

ORDINANCE NO. 3653 C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY

**AN OMNIBUS ORDINANCE TO MAKE CLERICAL/TECHNICAL UPDATES TO THE
MONTEREY CITY CODE**

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

SECTION 1:

WHEREAS, several departments in the City have been reorganized and job titles have changed, requiring clerical updates to the City Code for accuracy;

WHEREAS, on April 28, 2022, the Board of Library Trustees considered and recommended edits to the code that are set forth below that pertain to Library employees and the Library Director;

WHEREAS, it is the policy of the City to maintain an up-to-date, legally compliant, and accurate City Code;

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.

NOW THEREFORE, the Monterey City Council declares as follows:

SECTION 2: The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 3: Monterey City Code, Chapter 1, Section 1-9.1(B) is hereby amended to read as follows:

““Enforcement Officer” shall mean the City Attorney, Code Compliance Coordinator, any Police Officer, and any City employee or agent of the City delegated authority by the City Manager to enforce any provision of this Code.”

SECTION 4: Monterey City Code, Chapter 9, is hereby amended as follows:

1. The term “Building Inspector” is replaced with “Chief of Inspection Services/Building

- Official” in sections 9-22 and 9-70.2.
2. The term “Public Works Director” is replaced with “Chief of Inspection Services/Building Official” in sections 9-51, 9-77 and 9-81 through 9-83.
 3. The term “Public Works Director” is replaced with Chief Building Official in section 9-70.2.
 4. The term “Department of Plans and Public Works” is replaced with “Building and Safety Division” in section 9-69.2.

SECTION 5: Monterey City Code, Chapter 9, section 9-78 is hereby amended to read as follows:

“Permit Procedure.

The Community Development Director shall review the permit application and shall approve the permit unless evidence is available which indicates that the proposed grading or excavation will create an undue risk to the health and safety of the public at large. Prior to acting on any such application, the Chief of Inspection Services/Building Official, in his/her sole discretion, may set and conduct a public hearing for the purpose of receiving comments on the proposed grading and excavation. Except as otherwise indicated in Section 9-80, any permit issued hereunder shall be subject to the following conditions:

- (a) All excavation and grading shall be performed solely in accordance with the permit approved by the City and in accordance with the permit as issued by the City.
- (b) Prior to movement of any soil on any property located within a district, the permittee or designee shall personally deliver to each person who intends to work on the property described in the permit the notice and safety plan, which is attached as an exhibit to the permit, and explain to each such person the information set forth in that notice.
- (c) The permittee may not move or disturb soil in a manner inconsistent with restrictions placed on the property by the Army and as noted on the grading district map unless there is a Department of Defense certified, or equivalent, explosive ordnance disposal technician acceptable to the Chief of Inspection Services/Building Official who is on site and visually supervises any such activity. Any excavation or soil disturbance inconsistent with restrictions placed on the property by the Army may be accomplished only after investigation using sweep lanes no wider than five feet throughout the excavation area and after using detection devices and visual identification to locate, identify and remove any unexploded ordnance discovered during such excavation activity.
- (d) The permittee shall cease soil disturbance activities and shall notify the Army and DTSC of any suspected unexploded ordnance discovered during any excavation or soil removal immediately upon discovery. The permittee shall coordinate appropriate response actions with the Army and DTSC.
- (e) No later than thirty days following the completion of the permitted soil disturbance activity, the permittee shall prepare and file with the Chief of Inspection Services/Building Official, the Army and DTSC an after action report that shall state whether and where UXO was detected and the extent and depth of UXO response actions undertaken and completed on the property that is the subject of the permit. The after action report shall include site maps to illustrate the information contained in the report. All after action reports prepared and filed in accordance with this chapter shall be deemed public records.
- (f) The permittee agrees as a condition of issuance of a permit to defend at its sole expense, indemnify and hold harmless from any liability the City, and reimburse the City for any expenses incurred resulting from or in connection with the approval of the project including any claim, suit or legal proceeding. The City may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve the permittee of its obligations under this subsection.”

SECTION 6: Monterey City Code, Chapter 25, Section 25-1.06 is hereby amended to read as follows:

“The City Manager, City Attorney, and Library Director (notwithstanding the Board of Library Trustee’s power to appoint and remove library personnel pursuant to Section 7.1(c) of the City Charter) have primary responsibility for appointment and removal of officers and employees within their respective departments as established in the City Charter. The City Manager, City Attorney, and Library Director shall each be responsible for administering these Rules and Regulations within their department and scope of authority, except as appropriately delegated to subordinate officers and employees. All duties and authority of the City Manager established in these Rules and Regulations shall apply equally to the City Attorney and Library Director in administering these Rules and Regulations to employees of their respective departments.”

SECTION 7: Monterey City Code, Chapter 25, Section 25-2.10 is hereby amended to read as follows:

“The Classified Service shall consist of all employees who have been appointed to regular full-time or regular part-time positions except:

- a. The City Manager.
- b. The City Attorney.
- c. The Library Director.
- d. All other positions designated as Executive Management in the City’s annual salary schedule.
- e. All elected officials and members of appointed boards, commissions and committees.
- f. All temporary personnel whether employed directly by the City or retained under contract for services, except as provided in the contract for services.
- g. All volunteer personnel.”

SECTION 8: Monterey City Code, Chapter 25, Section 25-2.14 is hereby amended to read as follows:

“The following are, for purposes of definition, the department heads for the City of Monterey

- a. City Manager.
- b. Assistant City Manager.
- c. City Attorney.
- d. Finance Director.

- e. Fire Chief.
- f. Library Director.
- g. Parks and Recreation Director.
- h. Human Resources Director.
- i. Police Chief.
- j. Community Development Director.
- k. Public Works Director.”

SECTION 9: Monterey City Code, Chapter 25, Section 25-3.03(d)(1) is hereby amended to read as follows:

“Complaint Regarding Department Head (Other than City Manager, City Attorney, or Human Resources Director). Any time a department head is the accused perpetrator of an incident of discrimination, harassment, abusive conduct/bullying, or retaliation under the definitions of this policy, the complaint shall be made to the Human Resources Director who shall investigate the complaint and make a recommendation for the disposition of the complaint to the City Manager, or to the Board of Library Trustees if the complaint concerns the Library Director.”

SECTION 10: Monterey City Code, Chapter 25, Section 25-3.03(d)(4) is hereby amended to read as follows:

“Complaint Regarding Member of Council, or Member of a Board, Committee or Commission. If a member of the City Council or a member of a City Board, Committee, or Commission is the accused perpetrator of an incident of discrimination, harassment, abusive conduct/bullying or retaliation under the definitions of this policy, the complaint shall be made to the City Attorney or Human Resources Director, who shall retain outside counsel to investigate the allegations and file a recommendation to the City Council for action on the complaint.

SECTION 11: Monterey City Code, Chapter 25, Section 25-3.08(d)(4) is hereby added to read as follows:

“Immediate family members of the members of the Board of Library Trustees may hold positions in the City except for the Library Director position.”

SECTION 12: Monterey City Code, Chapter 25, Section 25-7.01(c) is hereby amended to read as follows:

“Promotional examinations shall be open only to qualified, regular City employees unless, at the discretion of the Human Resources Director, it is open to application by temporary/seasonal employees. Applications may be accepted from qualified employees on probation subject to the provisions of City Code section 25-10.06.”

SECTION 13: Monterey City Code, Chapter 25, Section 25-14.10 is hereby amended to read as follows:

“Appeal to the City Council or Board of Library Trustees

a. Definitions. Appeal Authority for Library personnel means the Board of Library Trustees. The Appeal Authority for other personnel is the City Council. For appeals involving Library personnel, the term “Clerk” in the below procedures denotes the Library personnel serving as the Clerk to the Board of Library Trustees. For appeals involving other personnel, the term “Clerk” as used in this section means the City Clerk.

b. Decisions of the City Manager which result in termination may be appealed to the Appeal Authority. Disciplinary actions initiated by the City Manager, except oral and written reprimands and actions not involving loss of pay, may be appealed to the Appeal Authority. This appeal shall be in writing and filed with the Clerk within ten (10) City working days of receipt of the City Manager’s decision. The appeal shall be signed by the employee and shall set forth the reasons for the appeal. The Clerk shall provide written notice of the appeal to the Appeal Authority, the City Manager, the City Attorney, the employee’s department head, the Human Resources Director, and to any other appropriate parties.

c. Upon the filing of an appeal, the Clerk shall notice a hearing of the appeal within fifteen (15) City working days, and the hearing shall be held not less than ten (10) City working days nor more than forty-five (45) City working days from the date of the Clerk’s notice. The Clerk’s notice shall include the date, time and place of the hearing. Once commenced, the hearing may be continued until it can be completed.

d. The Appeal Authority’s hearing shall be closed, unless requested to be open by the employee. Formal rules of evidence shall not apply. Principles of due process will be applied. Provisions of the Ralph M. Brown Act, the City Charter, and the City Code shall apply to all such hearings.

e. The Appeal Authority shall render its decision in writing to the employee within ten (10) City working days after the conclusion of the hearing. Appropriate copies of the decision will be furnished to the City Manager, Human Resources Director, and department head of the employee. The decision will also be reported in open session of the Appeal Authority in accordance with the Ralph M. Brown Act and the City Code.

f. In rendering its decision, the Appeal Authority may reaffirm the disciplinary action, reverse it, or modify it.”

SECTION 14: Monterey City Code, Chapter 22, Section 22-31.13, subsection (c)(2) is hereby amended to read as follows:

“Each person employed or retained by a massage establishment to perform massage in or on the premises or through an outcall massage service shall have in their possession the valid current photograph-bearing identification card issued to that employee by the CAMTC. A copy of each such identification card shall also:

- A. Be kept in a specific location by management and accessible to any regulatory body performing an inspection; and
- B. Be displayed in an open and conspicuous place visible from the main entry

door and/or reception and waiting area of the massage establishment. The displayed copy need only include the first name and first letter of the last name. The home address of any employee need not be displayed.”

SECTION 15: Monterey City Code, Chapter 32, section 32-55, is hereby amended as follows:

“It shall be unlawful for any person, firm, or corporation to make any excavation in or under the surface of any street, alley, sidewalk, public way, or public place in the City of Monterey without first obtaining a permit so to do from the City. City may at its discretion require a cash deposit upon issuance of such permit to defray the cost of restoring the surface of said street, alley, sidewalk, public way or public place, as the case may be, to its former condition.”

SECTION 16: Monterey City Code, Chapter 32, sections 32-56; 32-57; and 32-60 are hereby amended by replacing the phrase “Department of Plans and Public Works” with “City.”

SECTION 17: Monterey City Code, Chapter 33, is hereby amended to read as follows:

1. Section 33-8, subsection (b) is amended to read as follows: “The Public Works Director shall be responsible for analyzing the design and the Community Development Director is responsible for coordinating the processing of minor subdivision maps, preliminary maps, and tentative maps. The Public Works Director shall be responsible for coordinating and processing of final maps and parcel maps.”
 - a. The phrase “Public Works Director” is replaced with “Community Development and Public Works Directors” in sections 33-5, 33-8(e), 33-28, 33-49, 33-52, and 33-82.
2. Section 33-7 is amended by replacing the phrase “Public Works Director” with “Community Development Director” in the definition of “Preliminary Map.”
3. Section 33-28 is amended by replacing the phrase “Public Works Director” with “City Forester.”
4. The phrase “Department of Plans and Public Works” is replaced with “Public Works Department” in the following sections:
 - a. 33-14.5;
 - b. 33-49;
 - c. 33-78; and
 - d. 33-81(a), and (e).
5. The phrase “Plans and Public Works Staff” is replaced with “Public Works Staff” in section 33-14.5.
6. The phrase “Public Works Director or the Planning Commission” is replaced with “Public Works Director, Community Development Director, or the Planning Commission” in section 33-18.
7. The phrase “Public Works Director” is replaced with “Public Works or Community Development Directors” in sections:
 - a. 33-44;
 - b. 33-45; and
 - c. 33-46(a)(1).
8. The phrase “Plans and Public Works Department” is replaced with “Public Works Department” in section 33-81(e).

SECTION 18: Monterey City Code, Chapter 33, Section 33-50 is hereby amended to

read as follows:

“Filing of preliminary map.

Prior to submitting a tentative map of any proposed standard subdivision, the subdivider shall submit to the Community Development and Public Works Director three copies of a preliminary map for review, along with such additional materials, data, reports or the like as the Public Works or Community Development Directors may require.”

SECTION 19: Monterey City Code, Chapter 38 is hereby amended as follows:

1. The phrase “Department of Plans and Public Works” is replaced with “Community Development Department” in the following sections:
 - a. 38-2.B;
 - b. 38-22.E;
 - c. 38-23.G;
 - d. 38-24.E;
 - e. 38-25.F;
 - f. 38-26.F;
 - g. 38-26.M.3.a;
 - h. 38-28.D;
 - i. 38-29.D;
 - j. 38-30.D;
 - k. 38-31.D;
 - l. 38-41.F;
 - m. 38-46;
 - n. 38-50;
 - o. 38-64;
 - p. 38-75 – subsections D.1, G.2.a.(1), and G.2.b.(2);
 - q. 38-76 – subsections G.2.a.(1) and G.2.b.(2);
 - r. 38-77.C.1;
 - s. 38-90;
 - t. 38-126 subsections D.6 and F;
 - u. 38-150;
 - v. 38-155;
 - w. 38-159.C.2;
 - x. 38-170.A;
 - y. 38-186.A;
 - z. 38-208;
 - aa. 38-210 subsections B and C;
2. The phrase “Public Works Director” is replaced with “Community Development Director” in sections:
 - a. 38-5.E;
 - b. 38-7.A;
 - c. 38-7.B.5;
 - d. 38-7.D; and
 - e. 38-7.E.
 - f. 38-11 (Lot, Corner);
 - g. 38-12;
 - h. 38-16.D;
 - i. 38-22.B ‘R-E District Land Use Regulations’;
 - j. 38-23.B ‘R-1 District Land Use Regulations’;

- k. 38-26.M.3.a;
- l. 38-26.K.3.a;
- m. 38-28.B.3 'C-1 Neighborhood Commercial District Land Use Regulations,' 'Temporary Uses';
- n. 38-29.B.3 'C-2 Community Commercial District Land Use Regulations';
- o. 38-30.B.3 'C-3 General Commercial District Land Use Regulations,' 'Temporary Uses';
- p. 38-31.B.3 'CO Office and Professional District Land Use Regulations,' 'Temporary Uses';
- q. 38-32.B.1 'CR Cannery Row District Land Use Regulations,' 'Temporary Uses';
- r. 38-33.C.3.c;
- s. 38-33.D – subsections 2 and 5;
- t. 38-33.E.2 – subsections (c) and (e);
- u. 38-40.B 'I-R District Land Use Regulations,' 'Temporary Uses';
- v. 38-41.B – subsections 1, 2, and 4;
- w. 38-44 'O Districts Land Use Regulations,' 'Temporary Uses';
- x. 38-57;
- y. 38-73.M;
- z. 38-73.Q;
- aa. 38-74b – subsections A, B.2, and D.1;
- bb. 38-75 – subsections D.1, G.2.a.(2), and G.2.d;
- cc. 38-76 – subsections G.2.a.(2) and G.2.d;
- dd. 38-85;
- ee. 38-109.A;
- ff. 38-111 – subsections A.2, 4, and 5; D.1, and J;
- gg. 38-115 (introductory paragraph) and 'Horticulture, Limited';
- hh. 38-116.B and D;
- ii. 38-119.A;
- jj. 38-120.C;
- kk. 38-125;
- ll. 38-130;
- mm. 38-131.B;
- nn. 38-133;
- oo. 38-136.B;
- pp. 38-137;
- qq. 38-151;
- rr. 38-153, title, and subsections A, B, C.1, C.15, and C.17;
- ss. 38-157;
- tt. 38-159.A, B, and E;
- uu. 38-160;
- vv. 38-162;
- ww. 38-162.D;
- xx. 38-165.A and B.4;
- yy. 38-166.B;
- zz. 38-170, subsections A.1, A.2, and B;
- aaa. 38-171.B;
- bbb. 38-172.A;
- ccc. 38-174.B;
- ddd. 38-180.B;
- eee. 38-182.A.1;

fff. 38-185;
ggg. 38-186.B;
hhh. 38-195;
iii. 38-197.A and C.3;
jjj. 38-198.A;
kkk. 38-208;
lll. 38-210.B;
mmm. 38-214.D;
nnn. 38-216.A;
ooo. 38-217;
ppp. 38-219; and
qqq. 38-221.A.

3. The phrase "Director of Plans and Public Works" is replaced with "Community Development Director" in the definition of Floor Area Ratio in section 38-11.
4. The phrase "Public Works Director" is replaced with "Community Development Director" in the definition of Public Works Director in section 38-11 and the resulting new definition of Community Development Director is sorted in alphabetical order.
5. The phrase "Community Development Department" is replaced with "Public Works Department" in section 38-26.M.3.a

SECTION 20: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

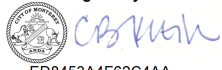
SECTION 21: This ordinance shall be in full force and effect thirty (30) days from and after its final passage and adoption.


PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 19th day of July, 2022, by the following vote:

AYES:	5	COUNCILMEMBERS:	Albert, Haffa, Smith, Williamson, Roberson
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

APPROVED:

ATTEST:

DocuSigned by:

ED8453A4E62C4AA...
City Clerk thereof

DocuSigned by:

FA1981217DEE4FB...
Mayor of said City