

# **Attachment B-1**

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ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, AMENDING TITLE 19 AND TITLE 21 OF THE MONTEREY COUNTY CODE RELATING TO THE APPROPRIATE AUTHORITY TO CONSIDER NON-COASTAL APPLICATIONS FOR SUBDIVISIONS AND LOT LINE ADJUSTMENTS**

**County Counsel Summary**

*This ordinance amends Title 19 (non-coastal subdivision ordinance) and Title 21 (non-coastal zoning ordinance) of the Monterey County Code to change the process for consideration of applications for subdivisions and lot line adjustments in the unincorporated inland area of the County of Monterey. Changes to the process include dissolution of the County of Monterey's Minor and Standard Subdivision Committees and designation of the Monterey County Planning Commission as the appropriate authority to hear applications for standard subdivisions and those applications for minor subdivisions and lot line adjustments for which there is evidence of public controversy or public opposition to the proposed use or development.*

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. The Table of Contents of Chapter 19.01 of the Monterey County Code is amended to read as follows:

**Chapter 19.01 - GENERAL PROVISIONS**

Sections:

- 19.01.005 Citation and authority.
- 19.01.010 Purpose.
- 19.01.015 Consistency.
- 19.01.020 Exceptions.
- 19.01.025 Technical Review.
- 19.01.030 [reserved]
- 19.01.035 Planning Commission.
- 19.01.040 Board of Supervisors.
- 19.01.045 Fees and forms.
- 19.01.050 [Repealed.]

- 19.01.055 Public notice.
- 19.01.060 Applicability.
- 19.01.065 State pre-emption.
- 19.01.066 Compliance with local, state, and Federal laws.
- 19.01.070 Appropriate decision making bodies to consider housing needs of region.
- 19.01.075 Limitation on improvement requirements under a parcel map.
- 19.01.080 Designated remainder parcel improvement requirements.
- 19.01.090 Conditions for mobilehome parks.

SECTION 2. Section 19.01.025 of Title 19 (non-coastal) the Monterey County Code is amended to read as follows:

19.01.025 – Technical Review.

A. County staff, including designated representatives from Planning, Building Services, Public Works, Environmental Health, Parks, and Housing, with legal advice from County Counsel and technical input from the Monterey County Fire Warden or representative of a local fire district as applicable and the Monterey County Water Resources Agency, shall conduct a Technical Review (TR) of all applications for tentative maps, vesting tentative maps, and lot line adjustments. The designated representative from Planning shall facilitate the review.

B. The purpose of the Technical Review shall be the following:

1. To serve in a technical capacity and make recommendations on the design, improvements, and application of state law and County plans, ordinances, and regulations to subdivision applications and lot line adjustment applications; and
2. To develop recommendations to the appropriate decision making body.

SECTION 3. Section 19.01.030 of Title 19 (non-coastal) of the Monterey County Code is repealed and the section number is reserved for future use.

SECTION 4. Section 19.01.035 of Title 19 (non-coastal) of the Monterey County Code is amended to read as follows:

19.01.035 -- Planning Commission.

A. Pursuant to section 66415 of the Government Code of the State of California, the Planning Commission is hereby designated the appropriate decision making body for tentative maps and vesting tentative maps for standard subdivisions and for those tentative maps and vesting tentative maps for minor subdivisions that are referred to hearing under Section

19.04.025.F, unless otherwise provided by this Title or Title 21.

B. The Planning Commission shall be the appropriate decision making body for lot line adjustments that are referred to hearing under Section 19.09.005.H, unless otherwise provided by this Title or Title 21.

C. The Planning Commission shall be the appropriate decision making body for requests for reconsideration of tentative maps for standard subdivisions, reconsideration of conditions of a standard subdivision prior to recordation of the final map, and reconsideration of those minor subdivisions and lot line adjustments previously referred to the Planning Commission for hearing.

D. The Planning Commission shall be charged with the duty of making recommendations to the Board of Supervisors to reduce, alter, or add to the provisions of this Title.

SECTION 5. The heading of Section 19.02.040 in the Table of Contents of Chapter 19.02 of Title 19 (non-coastal) of the Monterey County Code is amended to read as follows:

19.02.040 - California Environmental Quality Act (CEQA).

SECTION 6. The Table of Contents of Chapter 19.02 of Title 19 (non-coastal) of the Monterey County Code is amended to add section 19.02.256 to read as follows:

19.02.256 – Technical Review.

SECTION 7. Section 19.02.256 of Title 19 (non-coastal) of the Monterey County Code is added to read as follows:

19.02.256 Technical Review.

Technical Review (TR) means the staff level technical review of applications described in section 19.01.025 of this Title.

SECTION 8. Subsection C of Section 19.03.025 of Title 19 (non-coastal) of the Monterey County Code is amended to read as follows:

C. Staff shall conduct a Technical Review to consider the proposed development and to review or recommend proposed findings, recommend conditions of approval, or recommend disapproval to the Planning Commission.

SECTION 9. Subsection D of Section 19.03.025 of Title 19 (non-coastal) of the Monterey

County Code is amended to read as follows:

D. The Director of Planning shall set the matter for public hearing before the Planning Commission to review and consider the proposed development. The matter shall not be set for hearing until the Technical Review has been conducted. The Planning Commission may approve or deny, in whole or in part, the proposed development with appropriate findings, evidence and conditions.

SECTION 10. Subsection C of Section 19.04.025 of Title 19 (non-coastal) of the Monterey County Code is amended to read as follows:

C. The Director of Planning is the appropriate decision making body to consider minor subdivisions unless the matter is referred to public hearing under Section 19.04.025.F. In such cases the Planning Commission is the appropriate decision making body to hear and consider minor subdivisions.

SECTION 11. Subsection F of Section 19.04.025 of Title 19 (non-coastal) of the Monterey County Code is amended to read as follows:

F. A minor subdivision shall be referred to the Planning Commission for consideration at a public hearing if there is evidence of public controversy or public opposition to the proposed use or development. Such evidence includes, but is not limited to:

1. A staff recommendation for denial;
2. The applicant or applicant's representative requests, in writing, a public hearing;
3. Written request, based on a substantive issue, for a public hearing by one or more owners or residents in the area.

If a public hearing is required, it shall be noticed and conducted pursuant to the public hearing provisions of Section 19.01.055.

SECTION 12. Subsection A of Section 19.04.030 of Title 19 (non-coastal) of the Monterey County Code is amended to read as follows:

A. Upon completion of the environmental documents, the Director of Planning shall set the matter for consideration by the appropriate decision making body which may approve, disapprove, or conditionally approve the tentative parcel map in conformance with standards set forth in the Subdivision Map Act and this Title. A tentative parcel map may not be denied without a public hearing before the Planning Commission. Such action shall take place within

the applicable time limits of this Title.

SECTION 13. Subsection A of Section 19.05.055 of Title 19 (non-coastal) of the Monterey County Code is amended to read as follows:

A. Upon completion of the required environmental documents, the Director of Planning shall refer the application to Technical Review for review and comment. Such action shall take place within the applicable time limits.

SECTION 14. Subsection F of Section 19.07.025 of Title 19 (non-coastal) of the Monterey County Code is amended to read as follows:

F. Technical Review:

Staff shall conduct Technical Review to consider the proposed development and to review or recommend proposed findings, recommend conditions of approval, or recommend disapproval to the Planning Commission. The Technical Review by staff shall review the proposed project only from a technical standpoint and will not evaluate the project to confirm scoring a development.

SECTION 15. Subsection G of Section 19.07.025 of Title 19 (non-coastal) of the Monterey County Code is amended to read as follows:

G. Action by the Planning Commission:

1. The Director of Planning shall set the matter for public hearing before the Planning Commission to review and consider the proposed development. The matter shall not be set for hearing until the Technical Review has been conducted.

2. The Planning Commission shall review the preliminary project review map and make recommendations relating to technical matters, subdivision design and consistency of the map with the land use element and provisions of the applicable General Plan, Local Coastal Program, Area Plan, Land Use Plan or Master Plan documents.

3. The Planning Commission shall make a finding, based on substantial evidence, upon the recommendation of the Health Officer, pursuant to Section 19.03.015L, 19.05.040L, or 19.07.020K that the source capacity and water quality for all lots proposed to be created through the subdivision meets the requirements of all applicable health and safety regulations prior to approval of the standard subdivision tentative map, or vesting tentative map, or tentative parcel map.

4. The Appropriate Authority shall make a finding, based on substantial evidence, upon

the recommendation of the Health Officer, pursuant to Section 19.03.015 that the source capacity and water quality for all lots proposed to be created through the subdivision meets the requirements of all applicable health and safety regulations prior to approval of the tentative parcel map.

SECTION 16. Subsection E of Section 19.09.005 of Title 19 (non-coastal) of the Monterey County Code is amended to read as follows:

E. The Director of Planning is the appropriate decision making body to consider lot line adjustments unless the matter is referred to public hearing under Section 19.09.005.H. In such cases the Planning Commission is the appropriate decision making body to hear and consider lot line adjustments.

SECTION 17. Subsection H of Section 19.09.005 of Title 19 (non-coastal) of the Monterey County Code is amended to read as follows:

H. A lot line adjustment shall be referred to the Planning Commission for consideration at a public hearing if there is evidence of public controversy or public opinion to the proposed use of development. Such evidence includes, but is not limited to:

1. A staff recommendation for denial;
2. The applicant or applicant's representative requests, in writing, a public hearing;
3. Written request, based on a substantive issue, for a public hearing by one or more owners or residents in the area.

If a public hearing is required, it shall be noticed and conducted pursuant to the public hearing provisions of Section 19.01.055.

SECTION 18. Section 19.16.010 of Title 19 (non-coastal) of the Monterey County Code is amended to read as follows:

19.16.010 -- Applicability

The provisions of this Chapter apply to discretionary decisions made pursuant to the provisions of this Title by the Director of Planning and the Planning Commission.

SECTION 19. Section 19.16.020 of Title 19 (non-coastal) of the Monterey County Code is amended to read as follows:

19.16.020 -- Designation of appeal authorities.



A. The Board of Supervisors is the Appeal Authority to consider appeals from the discretionary decisions of the Director of Planning made pursuant to this Title.

B. The Board of Supervisors is the Appeal Authority to consider appeals from the decisions of the Planning Commission.

SECTION 20. Section 21.02.040 of the Monterey County Code is amended to read as follows:

21.02.040 – Nature of Zoning Ordinance.

The Zoning Ordinance consists of the establishment of various districts, regulations and permit processes for the unincorporated territory of the County of Monterey.

The zoning districts list the uses which are allowed or may be allowed subject to discretionary permit processes. Those listed uses and other uses which are consistent with the Monterey County General Plan and applicable area plans may be allowed subject to appropriate permits. Other uses are prohibited. Further, the districts provide the regulation of structural height, bulk, and setbacks, as well as prescribing other site development amenities and requirements such as parking, landscaping, and lighting control.

This Title is not intended and shall not be construed as authorizing the County of Monterey, through the Board of Supervisors, Planning Commission, Zoning Administrator or Director of Planning, acting pursuant to this Title, to exercise its power to grant or deny a permit in a manner which will take or damage private property for public use without the payment of just compensation therefor.

SECTION 21. Subsection A of Section 21.76.030 of the Monterey County Code is amended to read as follows:

A. The Appropriate Authority to consider a Combined Development Permit shall be the Planning Commission, Zoning Administrator, or Board of Supervisors. The basis of the designation shall be that the body established under State Law, Title 19 (Subdivisions) of the Monterey County Code, or Title 21 (Zoning) of the Monterey County Code, as the decision making body for the principal land use shall be the decision making body for the Combined Development Permit. Should the Combined Development Permit include any permit normally considered by the Planning Commission, then the Planning Commission shall consider the entire Combined Development Permit, including Variances.

SECTION 22. The first sentence of Section 21.84.130 of the Monterey County Code is amended to read as follows:

No application for a discretionary land use permit under the authority of the Director of Planning, the Zoning Administrator, the Planning Commission or the Board of Supervisors shall be deemed complete if there is a violation on said property of a County ordinance which regulates grading, vegetation removal or tree removal until that property has been restored to its pre-violation state.

SECTION 23. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 24. EFFECTIVE DATE. This Ordinance shall become effective on the 31st day following its adoption.

PASSED AND ADOPTED on this \_\_\_\_ day of \_\_\_\_\_, 2013, by the following vote:

AYES: Supervisors

NOES:

ABSENT:

ABSTAIN:

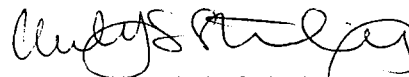
\_\_\_\_\_  
Fernando Armenta, Chair  
Monterey County Board of Supervisors

A T T E S T:

GAIL T. BORKOWSKI  
Clerk of the Board

By: \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:

  
Wendy S. Strimling  
Senior Deputy County Counsel