

ORDINANCE NO. 3554 C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY

AMEND CITY CODE SECTION 38-11 TO ADD DEFINITIONS FOR SUPPORTIVE HOUSING AND TRANSITIONAL HOUSING; SECTIONS 38-22, 38-23, 38-24, 38-25, 38-28, 38-29, 38-30, 38-31, 38-32 TO ALLOW SUPPORTIVE HOUSING AND TRANSITIONAL HOUSING AS PERMITTED USES; REPLACING SECTION 38-26(I) (LOW- AND MODERATE-INCOME HOUSING) WITH NEW SECTION 38-112.5 (DENSITY BONUS); AND ADDING NEW ARTICLE 30 TO PROVIDE PROCEDURE TO REQUEST REASONABLE ACCOMMODATIONS FOR PERSONS WITH DISABILITIES

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

SECTION 1:

WHEREAS, State law (Senate Bill 2, 2007) requires jurisdictions to provide a procedure to request reasonable accommodations for persons with disabilities, and to allow both supportive and transitional housing types in all zones that allow residential uses and treat these uses the same as any other housing type in the same zone;

WHEREAS, Housing Element Program f.1.6 requires that the City amend the zoning ordinance to provide individuals with developmental disabilities reasonable accommodation in rules, policies, practices, and procedures that may be necessary to ensure equal access to housing;

WHEREAS, Housing Element Program f.1.11 requires that the City update its Zoning Ordinance to include separate definitions of transitional and supportive housing as defined in Health and Safety Code Sections 50675.2 and 50675.14 and to allow both transitional and supportive housing types as a permitted use in all zones where residential uses are allowed, subject to only the same restrictions on residential uses contained in the same type of structure;

WHEREAS, Housing Element Program i.1.2 requires that the City continue to allow density bonuses, as appropriate and amend the zoning ordinance to state that density bonuses of up to 35 percent may be allowed for projects that exceed the state's minimum affordability criteria for low-income, moderate-income, and special-needs housing; and

WHEREAS, on September 27, 2016, the Planning Commission held a duly noticed public hearing, opened the public hearing to give the public an opportunity to offer testimony, and recommended that the City Council adopt the ordinance amendments;

WHEREAS, the City Council held a duly noticed public hearing on October 4, 2016, took

public testimony, and considered the ordinance amendments; and,

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 that 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; and, 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: Monterey City Code, Chapter 38, Section 11 is hereby amended to add the following definitions:

Supportive Housing: Housing with no limit on length of stay, that is occupied by the target population, and that is linked to an on-site or off-site service that assist the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

Target Population: means persons, including persons with disabilities, and families who are “homeless,” as that term is defined by Section 11302 of Title 42 of the United States Code, or who are “homeless youth,” as that term is defined by paragraph (2) of subdivision (e) of Section 11139.3 of the Government Code.

Transitional Housing: Buildings configured as rental housing developments, but operated under program requirements that call for the termination of assistance and recirculating of the assisted unit to another eligible program recipient at some predetermined future point in time, which shall be no less than six months.

SECTION 3: Monterey City Code, Chapter 38, Section 22 RE District Land Use Regulations Table is hereby amended to add:

Supportive housing	P
Transitional housing	P

SECTION 4: Monterey City Code, Chapter 38, Section 23 R-1 District Land Use Regulations Table is hereby amended to add:

Supportive housing P
Transitional housing P

SECTION 5: Monterey City Code, Chapter 38, Section 24 R-2 District Land Use Regulations Table is hereby amended to add:

Supportive housing – four or more units U
Transitional housing – four or more units U
Supportive housing – three or fewer units P
Transitional housing – three or fewer units P

SECTION 6: Monterey City Code, Chapter 38, Section 25 R-3 District Land Use Regulations Table is hereby amended to add:

Supportive housing – four or more units U
Transitional housing – four or more units U
Supportive housing – three or fewer units P
Transitional housing – three or fewer units P

SECTION 7: Monterey City Code, Chapter 38, Section 28 C-1 District Land Use Regulations Table is hereby amended to add:

Supportive housing – four or more units U
Transitional housing – four or more units U
Supportive housing – three or fewer units P
Transitional housing – three or fewer units P

SECTION 8: Monterey City Code, Chapter 38, Section 29 C-2 District Land Use Regulations Table is hereby amended to add:

Supportive housing – four or more units U
Transitional housing – four or more units U
Supportive housing – three or fewer units P
Transitional housing – three or fewer units P

SECTION 9: Monterey City Code, Chapter 38, Section 30 C-3 District Land Use Regulations Table is hereby amended to add:

Supportive housing – four or more units U
Transitional housing – four or more units U
Supportive housing – three or fewer units P
Transitional housing – three or fewer units P

SECTION 10: Monterey City Code, Chapter 38, Section 31 CO District Land Use Regulations Table is hereby amended to add:

Supportive housing – four or more units	U
Transitional housing – four or more units	U
Supportive housing – three or fewer units	P
Transitional housing – three or fewer units	P

SECTION 11: Monterey City Code, Chapter 38, Section 32 CR District Land Use Regulations Table is hereby amended to add:

Supportive housing – four or more units	U
Transitional housing – four or more units	U
Supportive housing – three or fewer units	P
Transitional housing – three or fewer units	P

SECTION 12: Monterey City Code, Chapter 38, Section 26(l) is hereby deleted.

SECTION 13: Monterey City Code, Chapter 38, Section 112.5 is hereby added as follows:

38-112.5 Density Bonus.

- A. Purpose. California Government Code section 65915 (known as state density bonus law) requires the City to offer certain density bonuses or incentives to developers who guarantee that a portion of their housing development will be affordable by persons of very low, low, or moderate income, thus expanding affordable housing opportunities throughout the City. To the extent practicable, the citation to the governing statutory provision is included next to the implementing text section. If any provision of this section conflicts with state law, the latter shall control. Applicable statutes should be consulted for amendments prior to applying the ordinance provision.
- B. Applicability. The density bonuses and incentives contained in this section shall apply to housing developments eligible for a density bonus under state density bonus law. When an applicant seeks a density bonus for a housing development within, or for the donation of land for housing within, the City's jurisdiction that meets the requirements set out in California Government Code section 65915, the actions and procedures set out in this section shall apply. The burden is on the applicant to show that the housing development meets such requirements. The density bonus provisions of California Government Code sections 65915–65918 (state density bonus law), as may be amended from time to time, are incorporated by reference into this section. The City reserves the right to review applications for a density bonus in accordance with California Government Code sections 65915–65918.

C. Definitions. In addition to the definitions in Section 38-11, the following definitions apply to this section and shall control where there is a conflict with the definitions in Section 38-11. State law definitions, as they may be amended from time to time, control over the definitions in this section. Where the definitions are provided by state law, the citation to the statute follows.

1. "Affordable Housing": Dwelling units with a sales price or rent within the means of very low income households, as defined in Health & Safety Code section 50105; low income households, as defined in Health & Safety Code section 50079.5; or moderate-income household, as defined by Health & Safety Code section 50093. As used in this Development Code:
2. "Affordable Housing Benefits": Means one or more of the following:
 - a. A density bonus pursuant to Section 38-112.5(G).
 - b. An incentive pursuant to Section 38-112.5(K).
 - c. A development standard waiver or modification pursuant to Section 38-112.5(N)
 - d. A parking standard modification pursuant to Section 38-112.5(O).
3. "Affordable Housing Cost": The definition set forth in Health and Safety Code Section 50052.5. (Gov. Code § 65915(c)(1).)
4. "Affordable Housing Developer": The applicant or permittee of a qualified housing development and its assignees or successors in interest.
5. "Affordable Rent": The definition set forth in Health and Safety Code Section 50053. (Gov. Code § 65915(c)(1).)
6. "Child Care Facility": A child day care facility other than a family day care home, including but not limited to infant centers, preschools, extended day care facilities, and school age child care centers. (Gov. Code § 65915(h)(4).)
7. "Common Interest Development": Any of the following: a community apartment project, a condominium project, a planned development, and a stock cooperative pursuant to Civil Code Section 4100. All Common Interest Development units must be offered to the public for purchase. (Gov. Code § 65915(b)(1)(D).)
8. "Condominium Conversion Project": A residential project in which the applicant proposes to convert apartment units to condominiums pursuant to Government Code Section 65915.5(a).
9. "Density Bonus": A density increase over the otherwise maximum allowable residential density as of the date of application by the applicant to the City. (Gov. Code §65915(f).)
10. "Density Bonus Units": Dwelling units granted pursuant to Section 38-112.5(D) which exceed the otherwise Maximum Allowable Residential Density.
11. "Development Code": The City development code set forth in Chapter 38 Zoning Ordinance of the City of Monterey Municipal Code.
12. "Development Standard": A site or construction condition, including but not limited to a height limitation, a setback requirement, a floor area ratio, an on-site open-space requirement, or a parking ratio, that applies to a residential development pursuant to the Development Code, the General Plan, or other City condition, law, policy, resolution, or regulation. (Gov. Code § 65915(o)(1).)

13. "Housing Development": A development project of five or more residential units or a subdivision or Common Interest Development that is approved by the City and consists of residential units or unimproved residential lots and either a project to substantially rehabilitate and convert an existing commercial building to residential use or the substantial rehabilitation of an existing multifamily dwelling where the result of the rehabilitation would be a net increase in available residential units. (Gov. Code § 65915(i).)
14. "Incentive": Means "incentives and concessions" as that phrase is defined in Government Code section 65915(k).
15. "Market-rate Unit": A dwelling unit that is not an Affordable Unit.
16. "Maximum Allowable Residential Density": The density allowed under the Development Code and the Land Use Element of the General Plan, or if a range of density is permitted, means the maximum allowable density for the specific district density range applicable to the project. If the density allowed under the Development Code is inconsistent with the density allowed under the Land Use Element of the General Plan, the General Plan density shall prevail. (Gov. Code § 65915(o)(2).)
17. "Minimum Affordable Housing Component": A Housing Development project which includes a minimum of any of the following:
 - a. Very Low Income Minimum Affordable Housing Component – Provides at least five percent (5%) of the total units for very low-income household residents (Gov. Code § 65915(b)(1)(B)); or
 - b. Low Income Minimum Affordable Housing Component – Provides at least ten percent (10%) of the total units for low-income households (Gov. Code § 65915(b)(1)(A)); or
 - c. Moderate Income Minimum Affordable Housing Component – Provides at least ten percent (10%) of the total dwelling units in a Common Interest Development for moderate-income households. (Gov. Code § 65915(b)(1)(D).)
18. "Other Incentives of Equivalent Financial Value": The reduction or waiver of requirements which the City might otherwise apply as conditions of condominium conversion approval, but shall not be construed to require the City to provide cash transfer payments or other monetary compensation. (Gov. Code § 65915.5(c).)
19. "Qualified Housing Development": A housing development that meets the requirements of Section 38-112.5(D) for density bonus.
20. "Qualified Land": Land offered for donation in accordance with Section 38-112.5(J) that meets the criteria set forth in Section 38-112.5(J).
21. "Senior Citizen Housing Development": A senior citizen housing development, as defined in Sections 51.3 and 51.12 of the Civil Code, or a mobile home park that limits residency based on age requirements for housing for older persons pursuant to Section 798.76 or 799.5 of the Civil Code. (Gov. Code § 65915(b)(1)(C).)
22. "Specific, Adverse Impact": A significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application for the housing development was deemed complete. Inconsistency with the Development Code or

General Plan land use designation shall not constitute a specific, adverse impact upon the public health or safety. (Gov. Code § 65589.5(d)(2).)

23. "Total Units and Total Dwelling Units": Dwelling units other than density bonus units. (Gov. Code § 65915(b)(3).)

D. Eligibility for Density Bonus and Incentives

1. Density bonuses are available to affordable housing developers per Government Code section 65915(b)(1) which specifies that an applicant must pick one category (e.g. low income, very low income, moderate income, or senior) to calculate the bonus; there is no "mix-and match" provision; and the following shall apply:
 - a. Housing developments which include a minimum affordable housing component (Section 38-112.5(G));
 - b. Housing developments which include a minimum affordable housing component and a child care facility (Section 38-112.5(H));
 - c. Senior citizen housing developments (Section 38-112.5(I)); and
 - d. Land donations for very low income housing. (Section 38-112.5(J).)Notwithstanding the above, to be eligible to receive a density bonus, a housing development must provide replacement housing consistent with Section 65915(c)(3).
2. For the purpose of calculating a density bonus, the residential units must be on contiguous sites that are the subject of one development application, but do not have to be based upon individual subdivision maps or parcels. (Gov. Code § 65915(i).)

E. Application and Fees Required

1. Application Filing and Processing. When an applicant seeks a density bonus for a housing development that meets the criteria set out in Section 38-112.5(G) (California Government Code Section 65915) the affordable housing developer must comply with all of the following requirements:
 - a. File an application for a density bonus in accordance with this section and Section 38-112.5(P) that includes a minimum affordable housing component, in connection with the first discretionary review required for the project, however, if no discretionary approvals are required for project approval, a density bonus in and of itself is not subject to a separate discretionary approval under Gov. Code Sec. 65915(h)(5);
 - b. State in the application the specific affordable housing component proposed for the housing development (Gov. Code § 65915(b)(2)); and
 - c. Enter into an agreement with the City or its designee pursuant to Section 38-112.5(R) to maintain and enforce the affordable housing component of the housing development. (Gov. Code § 65915(c).)
2. Application Fees. Application fees shall be as set by the city council by resolution.
 - a. Any reasonable documentation to establish eligibility for the concession or incentive or to demonstrate that the incentive or concession meets the definition set forth in subdivision (k)" of Government Code section 65915, and City staff

determines that the study requires the expertise of, a consultant or legal counsel, City staff shall estimate the cost thereof and require the applicant to pay an additional fee or make one or more deposits to pay such cost before the study or evaluation is begun. On completion of the study or evaluation and before the city council decides the application, city staff shall determine the actual cost of the work and the difference between the actual cost and the amount paid by the applicant, and shall require the applicant to pay any deficiency or shall refund to the applicant any excess.

- F. Effect of Proposal for Waiver or Reduction of Development Standards. A proposal for the waiver or reduction of development standards pursuant to Section 38-112.5(N) shall neither reduce nor increase the number of incentives or concessions to which the applicant is entitled pursuant to California Government Code section 65915(d).
- G. Determination of Density Bonus. If the requirements of Section 38-112.5(D) are met, then the affordable housing developer is entitled to a density bonus pursuant to Government Code section 65915(f) as follows:

**Table 38-112.5(G)-1
Density Bonus Allowance for Housing Development Projects with Affordable Housing Component**

Household Income Category	Minimum Percent of Affordable Units	Minimum Density Bonus	Additional Density Bonus for Each 1% Increase in Affordable Units	Percent of Affordable Units for Maximum Density Bonus	Maximum Possible Density Bonus
Affordable Housing Development					
Very Low Income	5%	20%	2.50%	11%	35%
Low Income	10%	20%	1.50%	20%	35%
Moderate Income (Common Interest Developments)	10%	5%	1%	40%	35%

1. As demonstrated in Table 38-112.5(G)-1, the amount of density bonus to which the applicant is entitled shall vary according to the amount by which the percentage of affordable units offered by the applicant exceeds the percentage of the minimum affordable housing component; the applicant may also elect to accept a lesser percentage of density bonus or no bonus, but still qualify for incentives (and if necessary, waivers). (Gov. Code § 65915(f).)
2. All base density, density bonus, and required number of affordable unit calculations resulting in fractional units shall be rounded up to the next whole number. (Gov. Code § 65915(f)(5).)

- H. Density Bonus for Housing Development with Affordable Housing Component and Child Care Facility

1. Criteria. For a density bonus to be granted pursuant to Section 38-112.5(H)(2) for including a minimum affordable housing component with a child care facility in a housing development, all of the following must be satisfied:
 - a. Compliance with each requirement in Section 38-112.5(D) (Gov. Code § 65915(h)(1));
 - b. The housing development must include a child care facility that will be located on the premises of, as part of, or adjacent to the housing development. (Gov. Code § 65915(h)(1));
 - c. Approval of the housing development must be conditioned to ensure that both of the following occur:
 - 1) The child care facility must remain in operation for a period of time that is as long as or longer than the period of time during which the density bonus units are required to remain affordable pursuant to Section 38-112.5(R). (Gov. Code § 65915(h)(2)(A))
 - 2) Of the children who attend the child care facility, the children of very low-income households, low-income households, or moderate-income households must equal a percentage that is equal to or greater than the percentage of dwelling units that are required under the respective minimum affordable housing component income category for which the density bonus is sought. (Gov. Code § 65915(h)(2)(B)); and
 - d. The City has not made a finding based upon substantial evidence that the community has adequate child care facilities. (Gov. Code § 65915(h)(3),)
2. Density Bonus Allowance. If the requirements of Section 38-112.5(H)(1) are met, then an applicant for a housing development with an affordable housing component and child care facility is entitled to:
 - a. A density bonus pursuant to Section 38-112.5(G); and
 - b. An additional density bonus that is an amount of square feet of residential space that is equal to or greater than the amount of square feet in the child care facility. (Gov. Code § 65915(h)(1)(A).)
- I. Density Bonus for Senior Citizen Housing Development. An applicant for a senior citizen housing development or a mobile home park that limits residency based on age requirements for housing for older persons pursuant to Civil Code Sections 798.76 or 799.5 is entitled to a density bonus of twenty percent (20%) of the number of senior citizen housing development units. (Gov. Code § 65915(b)(1)(C)&(f)(3).)
- J. Density Bonus for Land Donations
 1. Criteria. For a density bonus for a qualified land donation to be granted pursuant to Section 38-112.5(J)(2) all of the requirements of this section must be met.
 - a. The applicant must be applying for a tentative subdivision map, parcel map, or other residential development approval. (Gov. Code § 65915(g)(1).)
 - b. The applicant must agree to donate and transfer qualified land which is land that meets both of the following criteria:

- 1) The developable acreage and zoning classification of the land being transferred must be sufficient to permit construction of units affordable to very low-income households in an amount not less than ten percent (10%) of the number of residential units of the proposed development pursuant to Section 8116-2.5.1(a) (Gov. Code § 65915(g)(2)(B).); and
 - 2) The transferred land must be at least 1 acre in size or of sufficient size to permit development of at least 40 units, have the appropriate General Plan land use designation, be appropriately zoned with appropriate development standards for development at the density described in Government Code Section 65583.2(c)(3), and is or will be served by adequate public facilities and infrastructure (Gov. Code § 65915(g)(2)(C).).
- c. The qualified land must be transferred to the City or to a housing developer approved by the City. The City may require the applicant to identify and transfer the land to an approved housing developer. (Gov. Code § 65915(g)(2)(F).)
 - d. The qualified land must have all of the permits and approvals, other than building permits, necessary for the development of the very low-income housing affordable units on the qualified land, not later than the date of approval of the final subdivision map, parcel map, or residential development application filed. However, the City may subject the proposed development to subsequent design review to the extent authorized by Government Code Section 65583.2(i) if the design is not reviewed by the City prior to the time of transfer. (Gov. Code § 65915(g)(2)(D).)
 - e. The qualified land must be donated and transferred no later than the date of approval of the final subdivision map, parcel map, or residential development application. (Gov. Code § 65915(g)(2)(A).)
 - f. The qualified land and the affordable units must be subject to a deed restriction ensuring continued affordability of the units consistent with Section 38-112.5(R), which must be recorded against the qualified land at the time of the transfer. (Gov. Code § 65915(g)(2)(E).)
 - g. The qualified land must be within the boundary of the proposed development or, if the City agrees, within one-quarter mile of the boundary of the proposed development. (Gov. Code § 65915(g)(2)(G).)
 - h. A proposed source of funding for the very low-income household units must be identified not later than the date of approval of the final subdivision map, parcel map, or residential development application. (Gov. Code § 65915(g)(2)(H).)
2. Density Bonus Allowance for Qualified Land Donation for Very Low Income Housing. If the requirements of Section 18-26.I.10.a are satisfied, the applicant shall be entitled to at least a fifteen percent (15%) increase above the otherwise maximum allowable residential density for the entire development, as follows (Gov. Code § 65915(g)(1)):

Table 38-112.5(J)-1
Density Bonus Allowances for Qualified Land Donation Projects

<u>Household Income Category</u>	<u>Minimum Percentage of Very Low Income Units</u>	<u>Density Bonus</u>	<u>Additional Density Bonus for Each 1% Increase in Very Low Income Units</u>	<u>Maximum Possible Density Bonus</u>
<u>Very Low Income Housing</u>	<u>10% of entire development</u>	<u>15%</u>	<u>1%</u>	<u>35% (max. combined)</u>

3. All density calculations resulting in fractional units shall be rounded up to the next whole number. (Gov. Code § 65915(g)(2).)
- K. Affordable Housing Incentives
1. Government Code subsections 65915(d), (j), (k), and (l) govern the following provisions regarding affordable housing incentives.
 2. Qualifications for Incentives. Subject to Section 38-112.5(M), all of the following applicable requirements must be satisfied to be granted an incentive(s) pursuant to this subsection (K)(2):
 - a. The applicant for an incentive must qualify for a density bonus pursuant to Section 38-112.5(D) (Gov. Code § 65915(d)(1).)
 - b. A specific written proposal for an incentive(s) must be submitted with the application for a density bonus (Gov. Code § 65915(b)(1) and (d)(1).)
 - c. The applicant must establish that each requested incentive would result in identifiable, financially sufficient, and actual cost reductions for the qualified housing development. (Gov. Code § 65915(k)(1) & (3).)
 - d. If an incentive(s) pursuant to Section 38-112.5(K)(3)(b) is sought, the applicant must establish that requirements of that section are met (Gov. Code § 65915(k)(2).)
 - e. If an additional incentive for a child care facility is sought pursuant to Section 38-112.5(L)(2), the applicant must establish that requirements of that section are met (Gov. Code § 65915(h)(1)(B).)
 - f. The granting of an incentive shall not be interpreted, in and of itself, to require a General Plan amendment, zoning change, or other discretionary approval. (Gov. Code § 65915(j).) An incentive is applicable only to the project for which it is granted. An applicant for an incentive may request a meeting with the City Manager or designee and, if requested, the City Manager or designee will meet with the applicant to discuss the proposal. (Gov. Code § 65915(d)(1).)
 3. Types of Incentives. For the purposes of this section, "incentive" means any of the following:
 - a. A reduction in site development standards or a modification of Development Code requirements or design guidelines that exceed the minimum building standards approved by the California Building Standards Commission as

provided in Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code, including, but not limited to, a reduction in setback and square footage requirements and in the ratio of vehicular parking spaces that would otherwise be required that results in identifiable, financially sufficient, and actual cost reductions. (Gov. Code § 65915(k)(1).)

- b. Approval of mixed-use zoning in conjunction with the qualified housing development if commercial, office, industrial, or other land uses will reduce the cost of the qualified housing development and if the commercial, office, industrial, or other land uses are compatible with the qualified housing development and the existing or planned development in the area where the proposed qualified housing development will be located. (Gov. Code § 65915(k)(2).)
- c. Other regulatory incentives proposed by the affordable housing developer or the City that result in identifiable, financially sufficient, and actual cost reductions. (Gov. Code § 65915(k)(3).)
- d. Nothing in this section limits or requires the provision of direct financial incentives by the City for the qualified housing development, including the provision of publicly owned land, or the waiver of fees or dedication requirements. (Gov. Code § 65915(l).)

L. Number of Incentives Granted

- 1. Subject to Section 38-112.5(M), the applicant who meets the requirements of Section 38-112.5(K)(1) shall receive the following number of incentives described below and as shown in Table 38-112.5(L)-1.
 - a. One incentive for qualified housing development projects that include at least ten percent (10%) of the total units for low-income households, at least five percent (5%) for very low-income households, or at least ten percent (10%) for persons and families of moderate-income households in a common interest development. (Gov. Code § 65915(d)(2)(A).)
 - b. Two incentives for qualified housing development projects that include at least twenty percent (20%) of the total units for low-income households, at least ten percent (10%) for very low-income households, or at least twenty percent (20%) for persons and families of moderate-income households in a common interest development. (Gov. Code § 65915(d)(2)(B).)
 - c. Three incentives for qualified housing development projects that include at least thirty percent (30%) of the total units for low-income households, at least fifteen percent (15%) for very low-income households, or at least thirty percent (30%) for persons and families of moderate-income households in a common interest development. (Gov. Code § 65915(d)(2)(C).)
- 2. A qualified housing development proposal that includes a child care facility shall be granted an additional incentive that contributes significantly to the economic feasibility of the construction of the child care facility. (Gov. Code § 65915(h)(1)(B).)

Table 38-112.5(L)-1

Incentive Allowances for Qualified Housing Developments

Income Category	Minimum % of Affordable Units		
Very Low Income	5%	10%	15%
Low Income	10%	20%	30%
Common Interest Development (Moderate Income)	10%	20%	30%
Incentives Allowed	1	2	3

M. Criteria for Denial of Application for Incentives

1. Except as otherwise provided in this section or by state law, if the requirements of Section 38-112.5(K) are met, the City shall grant the incentive(s) that are authorized by Sections 38-112.5(K)(3) and 38-112.5(L) unless a written finding, based upon substantial evidence, is made with respect to any of the following, in which case the City may refuse to grant the incentive(s):
 - a. The incentive is not required in order to provide affordable housing costs or affordable rents for the affordable units subject to the qualified housing development application. (Gov. Code § 65915(d)(1)(A).)
 - b. The incentive would have a specific, adverse impact, as defined in Government Code Section 65589.5(d)(2), upon the public health and safety or the physical environment or on any real property that is listed in the California Register of Historical Resources and for which there is no feasible method to satisfactorily mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low- and moderate-income households. (Gov. Code § 65915(d)(1)(B); Gov. Code § 65915 (d)(3).)
 - c. The incentive would be contrary to state or federal law. (Gov. Code § 65915(d)(1)(C).)
 - d. The community has adequate child care facilities, in which case the additional incentive for a child care facility pursuant to Section 38-112.5(L)(2) may be denied. (Gov. Code § 65915(h)(3).)

N. Waiver or Modification of Development Standards

1. Requirements for Waiver or Modification of Development Standards
 - a. Application. To qualify for a waiver or reduction of one or more development standards, the applicant must submit a written application (together with an application for a qualified housing development) that states the specific development standard(s) sought to be modified or waived and the basis of the request. (Gov. Code § 65915(e)(1).) An applicant for a waiver or modification of development standard(s) pursuant to this section may request a meeting with the City Manager or designee to review the proposal. If requested, the City Manager or designee shall meet with the applicant (Gov. Code § 65915(e)(1)). An application for the waiver or reduction of development standard(s) pursuant to this section shall neither reduce nor increase the number of incentives to which

the applicant is entitled pursuant to Section 38-112.5(K). (Gov. Code § 65915(e)(2).)

b. Findings. All of the following findings must be made for each waiver or reduction requested:

- 1) The development standard for which a waiver or reduction is requested will have the effect of physically precluding the construction of the proposed qualified housing development at the densities or with the incentives permitted under this section. (Gov. Code § 65915(e)(1).)
- 2) The requested waiver or reduction of a development standard will not have a specific, adverse impact, as defined in Government Code Section 65589.5(d)(2), upon the health, safety, or physical environment or, if such a specific, adverse impact exists, there is a feasible method to satisfactorily mitigate or avoid the specific, adverse impact. (Gov. Code § 65915(e)(1).)
- 3) The requested waiver or reduction of a development standard will not have an adverse impact on any real property that is listed in the California Register of Historical Resources. (Gov. Code § 65915(e)(1).)
- 4) The requested waiver or reduction of a development standard is not contrary to state or federal law. (Gov. Code § 65915(e)(1).)

c. Granting Application for Waiver or Modification of Development Standards. If the requirements of Sections 38-112.5(N)(1) are satisfied, the application for waiver or modification of development standard(s) shall be granted. If the requirements of Sections 38-112.5(N)(1) are satisfied, the City shall not apply a development standard that will have the effect of physically precluding the construction of a qualified housing development at the densities or with the incentives permitted by this section. (Gov. Code § 65915(e)(1).)

O. Parking Standard Modifications for Qualified Housing Developments

1. Requirements for Parking Standard Modifications. Parking standard modifications pursuant to Section 38-112.5(O)(1) are available only for qualified housing developments. An application for parking standard modifications stating the specific modification requested pursuant to Section 38-112.5(O)(2) or 38-112.5(O)(3) must be submitted with the qualified housing development application. (Gov. Code § 65915(p)(3).)
2. Parking Standard Modifications. If the requirements of Section 38-112.5(O)(1) are met, the vehicular parking ratio, inclusive of handicapped and guest parking, shall not exceed the following ratios (Gov. Code § 65915(p)(1)), except where noted under Section 38-112.5(O)(3):
 - a. Zero to one bedroom: one on-site parking space.
 - b. Two to three bedrooms: two on-site parking spaces.
 - c. Four and more bedrooms: two and one-half on-site parking spaces.

3. Exceptions. Upon request of the applicant, the following maximum parking standards shall apply, inclusive of handicap and guest parking, to the entire housing development subject to this section, as required by Government Code Section 65915(p)(2):
 - a. A maximum of 0.5 parking spaces per bedroom shall apply when all of the following conditions apply:
 - 1) The development includes the maximum percentage of low- or very low-income units provided for Section 38-112.5(G), Density Bonus Allowance for Housing Development with Affordable Housing Component.
 - 2) The development is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code.
 - 3) There is unobstructed access to the major transit stop from the development. A development shall have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments.
 - b. A maximum of 0.5 parking spaces per unit shall apply when all of the following conditions apply:
 - 1) The development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower-income families, as provided in Section 50052.5 of the Health and Safety Code.
 - 2) The development is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code.
 - 3) There is unobstructed access to the major transit stop from the development. A development shall have unobstructed access to a major transit stop if a resident is able to access the major transit stop without encountering natural or constructed impediments.
 - c. A maximum of 0.5 parking spaces per unit shall apply when all of the following conditions apply:
 - 1) The development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower-income families, as provided in Section 50052.5 of the Health and Safety Code.
 - 2) The development is for individuals who are 62 years of age or older which complies with Sections 51.2 and 51.3 of the Civil Code.
 - 3) The development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.

- d. A maximum of 0.3 parking spaces per unit shall apply when all of the following conditions apply:
 - 1) The development consists solely of rental units, exclusive of a manager's unit or units, with an affordable housing cost to lower-income families, as provided in Section 50052.5 of the Health and Safety Code.
 - 2) The development is a special needs housing development, as defined in Section 51312 of the Health and Safety Code.
 - 3) The development shall have either paratransit service or unobstructed access, within one-half mile, to fixed bus route service that operates at least eight times per day.
 4. If the total number of parking spaces required for the qualified housing development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this section, "on-site parking" may be provided through tandem parking or uncovered parking, but not through on-street parking. (Gov. Code § 65915(p)(2).)
 5. Except as otherwise provided in this Section 38-112.5(O), all other provisions of Chapter 17.54 (Off-Street Parking) applicable to residential development apply.
 6. An applicant may request additional parking incentives beyond those provided in this section if applied for pursuant to Section 38-112.5(K). (Gov. Code § 65915(p)(3).)
 7. Notwithstanding allowances in Section 38-112.5(O)(3) above, if the City or an independent consultant has conducted an area-wide or jurisdiction-wide parking study in the last seven years, then the City may impose a higher vehicular parking ratio not to exceed the ratio described in Section 38-112.5(O)(2), based on substantial evidence found in the parking study that includes, but is not limited to, an analysis of parking availability, differing levels of transit access, walkability access to transit services, the potential for shared parking, the effect of parking requirements on the cost of market-rate and subsidized developments, and the lower rates of car ownership for low- and very low-income individuals, including seniors and special needs individuals. The City shall pay the costs of any new study. The City shall make findings, based on a parking study completed in conformity with this paragraph, supporting the need for the higher parking ratio.
- P. Density Bonus and Affordable Housing Incentives Program
1. Project Design and Phasing. Projects seeking an affordable housing benefit pursuant to this section must comply with the following requirements, unless otherwise specified in writing by the City Manager or designee:
 - a. Location/Dispersal of Units. Affordable units shall be reasonably dispersed throughout the development where feasible and shall contain on average the same (or greater) number of bedrooms per unit as the market-rate units.
 - b. Phasing. If a project is to be developed in phases, each phase must contain the same or substantially similar proportion of affordable units and market-rate units.

- c. Exterior Appearance. The exterior appearance and quality of the affordable units must be similar to the market-rate units. The exterior materials and improvements of the affordable units must be similar to, and architecturally compatible with, the market-rate units.
2. Application Requirements. An application for one or more affordable housing benefits must be submitted as follows:
- a. Each affordable housing benefit requested must be specifically stated in writing on the application form provided by the City.
 - b. The application must include the information and documents necessary to establish that the requirements of this section are satisfied for each affordable housing benefit requested, including:
 - 1) For density bonus requests, that the requirements of Section 38-112.5(D) are met;
 - 2) For incentive requests, that the requirements of Section 38-112.5(K) are met;
 - 3) For development standard waiver or modification requests, that the requirements of Section 38-112.5(N) are met; and/or
 - 4) For parking standard modification requests, that the requirements of Section 38-112.5(O) are met.
 - c. The application must be submitted concurrently with a complete application for a qualified housing development and shall be processed consistent with the State Permit Streamlining Act.
 - d. The application must include a site plan that complies with and includes the following:
 - 1) For senior citizen housing development projects, the number and location of proposed total units and density bonus units.
 - 2) For all qualified housing development projects other than senior citizen housing development projects, the number and location of proposed total units, affordable units, and density bonus units. The density bonus units shall be permitted in geographic areas of the qualified housing development other than the areas where the affordable units are located. (Gov. Code § 65915(i))
 - 3) The location, design, and phasing criteria required by Section 38-112.5(P)(1), including any proposed development standard(s) modifications or waivers pursuant to Section 38-112.5(N).
 - e. The application for a qualified housing development must state the level of affordability of the affordable units and include a proposal for compliance with Section 38-112.5(R) for ensuring affordability.
 - f. If a density bonus is requested for a qualified land donation pursuant to Section 38-112.5(J), the application must show the location of the qualified land in addition to including sufficient information to establish that each requirement in Section 38-112.5(J) has been met.

- g. If an additional density bonus or incentive is requested for a child care facility pursuant to Section 38-112.5(H) and/or Section 38-112.5(L)(2) the application shall show the location and square footage of the child care facility and include sufficient information to establish that each requirement in Section 38-112.5(H) and/or Section 38-112.5(L)(2) has been met.
 - 3. An application for an affordable housing benefit under this section will not be processed until all of the provisions of this section are complied with as determined by the City Manager or designee, and shall be processed concurrently with the application for the qualified housing development project for which the affordable housing benefit is sought. Prior to the submittal of an application for a qualified housing development, an applicant may submit to the City Manager or designee a preliminary proposal for affordable housing benefits. The City Manager or designee shall, within 90 days of receipt of a written proposal, notify the applicant of the City Manager or designee's preliminary response and schedule a meeting with the applicant to discuss the proposal and the City Manager or designee's preliminary response.
- Q. Determination on Density Bonus and Affordable Housing Incentives Program Requirements
- 1. The decision-making body for the underlying qualified housing development application is authorized to approve or deny an application for an affordable housing benefit in accordance with this section.
 - a. Affordable Housing Benefit Determinations. An application for an affordable housing benefit shall be granted if the requirements of this section are satisfied unless:
 - 1) The application is for an incentive for which a finding is made in accordance with Section 38-112.5(M); or
 - 2) The underlying application for the qualified housing development is not approved independent of and without consideration of the application for the affordable housing benefit.
 - b. Affordable Housing Benefit Compliance Provisions. To ensure compliance with this section and state law, approval of an application for an affordable housing benefit may be subject to, without limitation:
 - 3) The imposition of conditions of approval to the qualified housing development, including imposition of fees necessary to monitor and enforce the provisions of this section;
 - 4) An affordable housing agreement pursuant to Section 1.72.190; and
 - 5) Recorded deed restriction implementing conditions of approval and/or contractual or legally mandated provisions.
 - c. A decision regarding an affordable housing benefit application is subject to the appeal provisions of Section 8111-7.
- R. Affordable Housing Benefit Agreement

1. Affordable Housing Benefit Agreement Required. After City Council approval of a request of affordable housing benefits, the developer shall be required to enter into an agreement with the City to provide very low-, low-, and moderate-income housing. This housing incentive agreement shall include, but not be limited to, the following provisions:
 - a. The proportion of the total units that will be affordable by persons and families of low or moderate incomes and the number of these units by number of bedrooms shall be specified.
 - b. A commitment that the affordable for-sale units will remain available to and permanently affordable to persons and families of low or moderate income.
 - c. A commitment that the affordable rental units will remain available to and affordable for a period of 55 years to persons and families of low or moderate income. (Gov. Code §65915(c).)
 - d. A requirement that the units affordable by persons and families of low or moderate income be identified on building plans submitted for architectural review and described in the application for an affordable housing benefit.
 - e. A requirement that resale controls be included as a deed restriction to ensure continued affordability.
 - f. A description of the specific incentives that the City will make available to the developer and any condition pertaining to them.
 - g. A description of standards for qualifying household incomes or other qualifying criteria, such as age, standards for maximum rents, or sales prices.
 - h. A description of the person responsible for certifying tenant or owner incomes.
 - i. A description of procedures by which vacancies will be filled and units sold.
 - j. A requirement for completion of an annual report and establishment of monitoring fees.
 - k. A description of restrictions imposed on lower-income affordable units on sale or transfer and methods of enforcing such restrictions.
2. General Requirements. No density bonus pursuant to Section 38-112.5(D) shall be granted unless and until the affordable housing developer, or its designee approved in writing by the City Manager or designee, enters into an affordable housing benefit agreement and with the City or its designee pursuant to and in compliance with this section. (Gov. Code § 65915(c).) The agreements shall be in the form provided by the City which shall contain terms and conditions mandated by, or necessary to implement, state law and this section. The City Manager or designee may designate a qualified administrator or entity to administer the provisions of this section on behalf of the City. The affordable housing benefit agreement shall be recorded prior to, or concurrently with, final map or parcel map recordation or, where the qualified housing development does not include a map or parcel map, prior to issuance of a building permit for any structure on the site. The City Manager or designee is hereby authorized to enter into the agreements authorized by this section on behalf of the City upon approval of the agreements by City Attorney for legal form and sufficiency.

3. Low or Very Low Income Minimum Affordable Housing Component or Senior Citizen Housing Development.
 - a. Rental units. Rents for the low-income and very low-income affordable units that qualified the housing development for the density bonus pursuant to Section 38-112.5(D) shall be set and maintained at an affordable rent (Gov. Code § 65915(c)(1).) The agreement shall set rents for the lower-income density bonus units at an affordable rent as defined in Health and Safety Code section 50053.
 - b. For-Sale Units. Owner-occupied low-income and very low-income affordable units that qualified the housing development for the density bonus pursuant to Section 38-112.5(D) shall be available at an affordable housing cost (Gov. Code § 65915(c)(1).) The agreement shall require that owner-occupied units be made available at an affordable housing cost as defined in Health and Safety Code section 50052.5.
 - c. Senior Units. At least 20 percent of the senior citizen housing development units are maintained and available for rent or sale to senior citizens as defined in Civil Code section 51.3. (Gov. Code § 65915(f)(3).)
 4. Moderate-Income Minimum Affordable Housing Component.
 - a. The affordable housing developer of a qualified housing development based upon the inclusion of moderate-income affordable units in a common interest development must enter into an agreement with the City ensuring that:
 - 1) The initial occupants of the moderate-income affordable units that are directly related to the receipt of the density bonus are persons and families of a moderate-income household.
 - 2) The units are offered at an affordable housing cost. (Gov. Code § 65915(c)(2).)
 - b. Minimum Affordable Housing Component and Child Care Facility. If an additional density bonus or incentive is granted because a child care facility is included in the qualified housing development, the affordable housing agreement shall also include the affordable housing developer's obligations pursuant to Section 38-112.5(H)(1)(c) for maintaining a child care facility, if not otherwise addressed through conditions of approval.
- S. Density Bonus or Incentives for Condominium Conversion Projects
1. Requirements for density bonus or incentive for condominium conversion projects.
 - a. Applicant to convert apartments to a condominium project agrees to provide at least:
 - 1) Thirty-three percent (33%) of the total units of the proposed condominium project to persons and families of moderate-income households, or
 - 2) Fifteen percent (15%) of the total units of the proposed condominium project to persons and families of low-income households.

- b. If applicant agrees to pay for the reasonably necessary administrative costs incurred by the City pursuant to this section, the City shall either:
 - 1) Grant a density bonus, or
 - 2) Provide other incentives of equivalent financial value. (Gov. Code § 65915.5(a).)
2. Definition of Density Bonus for Condominium Conversion Projects. If the requirements of Section 38-112.5(S)(1) are met, then the condominium conversion project will be entitled to an increase in units of twenty-five percent (25%) over the number of apartments, to be provided within the existing structure(s) proposed for conversion from apartments to condominiums. (Gov. Code § 65915.5(b))
3. Pre-Submittal Preliminary Proposals for Density Bonus or Incentive for Condominium Conversion Projects. Prior to the submittal of a formal request for subdivision map approval or other application for necessary discretionary approvals, an applicant to convert apartments to a condominium project may submit to the City Manager or designee a preliminary proposal for density bonus or other incentives of equivalent financial value. The City Manager or designee shall, within 90 days of receipt of a written proposal, notify the applicant of the City Manager or designee's preliminary response and schedule a meeting with the applicant to discuss the proposal and the City Manager or designee's preliminary response. (Gov. Code § 65915.5(d).)
4. Application for Density Bonus or Incentives for Condominium Conversion Projects. An applicant must submit a completed application provided by the City for a density bonus or for other incentives of equivalent financial value. The application must be submitted concurrently with the application for the condominium conversion project. The application must include the following:
 - a. All information and documentation necessary to establish that the requirements of Section 38-112.5(S)(1) are met;
 - b. The proposal for a density bonus or the proposal for other incentives of equivalent financial value;
 - c. Site plans demonstrating the location of the units to be converted, the affordable units, the market-rate units, and the density bonus units in the condominium conversion project; and
 - d. Any other information and documentation requested by the City to determine if the requirements of Section 38-112.5(S)(1) are met.
5. Both the application for a density bonus or other incentives of equivalent financial value and the application for the condominium conversion must be complete before the application for a density bonus or other incentives of equivalent financial value will be considered.
6. Granting Density Bonus or Incentive for Condominium Conversion Projects.
 - a. Approval
 - 1) If the requirements of Section 38-112.5(S)(1) are met, the decision-making body for the condominium conversion project application is authorized to grant an application for a density

bonus or other incentives of equivalent financial value, subject to Section 38-112.5(S)(6)(b).

2) Reasonable conditions may be placed on the granting of a density bonus or other incentives of equivalent financial value that are found appropriate, including but not limited to entering into an affordable housing agreement pursuant to Section 38-112.5(R) which ensures continued affordability of units to subsequent purchasers who are persons and families of moderate-income or low-income households. (Gov. Code § 65915.5(a).)

b. Ineligibility. An applicant shall be ineligible for a density bonus or other incentives of equivalent financial value if the apartments proposed for conversion constitute a qualified housing development for which a density bonus as defined in Section 16-411 or other incentives were provided. (Gov. Code § 65915.5(f).)

c. Decision on Condominium Conversion Project. Nothing in this section shall be construed to require the City to approve a proposal to convert apartments to condominiums. (Gov. Code § 65915.5(e).)

T. Enforcement Provisions

1. Occupancy. Prior to occupancy of an affordable unit, the household's eligibility for occupancy of the affordable unit must be demonstrated to the City. This provision applies throughout the restricted time periods pursuant to Section 38-112.5(R) and applies to any change in ownership or tenancy of the affordable unit.

2. Ongoing Compliance. Upon request, the affordable housing developer must show that the affordable units are continually in compliance with this section and the terms of the affordable housing agreement. Upon 30-day notice, the City may perform an audit to determine compliance with this section and the terms of any agreement or restriction.

3. Enforcement. The City has the authority to enforce the provisions of this section, the terms of affordable housing agreements, deed restrictions, covenants, resale restrictions, promissory notes, deed of trust, conditions of approval, permit conditions, and any other requirements placed on the affordable units or the approval of the qualified housing development. In addition to the enforcement powers granted in this section, the City may, at its discretion, take any other enforcement action permitted by law, including those authorized by City ordinances. Such enforcement actions may include, but are not limited to, a civil action for specific performance of the restrictions and agreement(s), damages for breach of contract, restitution, and injunctive relief. The remedies provided for herein shall be cumulative and not exclusive and shall not preclude the City from seeking any other remedy or relief to which it otherwise would be entitled under law or equity.

SECTION 14: Monterey City Code, Chapter 38, Article 30 is hereby added as follows:

Article 30 Reasonable Accommodation

38-224 Purpose

- A. This article provides a procedure to request reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act and the California Fair Employment and Housing Act (the Acts) in the application of zoning laws and other land use regulations, policies and procedures.

38-225 Applicability

- A. A request for reasonable accommodation may be made by any person with a disability, their representative or any entity, when the application of a requirement of this Zoning Ordinance or other city requirement, policy or practice acts as a barrier to fair housing opportunities. A person with a disability is a person who has a physical or developmental impairment that limits or substantially limits one or more major life activities, anyone who is regarded as having such impairment or anyone who has a record of such impairment. This article is intended to apply to those persons who are defined as disabled under the Acts.
- B. A request for reasonable accommodation may include a modification or exception to the rules, standards and practices for the siting, development and use of housing or housing- related facilities that would eliminate regulatory barriers and provide a person with a disability equal opportunity to housing of their choice.
- C. A reasonable accommodation is granted to the household that needs the accommodation and does not apply to successors in interest to the property unless specifically granted in the conditions associated with approval of a reasonable accommodation (see Section 38-229 below).
- D. A reasonable accommodation may be granted in compliance with this article without the need for the approval of a variance.
- E. Requests for reasonable accommodation shall be as described in the following section.

38-226 Application Procedure

- A. Application. Requests for reasonable accommodation shall be submitted in the form of a letter to the City Manager or designee and shall contain the following information:
 - 1. The applicant's name, address and telephone number;
 - 2. Address of the property for which the request is being made;
 - 3. The current actual use of the property;
 - 4. The basis for the claim that the individual is considered disabled under the Acts;
 - 5. The Zoning Ordinance provision, regulation or policy from which reasonable accommodation is being requested; and
 - 6. Why the reasonable accommodation is necessary to make the specific property accessible to the individual.
- B. Review with Other Land Use Applications. If the project for which the request for reasonable accommodation is being made also requires some other discretionary approval (e.g., use permit, coastal development permit, etc.), then the applicant shall file the application for discretionary approval together with the information required by Subsection A above for concurrent review.

38-227 Review Authority

- A. City Manager or designee. Requests for reasonable accommodation shall be reviewed by the City Manager or designee, or his/her designee if no approval is sought other than the request for reasonable accommodation. The written determination to grant, grant with modifications, or deny the request for reasonable accommodation shall be made in accordance with the Findings and Decision as established below.
- B. Other Review Authority. Requests for reasonable accommodation submitted for concurrent review with another land use application that is discretionary shall be reviewed by the authority responsible for reviewing the discretionary land use application. The written determination to grant, grant with modifications, or deny the request for reasonable accommodation shall be made in accordance with the Findings and Decision as established below.

38-228 Findings for Decision

- A. The written decision to a request for reasonable accommodation will be consistent with the Acts and shall be subject to the following Findings for Decision:
 - 1. That the housing, which is the subject of the request, will be used by an individual disabled under the Acts;
 - 2. That the request for reasonable accommodation is necessary to make specific housing available to an individual with a disability under the Acts;
 - 3. That the requested reasonable accommodation would not impose an undue financial or administrative burden on the City;
 - 4. That the requested reasonable accommodation would not require a fundamental alteration in the nature of a City program or law, including but not limited to land use, zoning, or the Local Coastal Program; and
 - 5. That any alternative reasonable accommodations to the original request would make the housing available to the individual with a disability under the Acts.

38-229 Conditions of Approval

- A. In granting a request for reasonable accommodation, the reviewing authority may impose any conditions of approval deemed reasonable and necessary to ensure that the reasonable accommodation would comply with the findings required herein. The conditions shall also state whether the accommodation granted shall be rescinded in the event that the person for whom the accommodation was requested no longer resides on the property.

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 1st day of November, 2016, by the following vote:

AYES:	5	COUNCILMEMBERS:	Barrett, Downey, Haffa, Smith, Roberson
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

APPROVED:

ATTEST:





Mayor of said City