

ORDINANCE NO. 3656 C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY

REPEALING AND REPLACING SECTIONS 9-0.1, 9-0.2 AND 9-2 OF CHAPTER 9 AND SECTIONS 13-0.1, 13-0.2, AND 13-0.3 OF CHAPTER 13 OF THE MONTEREY CITY CODE, AMENDING CHAPTERS 9 AND 13, AND ADOPTING THE 2022 CALIFORNIA BUILDING STANDARDS CODE, INCLUDING THE 2022 CALIFORNIA BUILDING CODE AND APPENDICES H, I, AND J, THE 2022 CALIFORNIA HISTORIC BUILDING CODE, THE 2022 EXISTING BUILDING CODE, THE 2022 CALIFORNIA RESIDENTIAL CODE, THE 2022 CALIFORNIA PLUMBING CODE, THE 2022 CALIFORNIA ELECTRICAL CODE, THE 2022 CALIFORNIA MECHANICAL CODE, THE 2022 CALIFORNIA GREEN BUILDING STANDARDS CODE, THE 2022 CALIFORNIA FIRE CODE, THE 2022 CALIFORNIA ENERGY CODE, AND THE 2021 INTERNATIONAL PROPERTY MAINTENANCE CODE

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

SECTION 1:

WHEREAS, the City intends to adopt parts of the California Building Standards Code, including the 2022 editions of the California Building Code, Residential Code, Plumbing Code, Mechanical Code, Electrical Code, Fire Code, Historical Building Code, Green Building Standards Code, Existing Building Code, Energy Code, and the 2021 edition of the International Property Maintenance Code, except as otherwise provided herein in Chapters 9 and 13 of the Monterey City Code;

WHEREAS, pursuant to sections 17958, 17958.5 and 17958.7 of the California Health and Safety Code, the City, before making modifications or changes to the California Building Standards Code, must make an express finding that such modifications or changes are reasonably necessary because of local climatic, geological, or topographical conditions;

WHEREAS, the Monterey City Council finds that a departure from the California Building Standards Code is reasonably necessary to provide specific and greater protections to the public health, safety, and welfare than afforded by the California Building Standards Code due to local climatic, geographical, or topographical conditions;

WHEREAS, the Monterey City Council hereby finds as follows:

The City has established specific amendments that are more restrictive in nature than those sections contained in the State Building Standards Code, commonly referred to as Title 24 of the California Code of Regulations. The City submits these "Findings of Fact" and incorporates them as a part of this Ordinance pursuant to Sections 18941, 17958.5 and 17958.7 of the California Health and Safety Code. Under provisions of the California Health and Safety Code, local amendments shall be based on climatic, geographical, or topographical conditions. The Findings of Fact contained herein shall address each of these situations and shall present the local situation, which either singularly or in combination causes the established amendments to be adopted.

Profile of the City of Monterey:

The City of Monterey encompasses an area of 8.62 square miles of land and 3.47 square miles of water, with an estimated resident population of 29,874 as of 2021. (Source: U.S. Census Bureau) Due to the significant visitor population to the City of Monterey, the actual population is considered by many studies to exceed 70,000 during a given daytime period. The City of Monterey borders the Cities of Pacific Grove, Seaside, and Del Rey Oaks, as well as unincorporated Monterey County, the Monterey Peninsula Airport District, and the Monterey Bay.

The placement of the residential and commercial development is restricted not just by political boundaries, but by geological features such as the bay, ridges, foothills, mesas, and canyons.

Throughout the City of Monterey are major roadways and highways that create barriers. Other barriers considered are the military facilities and federal enclaves, which include the United States Army Garrison Presidio of Monterey, Naval Support Activity Monterey (United States Naval Postgraduate School), and the United States Coast Guard Station Monterey.

Climatic I: The climate weather patterns within the City of Monterey are moderately affected by Monterey Bay. The normal year's rainfall is approximately eighteen to nineteen (18-19) inches. Summer conditions create the mid-day fog normally associated with Monterey. This climatic fog assists the natural vegetation to grow.

Later in the year, the winds and drying vegetation mix to create a hazardous fuel condition that can cause grassland and brush land fires. While normal temperatures usually do not exceed 75 to 80 degrees Fahrenheit, during late summer and early fall (August through October), the temperatures can climb to 100 degrees Fahrenheit or more in Monterey County. The afternoon winds can move a fire quickly in the hillsides and canyon areas into Monterey.

The City of Monterey (like other California cities) has experienced water supply issues in recent years due to drought conditions. Unfortunately, the situation is more severe in Monterey due to the State of California's Cease and Desist Order regarding water connections. Due to storage capacities and consumption, as well as climatic conditions, limited water resources are an issue. While sound management of the water resources is possible, actual demands on an already stressed water supply can most assuredly be predicted.

Climatic II: The region is within a climate zone that requires compliance with energy efficiency standards for building construction. The amendment adds up-to-date design standards that will add to energy efficiency in construction while maintaining nationally recognized health and safety standards.

Geographical I: Residents and visitors alike appreciate the scenic appeal and geographical features of the City of Monterey. The mountains and canyons accentuate one another as they wind around the City. The forest creates a beautiful backdrop for the City. These geographical and vegetative features established the community's physical layout and created areas for roadways and building sites to be created. The unique geography also creates barriers to accessibility for fire suppression forces.

The forested areas of oak and pines create windbreaks from oncoming winds while

producing fuel from the annual fall leaves, which drop to the ground, as well as from decayed trees and branches. The dry vegetation, mountainous terrain, and minimal water available tend to cause concern and added fire problems.

The City of Monterey has within its boundaries potentially active seismic hazards with respect to the "Navy," "Berwick Canyon," "Chupines" and "Seaside" faults. While systems have been developed to study and monitor the activity of earthquakes, science has not yet been able to predict (with reliability) the potential for activity on these or any active fault.

Seismic activity within the City occurs periodically with little or no damage, although the real potential for damage does exist with these four active faults. New construction may be limited by its respective distance to such faults, and the replacement of existing structures could be costly.

The geographical layout of the forested areas creates hazardous conditions when a storm of gale-force winds causes trees to fall onto roadways used for access by Fire Department equipment and personnel. The growing pattern and inherent nature of the Monterey Pines lend themselves to being blown over easily. This is due in part to the shallow root system associated with the Monterey Pine tree. Mountains and hills surrounding and within the City of Monterey create slopes in excess of 30% with an overall average of between five to ten percent throughout. The City of Monterey's elevation ranges from sea level to 600 feet above sea level. The elevation change caused by the mountains and hills creates the geographical foundation on which the City has built and will continue to build. With much of the flatlands already built upon, it can be anticipated that future growth will occur on steeper slopes and with greater contrasts in terrain.

Geographical II: The region is located in an area of high seismic activity, as indicated by United States Geological Survey and the California Department of Conservation. Recent earthquake activity has indicated that the lack of flexibility of materials and/or building systems has been a contributing factor to damages that jeopardize the safety of building occupants and increase the cost of structure rehabilitation. Seismic activities have shown the need for increased levels of safety in building systems, including but not limited to means of egress, wiring systems, and fire protection systems.

Topographical: Mountains, hills, canyons, lakes, and streams dissect the City.

The water supply (domestic and fire flow) system is directly affected by the topographic layout. The distribution system consists of water lines that carry the water from storage tanks to the public via pipes. These street mains create lift zones where the pressure and flows are adequate at lower elevations and minimal. At higher elevations, water supply can be critical. Water supplies within the City of Monterey vary from less than 250 gallons per minute to flows exceeding 5,500 gallons per minute. This wide variation causes challenges for development, as well as fire suppression forces.

The roadway system is designed around the city's topography with respect to narrow and steep grades. The grades on some roadway surfaces exceed 25% and widths of less than twelve (12) feet for access are not uncommon. Due to traffic congestion on many streets, especially the commercial downtown area and New Monterey and Cannery Row areas, vehicles double park for loading and unloading purposes. This creates barriers that may reduce response times of fire resources.

The topography also restricts construction to the level portions of the City with higher

concentrations of building in these areas. The existing structures are being removed and replaced with larger buildings. Those existing structures remain a cause of concern to the Fire Department because of their lack of adequate fire protection (firewalls, fire extinguishing systems, etc.). The hazard exposure created by these structures poses a separate and significant challenge.

It is not uncommon to see a single or two-story building torn down and replaced with a two-, three- or four-story building. For practical and cost reasons, these new structures are built of wood (Type V). The potential for conflagration exists with the high build-out of the various specific areas of Monterey. The concentrated commercial, as well as residential occupancies, cause concern regarding the exposure elements of building-to-building and building-to-grassland areas of this City.

The topographical nature of Monterey also lends itself to power failures caused when trees and tree limbs damage sections of electrical transmission lines. These power failures cause the electrical pumps to become inactive, interrupting water supplies. Vehicular accidents also have been known to interrupt this pumping operation due to the narrow streets, which are congested with residents and visitors.

The encouragement of greenbelts between various subdivisions of the City has given rise to brush and grass fires for many years. The existing canyons cause natural barriers and delay response time due to complex roadways.

The natural rocky shorelines of Monterey create a situation by which access to the building can only be made from the street. The front of the building is essentially the only access point for responding firefighters. Built property-line to property-line, these structures create an element of the construction of nearly nine blocks of continuous construction. Residential as well as commercial occupancies can be found along the entire shoreline of Monterey Bay.

A harbor, flanked by wharves (Municipal Wharf One and Municipal Wharf Two) and piers creates an interesting fire problem due to the confinement of hundreds of boats and other vessels (413) within a small area. The problems associated with firefighting within a marine environment cause concern and create unique situations (access, water/fuel, etc.), which must be addressed as an everyday fire problem.

Lastly, while possibly not being within the "topographical" context of Findings of Fact, the City's historical significance is a major draw for visitors. Construction methods were also less restrictive than would be required today. These structures and settings create barriers, which firefighters must work around and protect from exposure. Forty-four to fifty historical buildings, dating back to the early 1800s are irreplaceable.

These Findings of Fact, which identify the various "climatic, geographical, and topographical" conditions, are reasonably necessary to modify aspects of the California Building Standards Code based on local conditions.

While it is clearly understood that the adoption of these regulations may not prevent the incidence of fire or building-related accidents, implementation of these various regulations and/or requirements may serve to reduce the severity and potential loss of life and property;

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, adoption of State-mandated building safety codes traditionally seen as ministerial actions, 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; and

NOW THEREFORE, the Monterey City Council declares as follows:

SECTION 2: The above recitals are true and correct and are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.

SECTION 3: Monterey City Code Chapters 9 and 13 are hereby amended replacing all instances of "Uniform" with "California"

SECTION 4: Section 9-0.1 of the Monterey City Code is hereby amended by deleting the current Section 9-0.1 in its entirety and replacing it to read as follows:

Sec. 9-0.1. Adoption of Codes.

Except as otherwise amended by this chapter and Chapter 13 of this Code, the following model codes are hereby adopted and are incorporated in this chapter by reference and made a part hereof as if fully set forth herein:

1. 2022 California Building Code and Appendices H, I, J;
2. 2022 California Historic Building Code;
3. 2022 California Existing Building Code;
4. 2022 California Residential Code;
5. 2022 California Plumbing Code;
6. 2022 California Electrical Code;
7. 2022 California Mechanical Code;
8. 2022 California Green Building Standards Code;
9. 2022 California Energy Code;
10. 2021 International Property Maintenance Code.

SECTION 5: Section 9-0.2 of the Monterey City Code is hereby amended by deleting the current Section 9-0.2 in its entirety and replacing it to read as follows:

Sec. 9-0.2. Exemption for pending applications.

Notwithstanding Section 9-0.1, the provisions of the 2022 editions of the California Building Code, and Appendices H, I and J, the California Historic Building Code, the California Existing Building Code, the California Residential Code, the California Plumbing Code, the California Electrical Code, the California Mechanical Code, the California Green Building Standards Code, the California Fire Code, the California Energy Code, and the 2021 International Property Maintenance Code, as adopted and

amended herein, shall not apply to any building or structure for which an application for a building permit was made prior to January 1, 2023. Such buildings or structures shall be erected, constructed, enlarged, altered, or repaired in accordance with the provisions of this chapter in effect at the date of said application.

SECTION 6: Section 9-2 of the Monterey City Code is hereby amended by deleting the current Section 9-2 in its entirety and replacing it to read as follows:

Sec. 9-2. Amendments to the California Plumbing Code.

Section 710.1.1 is added to read as follows:

710.1.1 Backwater Valves. In every case where the outlet of a trap for a plumbing fixture is installed or located at an elevation which is less than two feet (2') above the rim of the nearest manhole uphill from the point of connection of the building sewer to the public sewer in any new or existing drainage system, approved types of backwater valve, relief vent and cleanout shall be installed in the building sewer at the point of lowest elevation of the ground surface of the building site outside of the building or at such other location as is permitted by the Building Official, providing that any such location, the elevation of the ground surface is not less than two feet (2') below the lowest trap outlet served by the building sewer.

The installation shall consist of an approved fresh air inlet and a Y branch or combination fitting installed in sequence in the line of the flow from the building. The vent from this fresh air inlet shall be piped to the ground surface and capped with a vent cap. Provision shall be made by elevation above the ground or by other means for preventing the obstruction of the vent opening or the flow of water therein. The cleanout shall be placed as close to the valve as is practical and shall be piped to within one foot (1') of the ground surface and closed with an approved cleanout plug. Every existing installation which includes a plumbing fixture trap outlet which is less than two feet (2') above the rim of the nearest manhole uphill from the point of connection of the building sewer to the public sewer is hereby declared to be dangerous, unsanitary and a menace to life, health and property. Whenever it shall come to the attention of the Building Official that such an installation exists, he or she is hereby empowered to order and require that such plumbing outlet be immediately plugged or capped, or that the equipment described in the preceding paragraph of this section be installed immediately. (Topographical finding)

SECTION 7: Section 13-0.1 of the Monterey City Code is hereby amended by deleting the current Section 13-0.1 in its entirety and replacing it to read as follows:

Sec. 13-0.1. Adoption of the 2022 California Fire Code.

Except as otherwise amended by this chapter, the 2022 California Fire Code is hereby adopted and is incorporated in this code by reference and made a part hereof as if set forth fully herein.

SECTION 8: Section 13-0.2 of the Monterey City Code is hereby amended by deleting the current Section 13-0.2 in its entirety and replacing it to read as follows.

Section 13-0.2. Amendments to the California Fire Code.

Section [A] 101.1 is amended to read as follows:

[A] **101.1 Title.** These regulations shall be known as the Fire Code of the City of Monterey hereinafter referred to as “this code”.

Section 305 is amended by adding a Section 305.1.1 to read as follows:

305.1.1 General. Use of equipment, appliances, and open flame devices shall be in accordance with this section.

(a) The use of any fuel burning or consuming apparatus, electrical device or explosives on Municipal Wharves No. 1 and No. 2 shall be prohibited unless specifically approved by the fire code official. Such as, but not limited to:

1. Generators.
2. Oil-burning equipment.
3. Liquefied petroleum gas equipment.
4. Lanterns.
5. Stoves.
6. Heaters.
7. Candles.
8. Barbecues.

This section shall not apply to:

1. Motor vehicles.
2. Devices operated or used within buildings located on Municipal Wharves No. 1 and No. 2, and fish pumps.
3. Any repair or construction undertaken by the City of Monterey, its agents, or any public entity.

Sections 307.1.1 is amended to read as follows:

Section 307.1.1 Prohibited open burning. Open burning shall be prohibited, including outdoor rubbish fires and bonfires, unless (1) the fire is confined to an approved container as defined by the California Mechanical Code and authorized by the Monterey Bay Air Pollution Control District, (2) the open fire is for the explicit purpose of preparation of food, such as in the case of a luau, barbecue, and the like, or (3) a special condition or circumstance exists and written authorization is granted by the Fire Chief.

Section 605.3.1 is added to read as follows:

605.3.1 Spark arrestor. An approved spark arrestor shall be installed on all chimneys, incinerators, smokestacks, or similar devices where the burning of solid fuel conveys smoke, embers, and hot gases to the outer air.

Section 901 is amended by adding a Section 901.1.1 and a Section 901.8.3 to read as follows:

901.1.1 Responsibility. The owner of the protected premises shall be responsible for all fire protection systems within the protected premises, whether existing or installed under this code.

901.8.3 Non-operational equipment. Any non-required fire protection equipment that is no longer in service shall be removed.

Section 903.2 is amended to read as follows:

903.2 Where required. Approved automatic sprinkler systems shall be provided in all new buildings and structures constructed, moved into, or relocated within the jurisdiction.

Exceptions:

1. Structures not classified as Group R occupancies and not more than 500 square feet in total floor area.
2. Detached Group U occupancies (private garages, carports, sheds, and agriculture buildings)

The following sections are amended by changing requirements to 500 square feet for fire sprinkler installation, as follows (the complete text of the section is not provided):

903.2.1.1 Group A-1. Change “12,000 square feet” to “500 square feet”.

903.2.1.2 Group A-2. Change “5,000 square feet” to “500 square feet”.

903.2.1.3 Group A-3. Change “12,000 square feet” to “500 square feet”.

903.2.1.4 Group A-4. Change “12,000 square feet” to “500 square feet”.

903.2.1.5 Group A-5. Change “12,000 square feet” to “500 square feet”.

903.2.3 Group E. Change “12,000 square feet” to “500 square feet”.

903.2.4 Group F-1. Change “12,000 square feet” to “500 square feet”. Change “2,500 square feet” for woodworking operations to “500 square feet”.

903.2.7-1 Group M. Change “12,000 square feet” to “500 square feet”.

903.2.7-3 Group M. Change “24,000 square feet” to “500 square feet”.

903.2.9 Group S-1. Change “12,000 square feet” to “500 square feet”.

903.2.9.1 Repair Garages. Change “10,000 square feet” (2 story buildings) and “12,000 square feet” (1 story buildings) to “500 square feet”.

903.2.9.2 Bulk storage of tires. Change “20,000 cubic feet” to “500 square feet”

Section 903.2.8 is amended to read as follows:

903.2.8 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided in all buildings with a Group R fire area, including, but not limited to, one- and two-family dwellings, townhomes, and manufactured homes and mobile homes located outside of licensed mobile home parks hereafter constructed, moved into, or relocated within the jurisdiction, including all additions to buildings already equipped with automatic fire sprinkler systems.

Section 903.2.22 is added to read as follows:

903.22 Change of use. Automatic fire sprinklers shall be installed when the occupancy changes from a single occupancy to a mixed-use occupancy which would require the installation of an occupancy separation, or when the occupancy changes from any type of occupancy to an Assembly use occupancy.

Section 903.3.1.3 is amended to add the following sections:

903.3.1.3.1 Water system control valve. Each water system supplying both domestic and fire protection systems shall have a single indicating-type control valve, arranged to

shut off both the domestic and sprinkler systems. A separate shut-off valve for the domestic system only shall be permitted to be installed. The location of the control valve shall be approved by the fire code official.

903.3.1.3.2 Local water flow alarm. Local water flow alarms shall be provided on all sprinkler systems. Local water flow alarms shall be powered from the main kitchen refrigerator circuit. The local water flow alarm shall be clearly audible from within the master bedroom at an audibility level of not less than 75 dBa. Where no kitchen exists in the building, the water flow alarm shall be powered from the bathroom lighting circuit.

Section 903.6.1 is added to read as follows:

903.6.1 Existing Group R-3 buildings. Additions, alterations, or repairs which involve the removal or replacement of 50 percent or greater of the linear length of walls of the building (exterior plus interior) within a one-year period shall meet the requirements of new construction or this code. To qualify as an alteration or repair under this section, the wall must be physically added, removed, replaced or relocated; removal of wall coverings does not constitute an alteration or repair.

Section 907.6.2 is amended to read as follows:

907.6.2 Zone transmittal. Where required by the fire code official, fire alarm signals shall be transmitted by zone to the supervising station and retransmitted by zone to the public fire service communications center.

Section 907.7.2 is amended to read as follows:

907.7.2 Completion documents. The following documentation shall be provided at the time of acceptance testing for all fire alarm system installations:

1. A record of completion in accordance with NFPA 72.
2. A contractor's statement verifying that the system has been installed in accordance with the approved plans and specifications and has been 100 percent tested in accordance with NFPA 72.
3. A contractor's affidavit of personnel qualifications indicating that all personnel involved with the installation of the fire alarm system meet the qualification requirements of the fire code official.

Section 4907.1.1 is added to read as follows:

4907.1.1 Standard defensible space requirements. Remove combustible vegetation from within a minimum of 100 feet or to the property line from structures, whichever is closer. Vegetation shall be no taller than four inches (4") high. Limb trees 6 feet up from the ground. Remove limbs within 10 feet of chimneys. Additional or alternate fire protection approved by the fire code official may be required to provide reasonable fire safety. Environmentally sensitive areas may require alternative fire protection, to be determined by the fire code official and other jurisdictional authorities.

Section 5704.2.9.6.1 is amended to read as follows:

5704.2.9.6.1 Outdoor storage of containers and portable tanks. Storage of Class I and Class II liquids in aboveground tanks outside of buildings is prohibited within the limits established by law as the limits of districts in which such storage is prohibited except as permitted by the Zoning Ordinance.

Exceptions:

1. For marine fueling operations, a maximum of 2000 gallons of diesel fuel may be stored and dispensed from an above ground tank as approved by the Fire Chief.
2. Storage tanks of 500-gallon maximum capacity may be used only in conjunction with emergency generators as approved by the Fire Chief.

SECTION 9: Section 13-0.3 of the Monterey City Code is hereby amended by deleting the current Section 13-0.3 in its entirety and replacing it to read as follows:

Section 13-0.3 Exemption for pending applications:

1. Notwithstanding Section 13-0.1, the provisions of the 2022 California Fire Code as adopted and amended herein shall not apply to any building or structure for which an application for a building permit was made prior to January 1, 2023. Such building or structure shall be erected, constructed, enlarged, altered or repaired in accordance with the provisions of this chapter in effect at the date of said application.
2. All other applications shall be processed in accordance with the provisions of the 2022 California Fire Code as adopted and amended herein.

SECTION 10: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 11: Section 6 of Resolution 20-125, implemented via Resolution 20-172, is hereby deleted effective January 1, 2023, and replaced with the policy on outdoor heaters on Wharf 1 and Wharf 2 that is set forth in Section 8 of this ordinance.

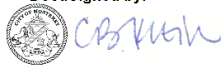
SECTION 12: This ordinance shall be in full force and effect on January 1, 2023. The City Clerk is directed to send a copy of this ordinance to the California Building Standards Commission.

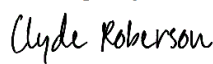
PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 16th day of November, 2022, by the following vote:

AYES:	3	COUNCILMEMBERS:	Haffa, Smith, Roberson
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

APPROVED:

ATTEST:

DocuSigned by:

City Clerk thereof

DocuSigned by:

FA4084247DDEE4FB
Mayor of said City