) an application will be filed with the City of Monterey for condominium conversion; 2) the property has not at this time been approved for conversion; 3) the tenant is not required to move at this time; 4) no term lease in good standing shall be terminated as a result of the conversion; 5) the tenant will have an opportunity to comment on the application and the tenant is encouraged to provide comment to the City of Monterey; 7) should the application be approved, the tenant will be offered a preferred opportunity to purchase their unit or another unit in the building; 8) should the conversion be approved, the tenant will be provided a minimum of one hundred eighty (180) days to leave the rental unit; and 9) tenants receiving the 60-day written notice shall qualify for relocation allowance and/or purchase benefits.

(b) Ten (10) Day Planning Commission Public Hearing Notice. Each of the tenants of the proposed project has been, or will be, given written notification at least ten (10) days prior to the Public Hearing before the Planning Commission in which the Tentative Map will be considered for approval. This notification shall clearly indicate that: 1) Public Hearings are held to receive public comment on the application; 2) public comments are welcome and will be carefully considered by the Planning Commission; and 3) the tenant is encouraged to attend the Hearing and comment.

(c) Ten (10) Day Final Map Approval Notice. Each of the tenants of the proposed project has been or will be given written notification ten (10) days after approval of the Final Map. Such notice shall comply with Government Code Section 66459, as necessary.

(d) One Hundred Eighty (180) Day Termination of Tenancy Notice. Each of the tenants of the proposed condominium, community apartment, or stock cooperative project has been or will be given one hundred eighty (180) days written notice of the intention to convert, prior to termination of tenancy due to the proposed conversion. This notice shall not be given prior to the date of approval of the Tentative Map or Minor Subdivision Map for the condominium conversion by the City of Monterey. This notice shall be in the form required by Government Code Section 66452.11. This notice shall clearly indicate that the property owner may exercise the right to require the tenant to vacate the premises at the end of the 180-day period unless the tenant has longer occupancy rights due to a written lease for a specified term. This notice shall include information on programs for purchase of units including programs offered by the City of Monterey and the developer to assist purchase of both Inclusionary below market rate units and market rate units. Additionally, the 180-day period will be extended so that it will not expire before expiration of the 90-day exclusive right to purchase required in Section (g) below.

(e) Ten (10) Day Notice of Application for Final Public Report Notice. Each of the tenants will have received written notification that an application for a public report will be, or has been submitted to the Department of Real Estate no later than ten (10) days prior to filing the application. This notice shall clearly indicate that the period for each tenant's right to purchase begins with the issuance of the final public report.

(f) Five (5) Day Public Report Notice. Each of the tenants of the proposed project will have received no later than five (5) days after the issuance of a Final Public Report by the State Department of Real Estate notice of issuance of the report and notice that the report is available for review on request.

(g) Ninety (90) Day Exclusive Right to Purchase Notice. Each of the tenants residing on the premises on the date of issuing the 60-day notification of the 'intention to convert' shall be given written notice of an exclusive right to contract for the purchase of their respective units or others in the building on the same terms and conditions that such units will be offered to the general public or terms more favorable to the tenant. This notice shall be in the form required by Government Code Section 66452.20. The right shall run for a period of not less than ninety (90) days from the date of issuance of the subdivision Final Public Report pursuant to Section 11018.2 of the State Business and Professions Code or date of recordation of Parcel

Map if Final Public Report is not required, unless the tenant gives prior written notice of his or her intention not to exercise the right.

(h) The written notices to tenants required above in Sections (a)-(h) shall be deemed satisfied if such notices comply with the legal requirements for service by mail. The developer shall provide a certification attesting to compliance with the notice requirements (a)-(d) and agreement to comply with requirements (e)-(h) to the City prior to approval of the Final Map.

2. Tenant Relocation Assistance. Tenant relocation assistance consisting of:

(a) Each of the tenants of the proposed project receiving the 60-day notice of intention to convert (Section F.1.(a) above) shall be eligible for a relocation allowance. The entitlement right to the relocation allowance shall only vest upon the City's approval of the Tentative Map or Minor Subdivision Map. The relocation allowance shall be based on the following factors:

(i) Three (3) year or less occupancy shall receive a relocation allowance equal to three (3) month's rent;

(ii) Three (3) year and one month to ten (10) year occupancy shall receive a relocation allowance equal to four (4) month's rent; and,

(iii) Greater than ten (10) year of occupancy shall receive a relocation allowance equal to six (6) month's rent.

The amount of relocation allowance could be used as part of a down payment for purchase and it shall not include the security deposit. Relocation allowance shall not apply to any tenant who was given express written notice of intent to convert at the time of entering into a rental agreement or at the time a lease was signed.

(b) The developer is required to prepare, and each tenant is required to be notified, of a program to assist tenants where conversion would create an extreme hardship. Some examples of possible extreme hardships are elderly tenants, over age 65, who cannot physically prepare for a move, elderly tenants with a long-term tenure such as ten (10) years in their units, tenants with disabilities or serious and potentially terminal diseases. Extreme hardship tenants will qualify for greater reimbursement compensation that is two (2) times the amount that is established for non-hardship tenants. To establish and document whether an extreme hardship situation exists, the City can employ at the developer's expense a Relocation Coordinator whose responsibility shall be to assess the specific circumstances of the potential extreme hardship tenants. The Relocation Coordinator shall provide a report and recommendation for approval by the Property and Housing Manager. The report shall include written determination of findings, identification of the tenants who qualify under the extreme hardship criteria and recommendations regarding the actions necessary to satisfactorily address the extreme hardship.

(c) No tenant who occupies a unit with children, who are in school, and, who is not in default under the rental agreement or lease under which they occupy their unit, shall be required to move from their unit prior to seven (7) days after the end of the grade year. For purposes of this chapter, "grade year" shall refer to the Monterey Peninsula Unified School District year.

(d) All non-purchasing tenants shall be provided with up-to-date information on available apartments of comparable size, quality and price located within the Monterey Peninsula area. This requirement shall apply to all tenants who have received the 60-day notice to convert. It shall commence with issuance of the 90-day exclusive right to purchase notice and run concurrently with that entitlement.

G Inclusionary Housing Requirement. New condominium and condominium conversion projects are subject to the City's inclusionary housing requirement. Tenants in proposed conversion projects shall qualify for the purchase of inclusionary units pursuant to requirements for initial

purchase in the Inclusionary Housing Ordinance and as set forth in the Affordable Housing Agreement that is approved by the City for the conversion project. The tenants shall be notified in writing of the Inclusionary Housing program and the City's affordability pricing criteria.

H. Local Homeownership Assistance. It is the goal of the City of Monterey to increase homeownership and the percentage of owner occupied housing in the City. It is also the goal of the City of Monterey that at least fifty percent (50%) of the units in a condominium subdivision should be owner occupied and purchased by tenants residing in rental units in the City of Monterey or by employees working in the City or by existing tenants in apartments that are proposed for conversion. To meet these goals, the developer shall provide local homeownership assistance as follows:

1. Incentives. To promote purchase of new condominium units and converted units by tenants residing on the property, by tenants residing in other rental units in the City of Monterey and by employees working in the City of Monterey, the developer shall provide incentives as set forth below. Any such incentives, including terms and conditions, shall be documented by the developer and approved by the City in the Ownership Assistance Plan prior to approval of the Final Map. Ownership incentives may include, but not be limited to:

- (a) Low interest loans;
- (b) Down payment assistance;
- (c) Reduced prices;
- (d) Application of a percentage of rent payment towards a down payment for purchase of a unit within the project;
- (e) Continued housing on site for tenants who purchase converted units; or,
- (f) Other similar items approved by the City.

The incentive offer to existing tenants for purchase of a converted unit within a project shall be in addition to the dollar value of the relocation allowance provided to similarly situated tenants who are relocated.

2. Local Purchase Program. To the extent permissible by law, the developer shall develop and implement a local purchase program that will demonstrate a good faith effort in the judgment of the Property and Housing Manager to direct preferences, incentives and/or marketing efforts to people who presently live or work in the City of Monterey to purchase condominium units. The extent of the local purchase program shall be subject to the review and approval of the City of Monterey and documented in the Ownership Assistance Plan.

3. Other Incentives and Disincentives. The City Council may, at their discretion, establish other incentives and disincentives to achieve the "at least 50%" policy that is identified in Section H above.

I. Alternative Dispute Resolution (ADR) Requirement. During any stage of a condominium conversion, should disagreements between the developer and tenant result pertaining to requirements outlined in Subsections F-H above, the developer shall submit the dispute to ADR if requested in writing by tenant. Such ADR shall be at no-cost or low cost, as may be available in the community at the time. Any costs of ADR shall be shared equally between the parties and paid in advance if required by the ADR process.

J. Property Owner's Association. Property Owner's Association requirements shall consist of:

1. Recordation Requirements. For all condominiums, a Property Owners' Association shall be established by recordation of a Declaration of Conditions, Covenants and Restrictions. Other organizational documents such as Bylaws of the Articles of Incorporation or Association shall be submitted to the City of Monterey for review and acceptance.

2. Minimum Requirements. The organizational documents shall include, but not be limited to, the following requirements:



(a) A provision that any amendment or modification to the documents, as approved by the City, relating to the modification of fees for the maintenance of common or service facilities, must have the approval of the City prior to completion of the amendment or modification;

(b) A provision that the association shall be responsible for maintenance of common area, common facilities and common structures;

(c) A provision that each individual unit owner shall have an exclusive right to the use of a specifically designated covered parking space for each unit. The parking provision shall also include:

(i) Procedures and rules for regulating the use of all covered and uncovered parking spaces and guest parking spaces;

(ii) Procedures and rules to limit use of parking spaces for vehicle parking only in accordance to the Zoning Ordinance Section 38-26M.; and,

(iii) Procedures and rules that will assign the use of a tandem parking space (two (2) parking spaces aligned front to back in a manner that prevents access to one of the spaces without moving the vehicle that might be parked in the other space), if approved by the City, to a single owner or household.

(d) A provision that all on-site property improvements, including but not limited to, common areas, vehicular accessways, sewers, storm drains, street lighting, and fire prevention water systems, including fire alarms, and fire extinguishers, shall be maintained at the expense of the association. Exemptions to this requirement are the on-site improvements that are maintained by a public utility agency and facilities located within a public right-of-way that have been accepted by the City. The City will maintain facilities located in an accepted public right-of-way;

(e) A provision that establishes a two (2) year warranty period and developer responsibilities during the warranty period. The warranty period shall be no less than two (2) years in length commencing from the date of occupancy permit issued by the City for common area improvements and the date of the close of escrow for the individual condominium unit improvements. The developer shall fulfill all responsibilities of the association for maintenance of all facilities that may require maintenance during the warranty period. This requirement does not relieve owners of units from paying their fees during the warranty period. The expiration of the warranty period shall not limit or relieve the developer from satisfactory performance of any agreements executed with the City or from any obligations otherwise imposed by law or agreement;

(f) A provision that establishes an adequate sinking fund for the maintenance and repair of all commonly-owned structures, mechanical equipment, on-site parking spaces, open spaces, and landscape areas. The procedures and rules for the sinking fund shall specify the developer's role and the Association's role in the establishment and maintenance of the sinking fund;

(g) A provision that establishes procedures and rules for general assessments and special assessments;

(h) A provision that establishes procedures and rules for the selection of Association board members;

(i) A provision that establishes procedures and rules that specify what Association decisions, if any, require a super-majority vote and the procedure for conducting such votes;

(j) A provision that establishes procedures and rules that prohibit, in accordance with Zoning Ordinance Section 38-260, short term residential rental use of individual units for periods of less than a calendar month or less than 30 consecutive days;

(k) A provision that any requirement included in the Covenants, Conditions, and Restrictions or agreements imposed by the City by this Section or by Condition of Approval

imposed on the project shall not be deleted or amended without written consent of the City of Monterey; and,

(l) A provision that at least one of the Association Board of Director memberships shall be exclusively reserved for an Inclusionary Unit homeowner. The number of Inclusionary owner board memberships should be proportional to the number of total Inclusionary units in the project but no less than one (1).

3. Condominium Conversion Plans. The developer of a condominium conversion project shall prepare and make available to the Property Owner's Association a complete set of all required property reports, building plans, specification, contracts, major repair summary reports, and maintenance records.

K. Waiver Incentives for Below Market Rate Affordable Housing in Condominium Conversion Projects. As an incentive for the provision of Inclusionary Below Market Rate Housing above the minimum number that is specified in the current Low and Moderate-Income Housing Ordinance, the City of Monterey may consider waiving full compliance with select condominium conversion improvement requirements. These requirements are:

1. Individual water meter per unit;
2. Individual water heater per unit; and,
3. Recycling and waste enclosure location.

A waiver of one or more of these requirements shall only be granted upon determination that the impact to future condominium owners attributable to waiving the improvement is minor, that the number of below market rate (BMR) units exceeds the minimum requirement and that the resulting savings from the waiver makes it possible to provide the extra BMR unit(s).

L. Appeal Rights. Appeal rights are as set forth in Government Code Section 66452.5.

M. Finding for Approval. The Planning Commission shall not approve a Tentative Map or Final Map for a condominium subdivision unless they find that the project complies with the requirements of State Law and City ordinances as they apply to condominium projects.

N. Additional Findings for Approval of Condominium Conversion Projects. In addition to the required finding for approval of condominium projects described above in Section M, the Planning Commission shall not approve a Tentative Map or Final Map or Parcel Map for a subdivision to be created for the purpose of converting residential real property into a condominium project unless they find all of the following requirements are satisfied:

1. That the condominium conversion project as proposed meets the development, notice, tenant protection, inclusionary housing, local sales and marketing, and CC&R standards for condominium conversions established in this Section, Section 38-26 of the Zoning Ordinance, and Section 66427.1 of the Government Code.

2. That the proposed conversion as a total package will have a beneficial impact upon the provision of a balanced housing mix within the City of Monterey by encouraging owner occupancy and below market rate affordability. In making this finding, the Planning Commission and/or City Council may consider, but need not treat as determinative, the following factors:

(a) The vacancy factor as determined by a survey conducted by the developer to establish such vacancy factor;

(b) The potential that the conversion project by location, unit size and surroundings will result in market rate pricing that will be attractive to the local workforce and conversely less attractive to second home purchasers;

(c) That the extent of remodel will result in a substantial improvement in visual appearance and benefit the adjacent properties and neighborhood;

- (d) That the extent of the remodel will result in substantial improvement in the on-site amenities that are available to the future owners of the condominium property; and,
- (e) That the cumulative loss of rental units due to the proposed conversion will not have a significant impact on the availability of rental housing that is affordable to low, moderate and work force level household incomes. (Ord. 3424 § 1, 2009)

SECTION 2: Monterey City Code Chapter 38 (Zoning) is hereby amended as follows:

#### Section 38-26 Supplemental Regulations Applicable in R Districts

M. Residential Condominium and Condominium Conversion Development Standards. The following supplemental regulations shall apply to the conversion of existing rental housing to condominiums and the construction of new condominiums:

1. Purpose. The intent of these regulations is to:
  - a. Prescribe reasonable standards for new condominiums in the City of Monterey.
  - b. Insure a reasonable mix of affordable housing units within the City.
  - c. Encourage ownership housing in conformity with the Housing Element of the General Plan.
  - d. Insure that existing multiple family units being converted into condominiums, planned unit developments, community apartments, cooperative apartments, stock cooperatives, or into any other form of individual ownership of what had previously been multiple family rental units meet the standards required by the Monterey Zoning Ordinance, Subdivision Ordinance, and building codes, as provided below.
    - e. Encourage full disclosure of all information affecting condition of property
    - f. Insure maximum ownership opportunities for existing tenants.
    - g. Encourage fair and equitable treatment for tenants displaced as a result of such conversions.
    - h. Provide assistance for elderly and special needs households that have occupied a unit for a long period of time in the event of a conversion.
2. Permits Required. A Use Permit and Subdivision Map approval shall be required for all condominium and condominium conversion projects.
3. Land Use and Development Standards. Condominium projects and new construction associated with condominium conversion projects shall be subject to development standards of the underlying zoning district unless otherwise specified below.
  - a. Safety Lighting. Safety Lighting shall be provided on private vehicle access ways, bikeways, pedestrian walkway facilities, and along abutting public streets as required by the City. Mounting height, power and spacing shall be sufficient to avoid dark pockets. Lights shall utilize "vandal proof" enclosures and shall be screened to protect dwelling units from glare. The design, location, and height of all safety lighting on private property shall be subject to design review and approval by the Architectural Review Committee. Street lighting on public streets shall be subject to final approval of the Department of Plans and Public Works.

b. Boat, Trailer, Recreational Vehicle Storage. Boat, trailer or recreational vehicle storage shall not be allowed on site unless a separate, screened storage area is provided. This storage area shall not occupy a required parking space or required Open Space.

c. Utilities.

(1). Unless an exception is granted per Subsection 10 below, each utility that is controlled by and consumed within the individual unit shall be separately metered in such a way that the unit owner can be separately billed for its use. A shutoff valve for each utility shall be provided for each unit.

(2). All utilities, including cable television, shall be placed underground both on-site and off-site. Individual television and radio antennae shall be prohibited.

d. Parking. Condominium and condominium conversion projects shall comply with parking standards set forth in Section 38-115 (Off Street Parking and Loading Spaces Required). A portion of the required parking, as determined by the Planning Commission on a case-by-case basis, shall be set aside for visitor parking and shall be uniformly distributed throughout the development.

e. Open space, landscaping and laundry facilities shall be required per Sections 38-25.D.7 - 10. A reduced amount of open space may be allowed for condominium conversion projects if the total existing square footage of open space is less than the zoning standards and the conversion project does not result in a net loss. Open space may be transferred from Shared Open Space to Private Open Space as defined in the Zoning Ordinance. Existing Private Open Space in any Unit shall not be reduced. Any new units constructed on the site shall meet the open space standards of the underlying zone. Bicycle storage and recreation or common rooms may be counted as open space.

f. Private Storage. Each unit within the project shall have at least 300 cubic feet of enclosed, weatherproofed, and lockable storage space at a single location. Such space shall be for the sole use of the unit owner and shall have a minimum horizontal surface area of 25 square feet and all interior dimensions shall be a minimum of four feet. Such storage space may be provided in any location approved by the Planning Commission, but it is the intent of this standard to require space over and above that normally associated with the unit, such as clothes, linen, or guest closets or food pantries.

g. Bicycle Parking. Secure bicycle parking or bicycle lockers are encouraged and may count towards meeting Open Space requirements.

h. Tot Lots. Tot lots are encouraged in projects with units with two or more bedrooms unless the project is limited to senior housing.

## Section 38-115 Off Street Parking and Loading Spaces Required

### Use Classifications:

#### *Residential*

Multi-family Condominium Conversions      2/unit, regardless of number of bedrooms

### 38-161 Required Findings

The Planning Commission or the City Manager or Designee, as the case may be, shall approve an application for a Use Permit or variance as it was applied for or in modified form, as required by the Commission, if, on the basis of the application, plans, materials, and testimony submitted, the Planning Commission or the City Manager or Designee find:

A. For Use Permits.

1. That the proposed use is in accord with the objectives of this ordinance and the purposes of the zone;
2. That the proposed use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the city; and
3. That the proposed use will comply with any specific condition required for that use.

Special Finding for residential condominium or residential condominium conversion projects:

4. That the proponents of the residential condominium or residential condominium conversion projects have demonstrated that they are financially able to carry out the proposed project; that they intend to start construction within thirty (30) months of the approval of the project; and intend to complete the construction within a reasonable time, as determined by the Planning Commission.

#### Section 38-163 Planned Unit Development Approval

B. Initiation of Planned Unit Development Approval. Planned Unit Development approval shall be initiated by filing the following items with the City Manager or Designee:

1. A filing fee, as set forth by resolution of the City Council.
2. Submittal requirements for Planned Unit Development applications as developed and maintained by the Planning, Engineering and Environmental Compliance Division.
3. No application shall be accepted for a use which will require a change of zoning, unless the application is accompanied by an application for zoning amendment; provided, however, that uses incidental to a permitted use may be approved by the Planning Commission when clearly appropriate and incidental to the primary use.

#### Section 38-28B, 38-29B, 38-30B, 38-31B (C1, C2, C3, and CO District Land Use Regulations)

		Additional Regulation
Residential		
Mixed Use	U	See Sec. 38-33(G) Mixed Use Projects
Multi-family Residential		
Four or more units	U	
Three or fewer units	P	
Condominiums	U	See Sec. 38-26(M) Condominiums

#### Section 38-32B (CR Cannery Row District Land Use Regulation):

#### CR CANNERY ROW DISTRICT LAND USE REGULATIONS

		Additional Regulations
Residential		

Mixed Use	U	See Sec. 38-33(G) Mixed Use Projects
Multi-family Residential		
Four or more units	U	
Three or fewer units	P	
Condominiums	U	See Sec. 38-26(M) Condominiums

Section 38-33G2 (Mixed Use Projects – Principally Permitted Uses, Conditional Uses, and accessory uses):

h. Condominiums, per Section 38-26(M)

Section 38-33G4c (Usable Open Space) and Section 38-33G4d (Parking) shall be eliminated in their entirety.

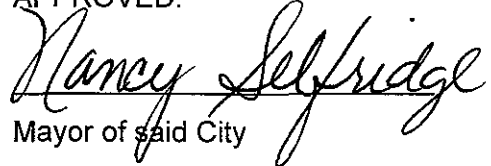
SECTION 3: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: 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 3<sup>rd</sup> day of November, 2009, by the following vote:

AYES:	3	COUNCILMEMBERS:	Downey, Selfridge, Sollecito
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	2	COUNCILMEMBERS:	Della Sala, Haferman

APPROVED:

  
 Mayor of said City

ATTEST:


  
 City Clerk thereof

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 20<sup>th</sup> DAY OF October, 2009 BY THE FOLLOWING VOTE:

AYES:	4	COUNCILMEMBERS:	Downey, Haferman, Selfridge, Sollecito
NOES:	0	COUNCILMEMBERS:	None
ABSENT	1	COUNCILMEMBERS:	Della Sala

PUBLICATION: October 24, 2009

  
CITY CLERK OF SAID CITY