

ORDINANCE NO. 3526 C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY

**ADOPTING MONTEREY CITY CODE CHAPTER 12, ARTICLE 3 TO CREATE A
RESPONSIBLE BANKING ORDINANCE**

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

SECTION 1:

WHEREAS, the practices and products of financial institutions, including loan and investment products, have a measurable impact on City residents' quality of life, economic viability, and competitiveness;

WHEREAS, the City of Monterey believes that all residents should have access to financial products that are based on fair business practices;

WHEREAS, Monterey City Code section 12-2 and Government Code section 53600 et seq. authorize the Finance Director/City Treasurer to select qualified public depositories for the deposit of City moneys; and

WHEREAS, the City typically contracts with one large bank every five years to handle all City deposits and transactions in order to ensure that City funds are held securely,

WHEREAS, the City wishes to encourage responsible banking practices in the community; and

WHEREAS, in return for the privilege of investing the community's wealth and doing business with the City, financial institutions have an obligation to serve the financial needs of all communities, including and especially low- and moderate-income communities;

WHEREAS, this ordinance shall apply to depository agreements entered into after its effective date;

WHEREAS, the City Council encourages all banks that operate in Monterey, including those that are not subject to this ordinance, to voluntarily comply with the reporting requirements of this ordinance. Those banks that voluntarily submit the annual reports identified in this ordinance will be offered the opportunity to have those reports equally represented on the City website along with the banks subject to this ordinance;

WHEREAS, the City of Monterey determined that the proposed action is not a project as defined by the California Environmental Quality Act (CEQA)(CCR, Title 14, Chapter 3 ("CEQA Guidelines), Article 20, Section 15378). In addition, CEQA Guidelines Section 15061 includes the general rule that CEQA applies only to activities which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the proposed action and this matter have no potential to cause any effect on the environment, or because it falls within a category of activities

excluded as projects pursuant to CEQA Guidelines section 15378, this matter is not a project. Because the matter does not cause a direct or any reasonably foreseeable indirect physical change on or in the environment, this matter is not a project. Any subsequent discretionary projects resulting from this action will be assessed for CEQA applicability.

NOW THEREFORE, the Monterey City Council declares as follows:

SECTION 2: The foregoing recitals are true and correct and are hereby adopted by the City Council.

SECTION 3: Monterey City Code, Chapter 12, Article 3 Sections 12-18 through 12-23 are hereby added to read as follows:

“ARTICLE 3: RESPONSIBLE BANKING”

Sec. 12-18 Purpose.

The purpose of the Responsible Banking Ordinance is to ensure that financial institutions that hold city funds on deposit are responsive to community financial needs, provide services that reflect fair businesses practices, and promote economic growth and community reinvestment within the City of Monterey. Nothing in this Article shall limit the authority of the Finance Director/City Treasurer as provided in City Code section 12-2 or State law.

Sec. 12-19 Definitions

- a. Affordable means low or moderate-income individuals as provided in the CRA
- b. Community Development means: (i) affordable housing for low or moderate income individuals; (ii) community services targeted to low or moderate-income individuals; and (iii) activities that promote economic development by financing small businesses.
- c. CRA means the Community Reinvestment Act of 1977 (12 U.S.C. section 2901 et seq.) as may be amended.
- d. Depository means a financial institution that is selected by the City Finance Director/City Treasurer and designated to receive deposits of Monterey's funds.
- e. Low-income means individual income that is less than 50% of the area median income, or a median family income that is less than 50% of the area median family income.
- f. Moderate-income means an individual that is at least 50% and less than 80% of the area median income, or a median family income that is at least 50% and less than 80% of the area median family income.
- g. Predatory lending practices are practices that are specifically prohibited by State or federal law, including such practices as: (i) the frequent making of new loans to refinance existing loans; (ii) the selling of additional products without the borrower's informed consent; and (3) the charging of excessive fees.

Sec. 12-20 Applicable Financial Institutions

The provisions of this ordinance shall apply to depositories that maintain at least \$3 million in City deposits on an annual basis.

Section 12-21 Responsible Banking.

The Finance Director/City Treasurer, in selecting qualified depositories for City moneys shall:

- a. Include local banks in any Request for Proposals for depository services.
- b. Require prospective bidders to provide the City with data on their responsible banking practices.
- c. Include in contracts for depository services a statement of work that provides a framework for Responsible Banking.
- d. Establish relevant reporting criteria and timeframes to validate the statement of work.
- e. Incorporate responsible banking bid criteria requiring any bidder to describe current or proposed programs that address the financial needs for the City's residents and businesses including: community involvement and reinvestment, meeting community banking needs; supporting small business lending and community development; providing for home ownership and consumer credit; assisting distressed homeowners; residential lending including affordable mortgage programs, new construction and rehabilitation lending and investment, and allowing for products and services that are advantageous for the City and its residents.
- f. Include in contracts for depository services that financial institutions shall provide the City with an annual report of their community involvement and reinvestment; meeting community banking needs; supporting small business lending and community development; providing for home ownership and consumer credit; assisting distressed homeowners; residential lending including affordable mortgage programs, new construction and rehabilitation lending and investment, and allowing for products and services that are advantageous for the City and its residents.
- g. Require, as part of that years' annual data disclosure, that financial institutions shall provide a two-year plan for loans and services. Institutions shall describe how it will match or exceed peer Community Reinvestment Act (CRA) performance.
- h. Include in contracts for depository services that depositories sign an annual affidavit that they have incorporated the terms and conditions of the responsible banking ordinance.
- i. Include in contracts for depository services that the City shall not keep deposits with depositories that have been the subject of a court judgment that it has engaged in predatory lending practices to residents of Monterey County.
- j. Include in contracts for depository services that depositories shall provide 120 day notice to the City for branch closures and shall identify branch location and reason for closure.
- k. Include in contracts for depository services that if the Finance Director/City Treasurer determines that a depository has failed to meet the requirements for reporting and compliance, such depository shall be prohibited from holding city funds.

Sec. 12-22 Evaluation Method.

The City as part of its evaluation of proposals for depository services shall utilize the following criteria as a component of the overall rating/ranking of proposals: community

investment, loan modifications, small business loans, affordable home loans, number of locations of branches and services and services provided at branches.

Sec. 12-23 Public Participation/Disclosure.

The Finance Department shall make an annual compliance report to the City Council and shall maintain on the City's website the annual report(s) submitted by depositories.

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 20th day of October, 2015, by the following vote:

AYES:	4	COUNCILMEMBERS:	Barrett, Haffa, Roberson, Smith
NOES:	1	COUNCILMEMBERS:	Downey
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

APPROVED:

ATTEST:



Mayor of said City



City Clerk thereof

