

# City of Morro Bay

## City Council Agenda

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### *Mission Statement*

*The City of Morro Bay is dedicated to the preservation and enhancement of the quality of life. The City shall be committed to this purpose and will provide a level of municipal service and safety consistent with and responsive to the needs of the public.*

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**REGULAR MEETING – OCTOBER 25, 2010**

**CLOSED SESSION – OCTOBER 25, 2010  
CITY HALL CONFERENCE ROOM - 5:00 P.M.  
595 HARBOR ST., MORRO BAY, CA**

**CS-1 GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY TRANSACTIONS.** Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property as to five (5) parcels.

- Property: Market/Pacific  
Negotiating Parties: Salwasser and City of Morro Bay  
Negotiations: Voluntary Purchase and Sale.
- Property: Moorage for Two Vessels in Harbor  
Negotiating Parties: AIS Construction and City of Morro Bay  
Negotiations: Six-Month License Terms and Conditions.
- Property: Lease Sites 124-128/124W and 128W and 113W; (1215 Embarcadero)  
Negotiating Parties: Sea One Solutions (SOS) LLC and City of Morro Bay  
Negotiations: Lease Terms and Conditions.
- Property: Outrigger - Lease Site 87-88/87W-88W; (833 Embarcadero)  
Negotiating Parties: V. Leage and City of Morro Bay  
Negotiations: Lease Terms and Conditions.
- Property: Surf Street Parking Lot  
Negotiating Parties: Maritime Museum and City of Morro Bay  
Negotiations: Terms and Conditions of Lease.

**CS-2 GOVERNMENT CODE SECTION 54957; PERSONNEL ISSUES.**  
Discussions regarding Personnel Issues including two (2) public employees regarding evaluation, specifically the City Attorney and City Manager.

**IT IS NOTED THAT THE CONTENTS OF CLOSED SESSION MEETINGS  
ARE CONFIDENTIAL AND EXEMPT FROM DISCLOSURE.**

**PUBLIC SESSION – OCTOBER 25, 2010  
VETERANS MEMORIAL HALL - 6:00 P.M.  
209 SURF ST., MORRO BAY, CA**

ESTABLISH QUORUM AND CALL TO ORDER  
MOMENT OF SILENCE  
PLEDGE OF ALLEGIANCE  
MAYOR AND COUNCILMEMBERS ANNOUNCEMENTS & PRESENTATIONS  
CLOSED SESSION REPORT

PUBLIC COMMENT PERIOD - Members of the audience wishing to address the Council on City business matters (other than Public Hearing items under Section B) may do so at this time.

To increase the effectiveness of the Public Comment Period, the following rules shall be followed:

- When recognized by the Mayor, please come forward to the podium and state your name and address for the record. Comments are to be limited to three minutes.
- All remarks shall be addressed to Council, as a whole, and not to any individual member thereof.
- The Council respectfully requests that you refrain from making slanderous, profane or personal remarks against any elected official, commission and/or staff.
- Please refrain from public displays or outbursts such as unsolicited applause, comments or cheering.
- Any disruptive activities that substantially interfere with the ability of the City Council to carry out its meeting will not be permitted and offenders will be requested to leave the meeting.
- Your participation in City Council meetings is welcome and your courtesy will be appreciated.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk, (805) 772-6205. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

A. CONSENT CALENDAR

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion.

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETING OF OCTOBER 11, 2010; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 APPROVAL OF A SIX-MONTH LICENSE AGREEMENT TO ALLOW MOORAGE FOR TWO VESSELS OWNED BY AIS CONSTRUCTION; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 54-10.**

A-3 RESOLUTION TO APPROVE AMENDMENT #5 TO THE LEASE AGREEMENT FOR LEASE SITE 87-88/87W-88W LOCATED AT 833 EMBARCADERO- OUTRIGGER RESTAURANT; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 55-10.**

A-4 APPROVAL OF A LEASE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND SEA ONE SOLUTIONS (SOS) LLC, FOR LEASE SITES 124-128/124W AND 128W AND 113W LOCATED AT 1215 EMBARCADERO; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 56-10.**

A-5 APPROVAL OF RESOLUTION AUTHORIZING THE CITY OF MORRO BAY TO ENTER INTO VESSEL TURN-IN PROGRAM (VTIP) CONTRACT WITH THE DEPARTMENT OF BOATING AND WATERWAYS; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 57-10.**

A-6 STATUS REPORT ON WATER USAGE FOR SEPTEMBER 2010; (PUBLIC SERVICES)

**RECOMMENDATION: Receive report for information.**

A-7 RESOLUTION IN SUPPORT OF PROPOSITION 21 - THE STATE PARKS AND WILDLIFE CONSERVATION TRUST FUND ACT OF 2010; (CITY COUNCIL)

**RECOMMENDATION: Adopt Resolution No. 53-10.**

**B. PUBLIC HEARINGS, REPORTS & APPEARANCES**

B-1 INTRODUCTION AND FIRST READING OF ORDINANCE NO. 564: REPEALING, AMENDING, AND REENACTING TITLE 14 OF THE CITY OF MORRO BAY MUNICIPAL CODE - BUILDINGS AND CONSTRUCTION; (PUBLIC SERVICES)

**RECOMMENDATION: Approve Ordinance No. 564 for first reading and introduction.**

**C. UNFINISHED BUSINESS – NONE.**

D. NEW BUSINESS

D-1 RESOLUTION DETERMINING ISSUANCE OF AN ALCOHOLIC BEVERAGE CONTROL PERMIT FOR A WINE TASTING ROOM LOCATED AT 1099 EMBARCADERO; (CITY ATTORNEY)

**RECOMMENDATION: Adopt Resolution No. 58-10.**

D-2 REVIEW AND APPROVAL OF THE VIDEO PRODUCTION SERVICES & LOCAL GOVERNMENT CHANNEL INSERTION POINT MANAGEMENT AGREEMENT WITH APG VIDEO, INC.; (ADMINISTRATION)

**RECOMMENDATION: Approve the Video Production Services and Local Government Channel Insertion Point Management Agreement with AGP Video, Inc.**

D-3 APPROVAL TO SEND LETTER TO THE SAN LUIS OBISPO COUNTY BOARD OF SUPERVISORS RECOMMENDING THE BOARD SELECT MARY ANN REISS AS THE CITY COUNCIL MEMBER NOMINEE FOR APPOINTMENT TO THE CALIFORNIA COASTAL COMMISSION; (CITY COUNCIL)

**RECOMMENDATION: Approve sending the recommended letter to the San Luis Obispo County Board of Supervisors.**

D-4 DISCUSSION OF WHETHER TO HOLD A JOINT PLANNING COMMISSION/CITY COUNCIL MEETING ON NOVEMBER 15, 2010 AND IF A MEETING IS TO BE HELD, TOPICS TO BE DISCUSSED; (PUBLIC SERVICES)

**RECOMMENDATION: Discuss and direct staff accordingly.**

E. DECLARATION OF FUTURE AGENDA ITEMS

F. ADJOURNMENT

**THIS AGENDA IS SUBJECT TO AMENDMENT UP TO 72 HOURS PRIOR TO THE DATE AND TIME SET FOR THE MEETING. PLEASE REFER TO THE AGENDA POSTED AT CITY HALL FOR ANY REVISIONS OR CALL THE CLERK'S OFFICE AT 772-6200 FOR FURTHER INFORMATION.**

**MATERIALS RELATED TO AN ITEM ON THIS AGENDA SUBMITTED TO THE CITY COUNCIL AFTER DISTRIBUTION OF THE AGENDA PACKET ARE AVAILABLE FOR PUBLIC INSPECTION AT CITY HALL LOCATED AT 595 HARBOR STREET; MORRO BAY LIBRARY LOCATED AT 625 HARBOR STREET; AND MILL'S COPY CENTER LOCATED AT 495 MORRO BAY BOULEVARD DURING NORMAL BUSINESS HOURS.**

**IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN A CITY MEETING, PLEASE CONTACT THE CITY CLERK'S OFFICE AT LEAST 24 HOURS PRIOR TO THE MEETING TO INSURE THAT REASONABLE ARRANGEMENTS CAN BE MADE TO PROVIDE ACCESSIBILITY TO THE MEETING.**

MINUTES - MORRO BAY CITY COUNCIL  
CLOSED SESSION – OCTOBER 11, 2010  
CITY HALL CONFERENCE ROOM - 5:00 P.M.

Mayor Peters called the meeting to order at 5:00 p.m.

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney

CLOSED SESSION

MOTION: Councilmember Borchard moved the meeting be adjourned to Closed Session. The motion was seconded by Councilmember Winholtz and unanimously carried. (5-0)

Mayor Peters read the Closed Session Statement.

**CS-1 GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY TRANSACTIONS.** Instructing the City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property as to three (3) parcels:

- Property: Embarcadero Grill - Lease Site 86-86W  
Negotiating Parties: Caldwell and City of Morro Bay.  
Negotiations: Lease Terms and Conditions.
- Property: Outrigger - Lease Site 87-88/87W-88W  
Negotiating Parties: V. Leage and City of Morro Bay.  
Negotiations: Lease Terms and Conditions.
- Property: Surf Street Parking Lot.  
Negotiating Parties: Maritime Museum and City of Morro Bay.  
Negotiations: Terms and Conditions of Lease.

The meeting adjourned to Closed Session at 5:00 p.m. and returned to regular session at 5:50 p.m.

MOTION: Councilmember Grantham moved the meeting be adjourned. The motion was seconded by Councilmember Borchard and unanimously carried. (5-0)

The meeting adjourned at 5:50 p.m.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – OCTOBER 11, 2010  
VETERANS MEMORIAL HALL - 6:00 P.M.

Mayor Peters called the meeting to order at 6:00 p.m.

PRESENT:	Janice Peters	Mayor
	Carla Borchard	Councilmember
	Rick Grantham	Councilmember
	Noah Smukler	Councilmember
	Betty Winholtz	Councilmember
STAFF:	Andrea Lueker	City Manager
	Robert Schultz	City Attorney
	Jamie Boucher	Deputy City Clerk
	Eric Endersby	Harbor Operations Manager
	Susan Lichtenbaum	Harbor Business Manager
	Rob Livick	Public Services Director
	Tim Olivas	Police Chief
	Susan Slayton	Administrative Services Director
	Joe Woods	Recreation & Parks Director

ESTABLISH QUORUM AND CALL TO ORDER

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

MAYOR AND COUNCIL MEMBERS REPORTS, ANNOUNCEMENTS &  
PRESENTATIONS

CLOSED SESSION REPORT - City Attorney Robert Schultz reported the City Council met in Closed Session, and no reportable action under the Brown Act was taken.

PUBLIC COMMENT

D’Onna Kennedy announced her candidacy for City Council in the upcoming election. She also made a public service announcement regarding receiving fraudulent checks in the mail.

Don Doubledee, Interim CEO for the Chamber of Commerce, gave an update of events for the Chamber of Commerce.

Garry Johnson announced the quarterly meeting of the Historical Society will be held on November 7<sup>th</sup> with Botso Korishelli being the guest speaker. He also stated the *Then and Now* book is for sale and a book signing with the authors Roger Castle and Gary Ream will be held on October 17<sup>th</sup> at Coalesce book store with the profits going to the Historical Society.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – OCTOBER 11, 2010

Nancy Johnson stated being a long-time member of the Citizens Bicycle Committee she wanted to thank the City for starting work on the North Main Street bike lanes. She also announced as a candidate running for City Council, she will be holding a Meet & Greet at Top Dog coffee shop on October 22<sup>nd</sup> to discuss issues relating to the downtown area.

Linda Winters expressed support for Proposition 21 which would establish an \$18 annual vehicle license surcharge to help fund state parks and wildlife programs and will be on the November 2, 2010 General Election ballot.

Bill Yates thanked all the volunteers and City employees who helped with the Harbor Festival. He also encouraged everyone to get out and vote on November 2<sup>nd</sup>.

Mayor Peters closed the hearing for public comment.

A. CONSENT CALENDAR

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion.

A-1 APPROVAL OF MINUTES FOR THE REGULAR CITY COUNCIL MEETING OF SEPTEMBER 27, 2010; (ADMINISTRATION)

**RECOMMENDATION: Approve as submitted.**

A-2 AUTHORIZATION TO AMEND THE CITY'S DENTAL POLICY WITH PRINCIPAL FINANCIAL TO ALLOW FOR ELIGIBILITY OF COVERAGE FOR DEPENDENTS TO AGE 26 REGARDLESS OF STUDENT STATUS; (ADMINISTRATIVE SERVICES)

**RECOMMENDATION: Authorize staff to submit a letter authorizing an amendment to the dental policy allowing eligibility of coverage for dependents to age 26 regardless of student status.**

A-3 RESOLUTION NO. 47-10 APPROVING CONTINUATION OF THE 2009/10 DEFERRAL OF MANAGEMENT AND EXECUTIVE 3% COST-OF-LIVING ADJUSTMENT; (ADMINISTRATIVE SERVICES)

**RECOMMENDATION: Adopt Resolution No. 47-10.**

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – OCTOBER 11, 2010

A-4 CONSIDERATION OF APPROVAL FOR A LEASE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND ABBA IMANI FOR LEASE SITE 65-66/65W-66W LOCATED AT 571 EMBARCADERO-SALT BUILDING; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 48-10.**

A-5 LETTER TO THE CALIFORNIA DEPARTMENT OF FISH AND GAME IN SUPPORT OF RE-OPENING THE MONTEREY BAY HALIBUT TRAWL GROUNDS; (HARBOR)

**RECOMMENDATION: Approve sending a letter to the California Department of Fish and Game in support of re-opening the Monterey Bay Halibut Trawl grounds.**

A-6 AWARD OF CONTRACT TO ASSOCIATED PACIFIC CONSTRUCTORS, INC. FOR THE WHARF REMOVAL PROJECT [MB-2010-H1]; (HARBOR)

**RECOMMENDATION: Adopt Resolution No. 49-10.**

A-7 ADOPTION OF ORDINANCE NO. 563 ADDING A LANDMARK TREE SECTION TO CHAPTER 12.08 OF THE MORRO BAY MUNICIPAL CODE; (PUBLIC SERVICES)

**RECOMMENDATION: Adopt Ordinance No. 563.**

A-8 RESOLUTION IN SUPPORT OF PROPOSITION 22-THE LOCAL TAXPAYER, PUBLIC SAFETY AND TRANSPORTATION PROTECTION ACT OF 2010; (CITY COUNCIL)

**RECOMMENDATION: Adopt Resolution No. 50-10.**

Councilmember Winholtz pulled Items A-4 and A-5 from the Consent Calendar; Mayor Peters pulled Item A-8.

**MOTION:** Councilmember Grantham moved the City Council approve the Consent Calendar with the exception of Items A-4, A-5 and A-8. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – OCTOBER 11, 2010

A-4 CONSIDERATION OF APPROVAL FOR A LEASE AGREEMENT BETWEEN THE CITY OF MORRO BAY AND ABBA IMANI FOR LEASE SITE 65-66/ 65W-66W LOCATED AT 571 EMBARCADERO-SALT BUILDING; (HARBOR)

Councilmember Winholtz referred to the lease agreement and requested the term “Harbor Director” to add the words “or designee”; and also, add language to Section 3.01 Permitted Uses: “to limit the office space to the second floor.”

MOTION: Councilmember Winholtz moved the City Council approve Item A-4 of the Consent Calendar as amended. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

A-5 LETTER TO THE CALIFORNIA DEPARTMENT OF FISH AND GAME IN SUPPORT OF RE-OPENING THE MONTEREY BAY HALIBUT TRAWL GROUNDS; (HARBOR)

Councilmember Winholtz requested clarification on why this fishery is being limited to existing permit holders, and also on the boundaries of the grounds.

Harbor Business Manager Susan Lichtenbaum responded it is a traditional entry fishery, which is why new permit holders cannot enter that area. She said the State boundary line goes out further in Monterey and in the late 1990’s the Department of Fish and Game placed a notice that they would be strictly enforcing the regulation against halibut fishing. They are now trying to get that area back to be allowed to fish halibut.

MOTION: Councilmember Winholtz moved the City Council approve Item A-5 of the Consent Calendar. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

A-8 RESOLUTION IN SUPPORT OF PROPOSITION 22-THE LOCAL TAXPAYER, PUBLIC SAFETY AND TRANSPORTATION PROTECTION ACT OF 2010; (CITY COUNCIL)

Mayor Peters read Resolution No. 50-10 which authorizes the listing of the City of Morro Bay in support of Proposition 22, the Local Taxpayer, Public Safety and Transportation Protection Act of 2010.

MOTION: Mayor Peters moved the City Council approve Item A-8 of the Consent Calendar. The motion was seconded by Councilmember Grantham and carried unanimously. (5-0)

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – OCTOBER 11, 2010

Mayor Peters called for a break at 6:50 p.m.; the meeting resumed at 7:00 p.m.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 REVIEW OF THE JODY GIANNINI FAMILY DOG PARK; (RECREATION & PARKS)

Recreation & Parks Director Joe Woods stated the Memorandum of Understanding (MOU) between the City of Morro Bay and the Morro Bay Pups (MBP) for the construction, maintenance, and operations of the Jody Giannini Family Dog Park (Dog Park) was approved by Council at the regular meeting of June 8, 2009. The MBP were able to obtain funding to fulfill construction obligations and began construction late in 2009. The Dog Park was substantially complete in January 2010 and the MBP began the operations with a soft opening. The MBP completed the park and hosted a grand opening on June 12, 2010. Pursuant to the Planning Commission's conditions, Special Use Permit #243, the Dog Park is to be reviewed after two years and a report shall be made to City Council. After public comment was received in May, Council directed staff to review the status of the Dog Park at a regular meeting of the Recreation and Parks Commission and report back to the City Council. The Commission reviewed the operations of the Dog Park at their regular meeting on September 28, 2010 and recommended Council consider directing staff to increase enforcement of current City municipal codes at Del Mar Park, modify the Dog Park hours of operation, modify the north fence, increase vegetation between the Dog Park and creek, and enhance park signage to better inform attendees. Mr. Woods recommended the City Council review the status of the Dog Park and the recommendations from the Recreation and Parks Commission.

Mayor Peters opened the hearing for public comment.

Steven Marketello stated he visited the dog park and there were no loud noises, only dogs having a great time. He said there were other sources of noises coming from outside of the dog park. Mr. Marketello also noted there is a thick willow area in a creek between Island Street and the dog park, which kids get into and dogs bark at them some dogs which could belong to Island Street neighbors.

Nada Simpson, board member of Morro Bay Pups, stated it was a joint effort of a large community of dedicated citizens who contributed to fund the building of this dog park.

George Baumley stated he assisted with the fundraising for the dog park and is a beneficiary of the park. He reviewed numerous benefits that the dog park offers the community.

MINUTES - MORRO BAY CITY COUNCIL  
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Elaine Giannini, board member of Morro Bay Pups, stated this dog park is a beautiful asset to the City. She said Morro Bay Pups is committed to maintaining the park to the highest standards. Ms. Giannini stated they have tried to mitigate the noise situation and requested members to counsel users to be mindful of the Island Street neighbors. They have also posted rules and regulations at the entrance of the park and also on the dog park gate. She said they are working with Morro Bay High School to implement a program for docents at the dog park. Ms. Giannini noted the leash law should be implemented outside of the dog park.

Steve Ecces, board member of Morro Bay Pups, stated the dog park is a product of a working partnership between Morro Bay Pups, City Council, its Commissions and staff. The public benefit of the park is huge and it is a first class amenity. Mr. Ecces stated Morro Bay Pups should handle the barking situation by talking to dog owners about controlling their dogs, and the City should hold Morro Bay Pups accountable allowing them to act in good faith and trust they will deal with the problems. He requested the City enforce the leash law in Del Mar Park outside of the dog park and also reaffirm its partnership with Morro Bay Pups.

Jeannie McIntosh, neighbor on Island Street, requested Council consider amending the Morro Bay Pups Memorandum of Understanding because it presently does not address noise coming from the dog park. She said she protested this dog park location being told noise would not be a problem, and yet they are hearing dogs barking and fighting and people yelling. Ms. McIntosh stated the homeowners on Island Street deserve to be recognized in this Memorandum of Understanding. She also noted taller trees on the north and west side of the park would be helpful.

Mike Anderson, neighbor on Island Street, stated this is a great park but it is unfortunate that it is so close to so many houses. He requested Council direct the Recreation & Parks staff to implement some of the changes and improvements listed in the most recent Recreation & Parks Commission staff report, which could help alleviate some of the noise issues from the dog park.

Mayor Peters closed the public comment hearing.

Councilmember Winholtz stated she contacted a noise consultant who visited the dog park and suggested a time log be maintained that records events, the extent of the noise and the location of the noise; it was also suggested someone record the noise. She said she supports obtaining some scientific information to locate the noise.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – OCTOBER 11, 2010

Councilmember Grantham stated this is a well-kept, wonderful dog park. He said he would like the park to have an opening and closing time with the park being locked otherwise. Councilmember Grantham stated he would also support issuing warnings and fines for those who do not comply with the rules and regulations.

Councilmember Smukler stated because of the diligence of the Morro Bay Pups and their commitment to the agreement with the City, he would like to see the park evolve without changes to the Memorandum of Understanding at this time. He said he supports community policing, more permanent signs within the run area and the parking lots regarding noise. Councilmember Smukler stated he also supports the docent program and planting of trees as a visual and noise buffer. He said he would like to receive a memorandum from staff in six months updating Council on the changes that have occurred at the dog park along with the review every two years monitoring the progress of the park.

Councilmember Borchard stated she agrees with all of the Council remarks. She said this park is going to be used quite a bit especially with the inclusion of tennis courts, the skate rink and the dog park. Councilmember Borchard stated the dogs that are probably causing the majority of the problems are those running outside of the dog park off-leash. She said one neighbor expressed concern with someone using the dog park before the posted hours, and the excessive traffic and speeding in the neighborhood.

Mayor Peters stated she agrees more signage is required that is bright and simple, stating “PLEASE KEEP DOGS QUIET”. She said she would like monitoring with a docent during the busy times. Mayor Peters stated she would prefer hedges be planted instead of trees for a sound buffer. She said enforcement could be considered within Del Mar Park. Mayor Peters stated she would prefer not to change the Memorandum of Understanding at this time.

**MOTION:** Mayor Peters moved the City Council: 1) not enter the Memorandum of Understanding with Morro Bay Pups at this time; 2) request more abrupt signage in Del Mar Park to alleviate noise; 3) request information on cost of sound testing; 4) consider administrative citations as enforcement; 5) use volunteers as monitors during busy times in the dog park; and 6) receive an update from staff within six months. The motion was seconded by Councilmember Borchard and carried unanimously. (5-0)

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – OCTOBER 11, 2010

B-2 ADOPTION OF RESOLUTION NO. 51-10 DECLARING THE EXISTENCE OF GULLS AT BAYSHORE VILLAGE EXEMPT FROM MORRO BAY MUNICIPAL CODE 7.16.025 AND AUTHORIZING THE HOMEOWNERS ASSOCIATION TO REMOVE GULL NESTS FROM THEIR PROPERTY; (CITY ATTORNEY)

City Attorney Robert Schultz stated on September 25, 2010, his office received correspondence from Bayshore Village Homeowners Association requesting that the Gulls located within their complex be declared a public nuisance and that an exemption to allow for the removal of Gull nests from their roofs be granted by the City Council pursuant to Morro Bay Municipal Code Section 7.20.020, which was amended and incorporated into Section 7.16.025 in 2000 and states as follows: “No person shall trap, shoot, hunt, molest or kill any wild birds, or tamper, damage or destroy the nests or eggs of any wild birds within the City. Should the City Council determine by resolution that birds protected under this chapter have become so numerous or destructive in any particular location or area as to constitute a menace and danger to the public health, safety or property, the Council may provide for such remedies appropriate under the circumstances.” Mr. Schultz recommended the City Council adopt Resolution 51-10 declaring the existence of Gulls at Bayshore Village exempt from Morro Bay Municipal Code 7.16.025 and authorizing the Homeowners Association’s request to remove Gull nests from their property.

Mayor Peters opened the hearing for public comment.

William Albrecht, representing the Bayshore Village Homeowner Association, stated the Western Seagull is the only bird that has caused damage to the property and is a health hazard to Bayshore Village. He said they are trying to eliminate the problem with the removal of the Gull nests from their property to a more natural habitat.

Jack Moorehead, President of the Bayshore Village Homeowner Association, stated he has been a member of the Audubon Society for decades. He said a construction and maintenance specialist has recommended the removal of the Gull nests because of the damage to the property and their guano is affecting the roads severely. Several residents refuse to live in their complex during the breeding and nesting months due to the noise and the health concerns. Mr. Moorehead stated many remedies have been tried to no avail and removal of the nests is the best solution. He requested Council consider approving a five year period of time to help resolve this problem.

Mayor Peters closed the public comment hearing.

Councilmember Smukler stated because Morro Bay is a bird sanctuary this is becomes a serious decision. Because this is a species that is not threatened, he is comfortable with the relocation of the Gull nests to a more natural habitat and five years would be helpful to allow the colony to relocate.

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Councilmember Borchard stated she values the health and welfare of the residents, as she does the welfare of the Gulls. She said since the homeowner association is working with the agencies and the City, she feels they are doing their due diligence in resolving this issue. Councilmember Borchard stated she feels comfortable is approving the removal of the Gull nests, and allowing the homeowners a five-year time period.

Councilmember Grantham stated he would not make it binding and would like the homeowner association to consult Pacific Wildlife who may have information that the Department of Fish and Game may not have provided since they only issue the permit. He said he supports approving a five-year time period.

Councilmember Winholtz stated she totally disagrees and noted the last time the City Council reviewed this issue eight years ago, the Gulls moved to another neighborhood and caused the same problems. She said the Gulls are all along the bay and she referred to the Inn at Morro Bay and questioned how they deal with this problem. Councilmember Winholtz stated the permit with the Department of Fish and Wildlife is for one year and then up for review, so she feels to ask the City for a five-year permit is extreme, and the City should review it in one year. She also agreed that other organizations should be considered in the resolution of this issue.

Mayor Peters stated she does not see it as destruction of the species with the relocation of the Gull nests, and the health and welfare of the residents should be the main concern. She said she supports approving a five-year permit.

**MOTION:** Councilmember Borchard moved the City Council adopt Resolution 51-10 declaring the existence of Gulls at Bayshore Village exempt from Morro Bay Municipal Code 7.16.025, and authorizing the Homeowners Association's request to remove Gull nests from their property with a timeline of five years. The motion was seconded by Councilmember Grantham and carried with Councilmember Winholtz voting no. (4-1)

Councilmember Borchard encouraged the homeowner association to contact the Pacific Wildlife Care to obtain some possible information on relocation of the Gulls.

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B-3 APPROVAL OF PARCEL MAP MB 10-0069 (781 MARKET AVE.) AND  
ACCEPTANCE OF ABANDONMENT OF RIGHT-OF-WAY AND  
EASEMENTS; (PUBLIC SERVICES)

Public Services Director Rob Livick stated approval of a lot line adjustment and a parcel map is a "ministerial act", pursuant to the California Subdivision Map Act (Government Code Section 66474 .1), once the map is found to be in substantial conformance with the approved tentative map. This Parcel Map has met all City regulations and no further discretionary approvals are required. The purpose for the right-of-way abandonments is to allow the existing building to meet zoning setbacks and to clean up old easements that are no longer needed. The abandonment along Market Avenue includes a reservation for a five-foot public pedestrian easement, so that there is no change in public access but allows the existing building to meet zoning setbacks. Mr. Livick recommended the City Council City Council approve the Parcel Map MB 10-0069 with the following easements to be accepted; a 16-foot wide abandoned road from Front Street to Market Street for sewer and water rights and a 5-foot wide easement for foot passage extending from Market Street easterly to the abandoned road from Front Street to Market Avenue. Staff also recommends to City Council to abandon the following portions of right-of-way: a 10-foot strip along the easterly side of Market Street, a 6-foot strip along the southerly side of Morro Bay Boulevard, and an 8-foot strip along the northerly side of Pacific streets by adoption of Resolution No. 52-10.

Mayor Peters opened the hearing for public comment; there were no public comments and Mayor Peters closed the public comment hearing.

MOTION: Councilmember Grantham moved the City Council approve Parcel Map MB 10-0069; and, adopt Resolution No. 52-10 accepting abandonment of right-of-way and easements as described in the staff report. The motion was seconded by Councilmember Borchard.

Councilmember Winholtz stated the City has approved abandonment of properties for developers which she finds unfair to the City because it is valuable property and the City has not received any exchanges. She said in this case, she somewhat understands the abandonment on Market Street but is opposed to the abandonment on the Pacific Street side.

VOTE: The motion carried with Councilmember Winholtz voting no. (4-1)

C. UNFINISHED BUSINESS – NONE.

D. NEW BUSINESS – NONE.

MINUTES - MORRO BAY CITY COUNCIL  
REGULAR MEETING – OCTOBER 11, 2010

E. DECLARATION OF FUTURE AGENDA ITEMS

Councilmember Smukler requested to agendize a Resolution in support of Proposition 21 - the State Parks and Wildlife Conservation Trust Fund Act of 2010; Council concurred.

ADJOURNMENT

The meeting adjourned at 8:29 p.m.

Recorded by:

Jamie Boucher  
Deputy City Clerk



AGENDA NO:           A-2          

MEETING DATE:           10/25/2010          

# Staff Report

**TO:**           Honorable Mayor and City Council           **DATE:** October 25, 2010  
**FROM:**       Harbor Business Manager  
**SUBJECT:**   Approval of a Six-Month License Agreement to Allow Moorage for  
                  Two Vessels Owned by AIS Construction

**RECOMMENDATION:**

Staff recommends that the City Council adopt Resolution No. 54-10 approving a six-month License Agreement to allow moorage for two vessels owned by AIS Construction.

**MOTION:** I move that the City Council approve Resolution No. 54-10 approving a six-month License Agreement to allow moorage for two vessels owned by AIS Construction.

**FISCAL IMPACT:**

Depending on the number of days the vessels are in the harbor fees for moorage will be \$200/day. We estimate a minimum of \$1,500 in moorage fees based on AIS's current plans.

**SUMMARY:**

AIS was awarded the bid for dredging the Harbor by the U.S. Army Corps of Engineers in the fall of 2009. AIS obtained the required encroachment permits for their land-based operations and were allowed to use and moor their work vessels in the harbor free of charge during the duration of the dredge project as has been done with other companies in the past. The Army Corps of Engineers notified the City that the project will be considered complete on October 15, 2010. AIS requested that they be permitted to moor two of their vessels here temporarily while they are in between jobs. The proposed License Agreement allows for this at a cost of \$200/day, for a six-month period.

Prepared By: \_\_\_\_\_ Dept Review: \_\_\_\_\_  
City Manager Review: \_\_\_\_\_  
City Attorney Review: \_\_\_\_\_

**DISCUSSION:**

The City Council adopted Resolution No. 112-89 which specifies that “Temporary mooring for marine construction equipment or vessels of unusual size, nature or shape may exceed established time limits only as determined by the Harbor Director and depending on the proposed length of stay, purpose of the equipment or vessel, impact on harbor operations, space required and space availability for transient vessels”. In 1995 the Master Fee Schedule was amended to include a specific fee for: “temporary moorage related to marine construction equipment or vessels of unusual size”.

AIS has a job starting in January and contacted Harbor staff to see if they could moor the excavator barge and its tender here on a daily basis for a period not to exceed six-months. In the past, the Harbor Department has allowed temporary use of City facilities, such as the South T-Pier with Sylvester’s Tug Service and use of City slips for the Big Rock Charters LLC boat, the Chablis. Staff is proposing a similar agreement with AIS for mooring the excavator barge and the tender in the Harbor.

The attached License Agreement sets payment at \$200/day starting on October 15, 2010 not to extend beyond April 15, 2011. It also requires insurance naming the City as additional insured and has a 30-day termination clause.

The excavator barge will not be installing a mooring or any mooring gear and tackle in the bay. They “spud” the vessel in location on a three point system which is very secure. The tender would be side-tied to the barge. AIS will not be installing a new mooring in the Harbor, nor are they requesting permanent mooring space in the Harbor. The Harbor Operations Manager designated a space for the vessels in the mooring area west of the North T-Pier. This space was selected to minimize visual impact of the vessels to as many of the Embarcadero businesses as possible. At this time, AIS is planning on the excavator barge leaving the harbor within the next few weeks. Should the excavator barge and tender return at any time while the agreement is in effect, the \$200/day charge would apply.

The Harbor Advisory Board reviewed this issue and the attached License Agreement at their October 11, 2010 meeting and made the following motion:

Mr. Luffee moved to recommend City Council approve of the six-month license agreement to allow AIS Construction to moor two vessels in the bay. The Motion was seconded by Ms. Serda, and passed with a vote of four to two, with Ms. Meissen and Ms. Leary opposed.

**CONCLUSION:**

Staff recommends that the City Council adopt Resolution No.54-10 approving a six-month license agreement to allow moorage for two vessels owned by AIS Construction.

**RESOLUTION NO. 54-10**

**APPROVAL OF A SIX-MONTH LICENSE AGREEMENT TO ALLOW  
MOORAGE FOR TWO VESSELS OWNED BY AIS CONSTRUCTION**

**THE CITY COUNCIL  
City of Morro Bay, California**

**WHEREAS**, Resolution No. 112-89 specifies that “Temporary mooring for marine construction equipment or vessels of unusual size, nature or shape may exceed established time limits only as determined by the Harbor Director and depending on the proposed length of stay, purpose of the equipment or vessel, impact on harbor operations, space required and space availability for transient vessels.”; and,

**WHEREAS**, AIS Construction has been in the Morro Bay Harbor completing dredging of the Harbor under a contract with the Army Corps of Engineers (ACOE) since fall of 2009; and

**WHEREAS**, said contract between the ACOE and AIS terminates on October 15, 2010; and

**WHEREAS**, AIS Construction has requested they be allowed to moor their excavator barge and its tender vessel in Morro Bay for up to six months; and

**WHEREAS**, the City of Morro Bay and AIS have agreed to the terms of a six-month License Agreement to allow moorage for two vessels at a rate of \$200 per day.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Morro Bay, California, that the attached six-month License Agreement to allow moorage for two vessels owned by AIS Construction is hereby approved and that the Harbor Business Manager is hereby authorized to execute said License Agreement.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 25<sup>th</sup> day of October, 2010 on the following vote:

AYES:

NOES:

ABSENT:

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Janice Peters, Mayor

ATTEST:

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Bridgett Kessler, City Clerk



In September 2008 the partnership obtained City Council concept level approval of their redevelopment plans, and the project proposal has been slowly working through Coastal Commission permitting issues. During this period the partnership dissolved and Burt Caldwell is now the sole owner of 801 Embarcadero LLC, the holder of the lease at LS 86/86W and on the Conference Center application.

**DISCUSSION:**

Mr. Caldwell and his design development team have actively pursued the Conference Center project application, but it is apparent that the project cannot be fully permitted within the next year. The Coastal Commission suggested some fairly significant changes to Mr. Caldwell's design and he is still working through the City permitting process. In addition, the City and Mr. Caldwell are working lease negotiations for the Sites that are moving slowly. The City desires to retain existing businesses on LS 87-88/87W-88W and recommends that the City Council amend the existing lease for LS 87-88/87W-88W with Violet Leage to extend that lease for nine months while the Conference Center proposal is working through permitting, design and lease negotiations.

**CONCLUSION:**

Staff recommends that the City Council adopt Resolution #55-10 approving Amendment #5 to extend the existing Lease Agreement nine months for Lease Site 87-88/87W-88W, located at 833 Embarcadero.

**RESOLUTION NO. 55-10**

**APPROVAL OF AMENDMENT #5 TO THE LEASE AGREEMENT FOR  
LEASE SITE 87-88/87W-88W, LOCATED AT 833 EMBARCADERO**

**THE CITY COUNCIL  
City of Morro Bay, California**

**WHEREAS**, the City of Morro Bay is the lessor of certain properties on the Morro Bay Waterfront described as Lease Site 87-88/87W-88W; located at 833 Embarcadero; and,

**WHEREAS**, in 2007 the Morro Bay City Council directed staff to put out a request for proposals for development of said Lease Site; and

**WHEREAS**, on September 24, 2007 the City Council designated Burt Caldwell and Doug Redican as primary proposer for said Lease Site; and

**WHEREAS**, Mr. Caldwell is still working on permitting, specific plans and lease negotiations for the redevelopment; and

**WHEREAS**, the existing lease agreement with Violet Leage expires on March 31, 2011; and

**WHEREAS**, the City and Ms. Leage have agreed to a nine-month extension to the term of the lease agreement for said Lease Site in order to maintain two successful waterfront business operations on the site while the redevelopment plans and lease negotiations are being finalized.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Morro Bay, California, that Amendment #5 to the lease agreement for Lease Site 87-88/87W-88W extending the term of the lease through December 31, 2011 is hereby approved and the Mayor is hereby authorized to execute said Amendment.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 25<sup>th</sup> day of October, 2010 on the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

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JANICE PETERS, Mayor

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BRIDGETT BAUER, City Clerk



AGENDA NO:     A-4    

MEETING DATE:     10/25/2010    

## Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** October 25, 2010

**FROM:** Harbor Business Manager

**SUBJECT:** Approval of a Lease Agreement between the City of Morro Bay and Sea One Solutions (SOS) LLC, for Lease Sites 124-128/124W-128W and 113W Located at 1215 Embarcadero

### **RECOMMENDATION:**

Staff recommends the City Council adopt Resolution #56-10 approving a new lease agreement for Lease Site 124-128/124W-128W and 113W with Sea One Solutions LLC (SOS) Darby Neil President and Jana Neil Secretary, located at 1215 Embarcadero.

**MOTION:** I move that the City Council adopt Resolution # 56-10 approving a new lease agreement for Lease Site 124-128/124W-128W and 113W with Sea One Solutions LLC (SOS) Darby Neil President and Jana Neil Secretary, located at 1215 Embarcadero.

### **FISCAL IMPACT:**

The annual lease rent will be approximately \$42,000 per year initially and then will increase to \$47,000 in 2014. We expect to see percentage of gross sales rent starting by 2016 when all the improvements have been completed and the businesses are operational and the slips are occupied.

### **SUMMARY:**

Virg's Fish'n has operated a sport fishing business in Morro Bay for over 40 years on the Embarcadero. The leases were originally operated by the Moore family. Darby Neil, Sharon Moore's son, has been running the businesses on these sites since 2004 when he took over the lease agreements. Darby Neil, along with the tenants on the adjacent lease sites, Great American Fish Company and Harbor Hut, has been working on redevelopment plans for the last several years.

**Prepared By:** \_\_\_\_\_      **Dept Review:** \_\_\_\_\_

**City Manager Review:** \_\_\_\_\_

**City Attorney Review:** \_\_\_\_\_

Conditional Use Permit UPO-085 was approved for the overall redevelopment of the three businesses, Great American Fish Company, Harbor Hut and Virg's Fish'n, in May 2008. Mr. Neil is ready to begin the redevelopment process. The proposed new lease agreement will result in at least \$2 million of private investment to redevelop the lease sites in two phases, ultimately constructing new slip facilities, new buildings and enhanced public access on the sites.

**DISCUSSION:**

The Harbor Department Lease Management Policy process for an existing tenant to renegotiate a lease agreement is for the tenant to obtain concept level approval of a conditional Use Permit for improvements to be constructed on the Lease Site. Staff is then authorized to enter into negotiations for a proposed new long-term lease based on the amount of private investment proposed, the size of the Lease Site and the public benefit of the proposed development. SOS has received Concept Plan approval of UPO-058 in 2008 and Coastal Development Permit 3-08-025 in 2009 and is now ready to begin work on precise plans and final permitting.

SOS plans on completing the renovation of the Lease Sites in two Phases; Phase I, the waterside improvements and Phase II, the landside improvements. Total cost estimates for the improvements are \$2 million. The lease agreement initial term is for 20 years based on completion of the waterside improvements by July 1, 2014. There is an option to extend the lease for an additional 20 years if the landside construction is completed by July 1, 2019.

There are two existing lease agreements that cover these sites. Lease Site 113W is a City Master Lease Agreement that was extended to allow for this redevelopment proposal. Lease Site 124-128W/124W-128W is operating under an old County lease that does not have any percentage of gross sales, nor does it have any provision for rent adjustment based on change in the CPI as all current City Master Leases require. The waterside renovation will include construction of new docks that will include lateral public access along the waterfront and handicap access which is not available currently in this area. The water area of the Lease Site has been increased to accommodate the new docks proposed in UPO-098. Under the landside redevelopment, the existing restaurant will be demolished and relocated to the second floor of the proposed building, the vehicle access road will be improved and three additional parking spaces will be created. The landside redevelopment will include public restrooms and signage and will also create a small public pocket park area.

Following is a summary of the terms of the proposed lease agreement:

**Term:** Initial term of 20 years with an option to extend for an additional 20 years if the landside improvements are completed by 2016.

**Rent:** Initial rent: \$42,000, increasing to \$47,000 in 2014. Percentage of gross sales rent will start in 2014 when the waterside construction is complete. Reappraisal of the site in 2019 with a new minimum rent set based on reappraisal.

**Improvements to Be Constructed:** New slips with handicap access and lateral public access to be constructed by July 1, 2014. New buildings with road realignment, relocation of restaurant to the second floor, public pocket park and public restrooms on site with appropriate signage, to be completed by July 1, 2019.

**Maintenance:** Maintenance of all facilities and revetment to be paid for by tenant.

**CONCLUSION:**

Staff recommends the City Council adopt Resolution #56-10 approving a new lease agreement for Lease Site 124-128/124W-128W and 113W with Sea One Solutions LLC (SOS) Darby Neil President and Jana Neil Secretary, located at 1215 Embarcadero.

**RESOLUTION NO. 56-10**

**APPROVAL OF A LEASE AGREEMENT BETWEEN THE CITY OF MORRO BAY  
AND SEA ONE SOLUTIONS (SOS) LLC, FOR LEASE SITES 124-128/124W-128W AND  
113W LOCATED AT 1215 EMBARCADERO**

**THE CITY COUNCIL  
City of Morro Bay, California**

**WHEREAS**, the City of Morro Bay is the lessor of certain properties on the Morro Bay Waterfront described as Lease Site 124-128/124W-128W and 113W; and

**WHEREAS**, Darby Neil is the current tenant on Lease Site 124-128/124W-128W; and,

**WHEREAS**, Virg's Fish'n, (Darby Neil and Sharon Moore), is the current tenant on Lease Site 113W; and

**WHEREAS**, Conditional Use Permit UPO-058 was approved by the City in 2008 and Coastal Development Permit CDP 3-08-025 was approved by the Coastal Commission in 2009; and relating to redevelopment of the above Lease Sites,

**WHEREAS**, Sea One Solutions LLC, Darby Neil President and Jana Neil Secretary; and the City of Morro Bay have negotiated a new lease agreement for Lease Sites 124-128/124W-128W and 113W based on the City's Harbor Department Lease Management Policy.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Morro Bay, California, that the attached Lease Agreement for Lease Sites 124-128/124W-128W and 113W is hereby approved and that the Mayor is hereby authorized to execute said Lease Agreement.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 25<sup>th</sup> day of October, 2010 on the following vote:

AYES:

NOES:

ABSENT:

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Janice Peters, Mayor

ATTEST:

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Bridgett Kessling, City Clerk



AGENDA NO: A-5

MEETING DATE: 10/25/10

# Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** October 25, 2010  
**FROM:** Harbor Operations Manager  
**SUBJECT:** Approval of Resolution Authorizing the City of Morro Bay to Enter Into Vessel Turn-In Program (VTIP) Contract with the Department of Boating and Waterways

**RECOMMENDATION:**

Staff recommends that City Council adopts Resolution #57-10 authorizing the Harbor Operations Manager to execute the attached \$10,000 Vessel Turn-In Program (VTIP) grant contract agreement #10-214-521 with the California Department of Boating and Waterways (DBW) for assistance with demolition of surrendered vessels prior to abandonment.

As stewards of the harbor and ocean environment, this grant would enable the Harbor Department to accept surrendered vessels for demolition prior to them becoming abandoned and posing hazards to navigation or the environment.

**MOTION:** I move that the City Council approve Resolution 57-10 authorizing the City of Morro Bay to enter into Vessel Turn-In Program contract with the Department of Boating and Waterways.

**FISCAL IMPACT:**

Approval of this \$10,000 grant agreement provides funding for demolition of several surrendered vessels. City is required to provide a 10% funding match, or \$1,000, which will come from the Harbor Accumulating Fund with Council approval.

**BACKGROUND:**

VTIP was recently established by DBW from enabling Legislation in 2009 and the recent passing of the State budget. It provides a funding mechanism for local agencies to identify vessels in danger of being abandoned (generally older vessels at or beyond their useful life and falling into dereliction) and accepting ownership of those vessels from willing owners for demolition prior to them being abandoned and becoming a hazard to

Prepared By: E. Endersby

Dept Review: \_\_\_\_\_

City Manager Review: \_\_\_\_\_

City Attorney Review: \_\_\_\_\_

navigation or the environment. The City has accepted two prior grants from DBW under the Abandoned Watercraft Abatement Fund (AWAF) program to dispose of vessels that had become abandoned. To date the City has disposed of eight vessels of various sizes under AWAF grants. VTIP is a sister program to AWAF.

**DISCUSSION:**

The Harbor Department will identify vessels in danger of abandonment and prioritize removal of them by working with willing owners. Currently there are two such vessels known to staff in Morro Bay. Projects will be put out to bid as they arise, and the City will remove as many vessels as possible within the scope of the \$10,000 grant agreement. A one-time \$1,000 transfer from the Harbor Accumulation Fund will cover the City's 10% match requirement.

**CONCLUSION:**

Staff recommends that City Council adopts Resolution 57-10, authorizing the City to enter into DBW grant agreement #10-214-521 for removal of surrendered vessels under the VTIP program. Staff also recommends that Council authorize the Harbor Operations Manager to execute the grant and to act as the City's Authorized Agent for purposes of the grant agreement.

**RESOLUTION NO. 57-10**

**AUTHORIZATION FOR THE CITY OF MORRO BAY TO  
ENTER INTO VESSEL TURN-IN PROGRAM (VTIP) CONTRACT  
WITH THE DEPARTMENT OF BOATING AND WATERWAYS**

**THE CITY COUNCIL  
City of Morro Bay, California**

**WHEREAS**, City of Morro Bay (City) applied for a grant from the California Department of Boating and Waterways (DBW) under the Vessel Turn-In Program (VTIP); and

**WHEREAS**, DBW awarded a grant of \$10,000 under VTIP to the City for removal of surrendered vessels prior to abandonment; and

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Morro Bay, California, that the City of Morro Bay is hereby authorized to enter into VTIP Contract #10-214-521 for removal of surrendered vessels in the amount of \$10,000.

**BE IT FURTHER RESOLVED**, that Harbor Operations Manager Eric Endersby is hereby authorized to act as the City's agent in regards to all aspects of the grant agreement, and that a \$1,000 transfer of funds from the Harbor Accumulating Fund is authorized to cover the City's 10% funding match.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 25th day of October, 2010 on the following vote:

AYES:

NOES:

ABSENT:

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JANICE PETERS, Mayor

ATTEST:

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BRIDGETT KESSLING, City Clerk



AGENDA NO: A-6  
MEETING DATE: October 25, 2010

# Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** October 19, 2010

**FROM:** Dylan Wade, Utilities/Capital Projects Manager

**SUBJECT:** Status Report on Water Usage for September 2010

**RECOMMENDATION:**

It is recommended that the City Council review this status report.

**FISCAL IMPACT:**

The water enterprise fund operating budget is only a small percentage of the overall water division budget. The water division uses the operating budget to offset the cost of operating the various supplies of water. Depending on the mix and cost of the various water sources delivered these expenditures may lead to over spending the operating budget which is based on adequate deliveries of State water.

**BACKGROUND:**

The City of Morro Bay has four main sources of water supply. Water sources in order of supplied quantities are; the State Water Project, Chorro groundwater, Morro groundwater, and a Desalination Plant. Deliveries of water from the State water Project started this year at the lowest level that they have ever been in the history of the project. Since the primary water supply source for the City of Morro Bay was unavailable at the beginning of the year, the City has been forced to rely more heavily on the other sources.

Contamination with nitrates of both the Chorro and Morro groundwater resources by agricultural activities has greatly impacted our water supplies. During periods of reduced State Water Project deliveries it is necessary to blend our other sources of water to reduce nitrate levels in the distribution system. The Desalination Plant is undergoing a series of upgrades to restore the operation of that facility which has most recently been used to remove nitrates from the Morro Groundwater.

**DISCUSSION:**

August Water Usage

Total September Water production was 124.4 af ,with 7.8 af of brackish treated water, 116.6 af of State

<b>Prepared By:</b> _____	<b>Dept Review:</b> _____
<b>City Manager Review:</b> _____	
<b>City Attorney Review:</b> _____	

Water, and no groundwater delivered from the Chorro Basin. Feed water for brackish treatment was extracted from the Morro Basin.

Current Water Usage During the Month of August, the City has used water from the Brackish Water Reverse Osmosis (BWRO) Treatment train to supplement water deliveries from the State Water Project by running the BWRO treatment process as necessary.

State Water Project Deliveries State Water Project deliveries are sufficient to meet water demands for all periods except during the State Water shutdown without continuing mandatory water conservation measures. The State water shutdown will occur from November 1<sup>st</sup> to November 21<sup>st</sup> of this year. During this period water supply conditions will be tight and additional conservation will be required. Notification will be mailed to all addresses in Morro Bay later this month advising water users of our situation.

#### Recent Division Activities

Staff has focused on the repair and replacement of several pumps in the well fields and the Distribution system. The Public Services Department has started compiling a new set of water maps. Historically there are very limited records showing where the water mains are routed. This can lead to problems when shut offs are necessary. Staff has pulled the often conflicting records together producing a map that most accurately shows the likely location of the infrastructure. We have been able to link the as-built drawings with the electronic map, making this the most useful set of water maps ever produced by Morro Bay. The assistant engineer and the water division intern deserve recognition for this critical work.

#### Future Water Usage

It is anticipated that in the month of November the water system will not be able to rely on the State Water Project deliveries and will have to increase the use of the BWRO and well 11A in the Romero well field. If stream flows fall below the 1.4 cfs requirement we will have to petition the state to continue to use well 11A. In the future we will be making additional modifications to the Brackish and Salt Water Reverse Osmosis plant in order to better supply water during the State Water shutdown.

#### **CONCLUSION:**

It is recommended that the City Council review this status report.

AGENDA NO: A-7

MEETING DATE: 10/25/10

**RESOLUTION NO. 53-10**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
IN SUPPORT OF PROPOSITION 21  
THE STATE PARKS AND WILDLIFE CONSERVATION  
TRUST FUND ACT OF 2010**

**THE CITY COUNCIL  
City of Morro Bay, California**

**WHEREAS**, The City of Morro Bay's tourism based economy, environmental health and quality of life of the residents benefit and are supported by the State Parks system.

**WHEREAS**, California's parks, once considered the best in the nation, are falling apart because of chronic underfunding. Roofs and sewage systems leak, restrooms are not cleaned regularly, bridges have collapsed, trails are washed out, campgrounds and visitor centers are shuttered and buildings and structures throughout the system are badly deteriorated; and

**WHEREAS**, Twice in the past two years, state parks were on the brink of being shut down; and

**WHEREAS**, Nearly 150 state parks were shut down part time or suffered deep service reductions because of budget cuts, and more park closure proposals and budget cuts are expected this year; and

**WHEREAS**, Thousands of scenic acres are closed to the public because of reductions in park rangers, and crime has more than doubled. Destruction and vandalism of the parks themselves has grown fourfold, and beachgoers are often unprotected because of decreases in lifeguards; and

**WHEREAS**, Proposition 21, The State Parks and Wildlife Conservation Trust Fund, would provide a stable, reliable and adequate source of funding for the state park system, for wildlife conservation and for increased and equitable access to those resources for all Californians; and

**WHEREAS**, Funding for the Trust Fund would come from an \$18 annual State Park Access Pass surcharge on all California cars, motorcycles and recreational vehicles that would be collected by the Department of Motor Vehicles as part of the annual vehicle license fee; and

**WHEREAS**, California vehicles subject to the State Park Access Pass surcharge and all occupants of those vehicles would receive free day use admission to all state parks throughout the year; and

**WHEREAS**, Every year, there are nearly 80 million visits to state parks, where the abundance of outdoor activities entices visitors to exercise and lead healthier lifestyles; and

**WHEREAS**, Parks contribute to public health by protecting forests and natural areas that are sources of clean air and water and by combating climate change by reducing greenhouse gases; and

**WHEREAS**, Parks protect the state's wide diversity of plants and animals, preserve an unparalleled collection of historic and cultural assets and provide exciting educational opportunities for young and old alike;

**WHEREAS**, The State Parks and Wildlife Conservation Trust Fund would protect California's 278 state parks so that all Californians can enjoy their benefits;

**THEREFORE BE IT RESOLVED**, that the City Council of the City of Morro Bay supports Proposition 21 - The State Parks and Wildlife Conservation Trust Fund Act of 2010.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 25<sup>th</sup> day of October, 2010 on the following vote:

AYES:

NOES:

ABSENT:

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JANICE PETERS, Mayor

ATTEST:

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BRIDGETT KESSLING, City Clerk



AGENDA NO: B-1

MEETING DATE: October 25, 2010

## Staff Report

**TO:** Honorable Mayor and City Council **DATE:** October 19, 2010

**FROM:** Rob Livick, PE/PLS, Public Services Director/ City Engineer  
Mike Pond, Fire Chief  
Brian Cowen, Building Inspector

**SUBJECT:** INTRODUCTION AND FIRST READING OF ORDINANCE NO. 564;  
REPEALING, AMENDING, AND REENACTING TITLE 14 OF THE  
CITY OF MORRO BAY MUNICIPAL CODE (BUILDINGS AND  
CONSTRUCTION.)

**RECOMMENDATION:**

Staff recommends that the City Council introduce for first reading by number and title only, Ordinance No. 564; repealing, amending, and reenacting Title 14 of the City of Morro Bay Municipal Code (Buildings and Construction) to incorporate the 2010 California Building Standards Code, as adopted by the State of California, and the local modifications thereto.

**MOTION:** I move for the introduction and first reading of Ordinance No. 564 by number and title only.

**FISCAL IMPACT:**

None.

**SUMMARY:**

In addition to adopting by reference the 2010 California Building Standards Code, this update reorganizes Title 14 and removes sections of the existing ordinance that are dated or otherwise superseded by other state laws or regulations. The local amendments of the existing ordinance are codified as modifications to the California Building Standards Code where required by state law. Division II of Chapter 1 of the California Building Code is adopted and amended as the administrative provisions of Title 14. The ordinance adopts the new state Residential and Green Building Codes.

Prepared By: \_\_\_\_\_

Dept Review: \_\_\_\_\_

City Manager Review: \_\_\_\_\_

City Attorney Review: \_\_\_\_\_

## **BACKGROUND:**

The 2010 California Building Standards Code will become effective statewide on January 1, 2011. The California Building Standards Code is published by the California Building Standards Commission and located in Title 24 of the California Code of Regulations. The building standards in the California Building Standards Code are state regulations, adopted by various state agencies in the executive branch of state government. State laws require various state agencies to develop building standards for specific types of buildings, building equipment and other features. The provisions of CCR title 24 include requirements for the structural, plumbing, electrical and mechanical systems of buildings, and for fire and life safety, energy conservation, and accessibility in buildings.

The California Buildings Standards Commission follows a triennial code adoption cycle, which trails the revision of the model codes. The term “model code” is generally understood to mean a code that has been developed by a private code developing organization and that is available through a license agreement with the publishing entity for adoption by a political jurisdiction. When a new model code edition becomes available, the California Building Standards Commission and the other state adopting agencies review the code to determine if adoption is appropriate. Not all available model codes are found to be appropriate for use in California.

Those parts of CCR Title 24 that are based on a model code incorporate the model code language along with state amendments. The California Building Standards Commission and other state adopting agencies have determined that the amendments are necessary to eliminate conflicts with other state laws, regulations and adopted model codes. These amendments are known as California Amendments.

The California Building Standards Code is applicable to all occupancies throughout the State of California, whether or not the City Council takes affirmative action to adopt those standards. State Housing Law requires a local building department to enforce the law, building standards, and implementing regulations of the Department of Housing and Community Development for residential structures not located in mobile home parks or special occupancy parks.

Cities and counties may adopt ordinances enacting building and fire protection standards that are more restrictive than those requirements provided by CCR Title 24, when an express finding of need is made that the modifications are reasonably necessary due to local climatic, topographical, or geological conditions. Local regulations necessary to carry out the application of the California Building Standards Code that do not establish building standards, such as administrative provisions, may be enacted without meeting the requirements of Health and Safety Code § 18941.5, 17958, 17958.5 and 17958.7.

The California Green Building Standards Code is new with this triennial code adoption, but many of the requirements contained in the code are not new. The CalGreen Code compiles these requirements into one code. Requirements such as recycling of

construction debris, construction site erosion and sedimentation control best management practices, and low-flow plumbing fixtures have been the norm for years. As such, adoption of this code should have little effect on building projects. It is not necessary to make local modifications to the CalGreen Code at this time.

**DISCUSSION:**

The following matrix summarizes the changes to Title 14 as well as cross-referencing the new chapter numbers with the existing.

**MATRIX OF CHANGES TO TITLE 14**

<b>CHAPTER</b>	<b>NAME</b>	<b>NEW CHAPTER</b>	<b>NEW NAME</b>	<b>SUMMARY OF CHANGE</b>
14.04	General Provisions	14.01	General	State and other model codes adopted by reference.
14.08	Definitions			<i>Deleted.</i> Refer to the definitions of the Building Code and those found in the individual chapters.
14.12	Administration and Enforcement	14.02	Administration and Enforcement	Division II of Chapter 1 is adopted and amended to include key points of the existing ordinance.
14.16	Building Code	14.03	Building Code	Building Code is adopted and amended to include key points of the existing ordinance and detailed grading regulations.
		14.04	Residential Code	New State Residential Code is adopted and amended to incorporate the residential fire sprinkler requirements of the existing ordinance.
14.18	Seismic Safety Program			Code references updated.
14.20	Electrical Code	14.05	Electrical Code	State Electrical Code is adopted and amended to protect emergency personnel.
14.24	Plumbing Code	14.07	Plumbing Code	State Plumbing Code is adopted and amended to incorporate provisions of the existing ordinance.
14.28	Mechanical Code	14.06	Mechanical Code	State Mechanical Code adopted.
		14.09	Existing Building Code	State Existing Building Code is adopted and amended as the technical strengthening provisions for the strengthening of unreinforced masonry buildings.
		14.10	Green Building Code	

**MATRIX OF CHANGES TO TITLE 14 (continued)**

14.32	Housing Code and Code for the Abatement of Dangerous Buildings	Split into 14.11 and 14.12	Housing Code and Dangerous Buildings Code	Model Codes adopted by reference and amended for purposes of administration and enforcement.
14.34	Sign Code	<i>Deleted</i>		Building Code contains standards for signs.
14.40	Unsafe Buildings			Sections 14.40.010 and 14.40.020 revised to conform with state law and mesh with 14.11 and 14.12.
14.44	Frontage Improvements	<i>NC</i>	<i>NC</i>	
14.48	Stormwater Control	<i>NC</i>	<i>NC</i>	Presently under revision to comply with the City's NPDES permit. Needs go before council prior to February 15, 2011.
14.52	Marine Docks and Structures	<i>NC</i>	<i>NC</i>	
14.56	Moving Buildings	<i>NC</i>	Moving of Buildings	
14.60	California Fire Code	14.08	Fire Code	State Fire Code adopted and amended to incorporate key points of existing ordinance. Sprinkler provisions revised to allow for an exception to sprinklers on the west side of Embarcadero Road and to more clearly defined building separation for the purposes of fire sprinklers.
14.62	Self-Inspection Fire Safety Program	<i>NC</i>	<i>NC</i>	
14.65	Fire Hazard Severity Zones	<i>Chapter Deleted</i>		Content incorporated into 14.08- Fire Code.
14.68	Wells	<i>NC</i>	<i>NC</i>	
14.72	Flood Damage Prevention	<i>NC</i>	<i>NC</i>	Needs to be revised in 2011, once FEMA has published new maps.
14.75	Mandatory Construction and Demolition Debris Recycling Program	<i>NC</i>	<i>NC</i>	

**CONCLUSION:**

Staff recommends that the City Council introduce for first reading by title only, Ordinance No. 564; repealing, amending, and reenacting Title 14 of the City of Morro Bay Municipal Code (Buildings and Construction) to incorporate the 2010 California Building Standards Code, as adopted by the State of California, and the local modifications thereto.

**ATTACHMENTS:**

Attachment 1- Ordinance No. 564

**ORDINANCE NO. 564**

**AN ORDINANCE OF THE CITY COUNCIL OF THE  
CITY OF MORRO BAY;  
REPEALING, AMENDING, AND REENACTING TITLE 14  
OF THE MORRO BAY MUNICIPAL CODE  
(BUILDINGS AND CONSTRUCTION)**

**THE CITY COUNCIL  
CITY OF MORRO BAY, CALIFORNIA**

**CERTAIN STATE AND MODEL CODES RELATING TO FIRE AND LIFE SAFETY AS  
FOLLOWS:**

1. 2010 California Building Code (volumes 1 and 2)
2. 2010 California Residential Code
3. The appendix to Chapter 33 of the 1997 Uniform Building Code
4. 2010 California Electrical Code
5. 2010 California Mechanical Code
6. 2010 California Plumbing Code
7. 2009 Uniform Solar Energy Code
8. 2006 Uniform Swimming Pool, Spa and Hot Tub Code
9. 2010 California Energy Code
10. 2010 California Historical Building Code
11. 2010 California Fire Code
12. 2010 California Existing Building Code
13. 2010 California Green Building Code
14. 1997 Uniform Housing Code
15. 1997 Uniform Code for the Abatement of Dangerous Buildings

**WHEREAS**, Government Code § 50022, et.seq. and Health and Safety Code § 17922 authorize the City to adopt by reference the California Building Standards Code as provided in Titles 24 and 25 of the California Code of Regulations and other codes, including, without limitation, the Uniform Housing Code and Uniform Code for the Abatement of Dangerous Buildings; and

**WHEREAS**, Pursuant to Health and Safety Code § 17950 and 18938(b), the California Building Standards Code is applicable to all occupancies throughout the State of California, whether or not the City takes affirmative action to adopt the California Building Standards Code; and

**WHEREAS**, Health and Safety Code § 17960, requires a local building department to enforce State Housing Law, the California Building Standards Code, and the implementing regulations of the Department of Housing and Community Development for residential structures; and

**WHEREAS**, Health and Safety Code § 17958.5 allows the City may make those changes or modifications to the requirements contained in the provisions published in the California Building Standards Code as it determines, pursuant to the provisions of Health and Safety Code § 17958.7, are reasonably necessary because of local climatic, geological, or topographical conditions; and

**WHEREAS**, Pursuant to Health and Safety Code § 18941.5, certain express findings have been made and are as follows:

## **FINDINGS**

1. The topographic, underlying geologic and surface soil conditions of the hillsides of the City of Morro Bay are of a gradient and composition such that movement has historically been known to occur. Soils testing has revealed the presence of potentially hazardous geologic conditions, including expansive soils, questionable soils, soils prone to liquefaction and seasonally high ground-water. Therefore, it is reasonably necessary to adopt regulations for grading operations that are more restrictive than those adopted by the State of California and codified in the California Building Standards Code. More particularly, this finding supports the adoption and modification of Appendix J of the California Building Code.
2. Due to topographic and geologic conditions, development in Morro Bay has historically been constrained such that building occurred predominantly in the flatter areas, a scarcity of which resulted in the creation of small lots and the construction of structures in relative close proximity to one-another. These conditions are known to be conducive to the spread of fire and therefore, it is reasonably necessary to adopt standards more restrictive than those adopted by the State of California and codified in the California Building Standards Code for the installation of automatic fire sprinklers on new and existing buildings, limiting the use of wood shakes or shingles, requiring that elevator cars be constructed to accommodate an ambulance stretcher, and to otherwise establish construction and fire prevention regulations more restrictive than those adopted by the State of California and codified in the California Building Standards Code to reduce and minimize the potential for loss of and damage to life and property resulting from fire, hazardous materials, explosions and to protect firefighters and emergency personnel during emergency operations. More particularly, this finding supports the modification of California Building Code sections 1505.1 and 3002.4, California Fire Code sections 903.3.1.1 and 4504.1, California Residential Code sections R313.1 and R313.2, California Electrical Code Article 230-70(A)(1), the deletion of Sections 903.2 through 903.2.10.1 of the California Fire Code and the addition of section R313.3.3.5 to the Residential Code, and sections 308.1.1.1, 901.4.5, 903.2 and 3310 to the Fire Code.

3. Due to topographic conditions and in order to protect the estuarine environment of and adjacent to the City of Morro Bay, it is reasonably necessary to adopt regulations more restrictive than those adopted by the State of California and codified in the California Building Standards Code, prohibiting the construction of private sewage disposal systems and requiring the installation of sewer backwater valves. More particularly, this finding supports the modification of California Plumbing Code section 713.0 and the addition of Plumbing Code section 709.5.

**NOW, THEREFORE, the City Council of the City of Morro Bay does ordain as follows:**

Title 14 of the Morro Bay Municipal Code is hereby repealed, amended, and reenacted to read as follows:

## **Title 14**

### **BUILDINGS AND CONSTRUCTION**

#### **Chapters:**

- 14.01       General**
- 14.02       Administration and Enforcement**
- 14.03       Building Code**
- 14.04       Residential Code**
- 14.05       Electrical Code**
- 14.06       Mechanical Code**
- 14.07       Plumbing Code**
- 14.08       Fire Code**
- 14.09       Existing Building Code**
- 14.10       Green Building Code**
- 14.11       Housing Code**
- 14.12       Dangerous Buildings Code**
- 14.18       Seismic Safety Program**
- 14.40       Unsafe Buildings**
- 14.44       Frontage Improvements**
- 14.48       Storm Water Control**
- 14.52       Marine Docks and Structures**
- 14.56       Moving of Buildings**
- 14.62       Self-Inspection Fire Safety Program**
- 14.68       Wells**
- 14.72       Flood Damage Prevention**
- 14.75       Mandatory Construction and Demolition Debris Recycling  
Program**

## Chapter 14.01

### GENERAL

**Sections:**

<b>14.01.010</b>	<b>Title and Purpose.</b>
<b>14.01.020</b>	<b>Adoption of Codes .</b>
<b>14.01.030</b>	<b>Building Official and Fire Chief Designated.</b>

**14.01.010 Title and Purpose.**

This title shall be known and may be cited as "The Buildings and Construction Ordinance of the City of Morro Bay," Title 14 of the Morro Bay Municipal Code. These regulations are hereby established and adopted to protect and promote public health, safety and welfare. This title establishes minimum regulations for construction, fire prevention, and the use and occupancy of buildings and other structures. This title prescribes regulations and standards that are consistent with the State Housing Law of California.

**14.01.020 Adoption of Codes.**

Fifteen documents, one each of which are on file in office of the Building Official, identified by the seal of the City of Morro Bay, marked and designated as the:

1. 2010 California Building Code (volumes 1 and 2),
2. 2010 California Residential Code,
3. The appendix to Chapter 33 of the 1997 Uniform Building Code published by the International Conference of Building Officials,
4. 2010 California Electrical Code,
5. 2010 edition of the California Mechanical Code,
6. 2010 California Plumbing Code,
7. 2009 edition of the Uniform Solar Energy Code, published by International Association of Plumbing and Mechanical Officials,
8. 2006 edition of the Uniform Swimming Pool, Spa and Hot Tub Code published by the International Association of Plumbing and Mechanical Officials,
9. 2010 California Energy Code,
10. 2010 California Historical Building Code,
11. 2010 California Fire Code, 12. 2010 California Existing Building Code,
13. 2010 California Green Building Code,
14. 1997 Uniform Housing Code, published by the International Conference of Building Officials,
15. 1997 Uniform Code for the Abatement of Dangerous Buildings, published by the International Conference of Building Officials;

are hereby adopted, including chapters and sections not otherwise adopted by agencies of the State of California, and the appendices thereto as the buildings, construction, and fire prevention regulations of the City of Morro Bay. The provisions of the above-mentioned are hereby referred to, adopted, and made a part hereof as if fully set out in this title except as modified hereinafter.

**14.01.030 Building Official and Fire Chief Designated.**

The Public Services Director is hereby designated as the Building Official and Code Official for the City of Morro Bay. The Fire Chief is hereby designated as the Fire Code Official for the City of Morro Bay. Where the “authority having jurisdiction” is used in the adopted codes, it shall mean the Building Official or the Fire Chief, as applicable.

## 14.02

### ADMINISTRATION AND ENFORCEMENT

**Sections:**

**14.02.010 Administration and Enforcement.**

**14.02.020 Modification of Division II of Chapter 1 of the California Building Code.**

#### **14.02.010 Administration and Enforcement.**

The Administration and Enforcement of this title shall be in accordance with Division II of Chapter 1 of the California Building Code as adopted and modified, amended, and/ or supplemented herein.

#### **14.02.020 Modifications of Division II of Chapter 1 of the California Building Code.**

The California Building Code, adopted in Section 14.01.020, is hereby modified, amended, and/ or supplemented as follows:

A. Amend Section 103.1 to read as follows:

**103.1 Creation of Enforcement Agency.** The Building Section of the Planning and Building Division of the Public Services Department of the City of Morro Bay is hereby created and the official in charge thereof shall be known as the Building Official. Where reference is made to the Authority Having Jurisdiction or Code Official in the adopted Codes, it shall mean the Building Official.

B. Add Section 104.8.1 to read as follows:

**104.8.1 Liability or Responsibility due to Error or Omission.** This title shall not be construed so as to impose upon the City, or upon any of its officials or employees, any liability or responsibility for injury or damage resulting from any work approved or performed with respect to this title, or by reason of any inspection performed hereunder. No person shall be relieved of the responsibility of compliance with this title because of an error or omission made by a city official or employee.

C. Add Section 104.9.2 to read as follows:

**104.9.2 Cargo Containers, Rail Cars, and Vehicle Bodies.** Any person who intends to bring into the City or otherwise use, alter or relocate within the City any cargo container, streetcar, boxcar, refrigerator car, motorbus body or similar vehicle body for the purpose of use or occupancy, shall first make application to the Building Official and obtain the required permit. The application shall demonstrate that the proposed use, occupancy, structure, construction, and/ or alteration will conform to the provisions of this title.

D. Amend Section 109.2 to read as follows:

**109.2 Schedule of permit fees.** Permit fees shall be as prescribed in the Master Fee Schedule.

E. Amend Section 113 to read as follows:

### **SECTION 113 BOARD OF APPEALS**

**113.1 General.** In order to hear and decide appeals of orders, decisions or determinations made by the Building Official relative to the application and interpretation of the technical provisions this code, there shall be and is hereby created a board of appeals. The board of appeals shall be appointed by the City Council and hold office at its pleasure. The Building Official shall be an ex officio member and shall act as secretary to the board but shall have no vote upon any matter before the board. The board shall adopt rules of procedure for conducting its business.

The board of appeals shall also serve as the Local Appeals Board, Housing Appeals Board, and Accessibility Appeals Board, as defined in Health and Safety Code § 17920.5, 17920.6 and 19957.5.

**113.2 Limitations on authority.** An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction is proposed. The board shall have no authority to waive requirements of this code, nor shall the board have any authority to relative to the administration of this code.

**113.3 Qualifications.** The board of appeals shall consist of five members who are qualified by experience and training to pass on matters pertaining to the appeal and are not employees of the jurisdiction. Two members of the Accessibility Appeals Board shall be physically handicapped, two members shall be persons experienced in construction, and one member shall be a public member.

**113.4 Appointment.** Upon receipt by the Building Official, of a qualified application for appeal, the Building Official shall within 60 days, recommend to the City Council five persons who, based on their qualifications and experience, appear to be suited to hear and decide the appeal. Upon finding that those individuals indeed appear to be qualified to hear and deciding the appeal, the City Council shall appoint those persons and they shall be known as the Board of Appeals and shall have the authority and be tasked with the duties thereof for the purposes of hearing and deciding that specific appeal.

F. Amend Section 114.4 to read as follows:

**114.4 Violation Penalties.** Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters, extends, repairs, moves, removes, demolishes or occupies any building, structure, or equipment in

violation of the approved construction documents, a directive of the Building Official, or of a permit or certificate issued under the provisions of this Code, shall be subject to fines and penalties as established in Title 1 of the Morro Bay Municipal Code, in addition to other penalties as prescribed by law.

G. Add Section 114.5 to read as follows:

**114.5 Authority to Arrest Persons.** The building official shall be a public employee and not a peace officer, but shall have the authority to arrest persons pursuant to California Penal Code Section 836.5 for violations of Title 14 of the Morro Bay Municipal Code.

## Chapter 14.03

### BUILDING CODE

#### 14.03.010 Modifications of the California Building Code.

The California Building Code, adopted in Section 14.01.020, is hereby modified, amended, and/ or supplemented as follows:

A. Adopt appendices H, I and J. Delete appendices A, B, C, D, E, F, G and K.

B. Amend Section 1505.1 to read as follows:

**1505.1 General.** Roof assemblies shall be divided into the classes defined below. Class A, B, and C roof assemblies and roof coverings required to be listed by this section shall be tested in accordance with ASTM E 108 or UL 790. In addition, fire-retardant-treated wood roof coverings shall be tested in accordance with ASTM D 2898. The minimum roof coverings installed on buildings shall comply with Table 1505.1 based on the type of construction of the building.

For the purposes of this section, any building surface flatter than forty-five degrees to the horizontal shall be considered a roof and shall not be covered by wood shakes or shingles, except as otherwise allowed by this Code.

**Exception:** Skylights and sloped glazing that comply with Chapter 24 or Section 2610.

C. Amend Section 3002.4 to read as follows:

**3002.4 Elevator car to accommodate ambulance stretcher.** Where elevators are provided, at least one elevator shall be provided for fire department emergency access to all floors. The elevator car shall be of such a size and arrangement to accommodate an ambulance stretcher 24 inches by 84 inches with not less than 5-inch radius corners, in the horizontal, open position and shall be identified by the international symbol for emergency medical services (star of life). The symbol shall not be less than 3 inches high and shall be placed inside on both sides of the hoistway door frame.

D. Delete the text of Appendix J and amend Appendix J by reference to contain the text of the Appendix to Chapter 33 of the 1997 Uniform Building Code, which shall have the same force and effect as if printed here in its entirety and is hereby modified, amended, and/ or supplemented as follows:

1. Amend Section 3309.2 to read as follows:

**3309.2 Administration.** The provisions of Division II of Chapter 1 of the California Building Code shall apply to the administration and enforcement of this chapter.

2. Amend Section 3309.7 to read as follows:

**3309.7 Liquefaction Study.** A study of the liquefaction potential of the site shall be provided, and the recommendations incorporated into the plans.

**Exception:** The Building Official may waive this requirement where it is determined by the geotechnical engineer or engineering geologist that the potential for liquefaction at the site is low.

3. Delete Section 3309.9.

4. Delete Section 3310.

## Chapter 14.04

### RESIDENTIAL CODE

#### 14.04.010 Modifications of the California Residential Code.

The California Residential Code, adopted in Section 14.01.020, is hereby modified, amended, and/ or supplemented as follows:

- A. Delete Division II of Chapter 1. Administration and Enforcement of the Residential Code shall be as set forth in the California Building Code. Fees shall be as prescribed in the Master Fee Schedule.
- B. Adopt Appendices H and O. Delete Appendices A, B, C, D, E, F, G, I, J, K, L, M, N, P, Q and R.
- C. Amend Section R313.1 and R313.2 to read as follows:

**R313.1 Townhouse and One and Two-family dwellings automatic fire sprinkler systems.**

An automatic residential fire sprinkler system shall be installed in all new townhouses and one and two family dwellings, and in all existing townhouses and one and two family dwellings where alteration results in an increase in floor area in excess of 50 percent, or 1000 square feet. This section shall be applicable to mobile homes and factory-built housing not located in a mobile home or special occupancy park.

**R313.2 Determination of Floor Area.** For the purposes of this section, floor area shall be defined as the area within the exterior walls of the building under consideration. The floor area of a building, or portion thereof, not provided with surrounding walls, shall include the usable area under the horizontal projection of the roof or floor above.

For the purposes of this section, buildings shall be considered separate when:

- 1. The fire separation distance as defined in CBC Sec. 702.1 is not less than that permitted in CBC Table 705.8 where unprotected openings are allowed in an exterior wall of a non-sprinklered building, or
- 2. The buildings are structurally independent, the adjoining walls are constructed of fire-resistant construction as prescribed in CBC Table 602 without openings or penetrations, projections comply with CBC Section 705.2, and parapets are constructed where required by CBC Section 705.11.

- D. Add Section R313.3.3.5 to read as follows:

**R313.3.3.5 Waterflow Alarm.** A local waterflow alarm and remote inspector's test valve, installed in accordance with NFPA 13, shall be installed on all sprinkler systems.

## Chapter 14.05

### ELECTRICAL CODE

#### 14.05.010 Modifications of the California Electrical Code.

The California Electrical Code, adopted in Section 14.01.020, is hereby modified, amended, and/ or supplemented as follows:

A. Adopt annexes A and B. Delete annexes C, D, E, F, G and H. Administration and Enforcement of the Electrical Code shall be as set forth in the California Building Code. Fees shall be as prescribed in the Master Fee Schedule.

B. Amend Article 230-70(A)(1) to read as follows:

**230-70(A)(1) Readily Accessible Location.** A service disconnecting means shall be installed at a readily accessible location either outside the building or other structure, or inside nearest the point of entrance of the service conductors.

The disconnecting means shall be accessible to emergency personnel, either directly or by a remote actuating device, without requiring travel through the building interior.

## **Chapter 14.06**

### **MECHANICAL CODE**

#### **14.06.010 Modifications of the California Mechanical Code.**

The California Mechanical Code, adopted in Section 14.01.020, is hereby modified, amended, and/ or supplemented as follows:

- A. Delete Division II of Chapter 1 and Table 1-1. Administration and Enforcement of the Mechanical Code shall be as set forth in the California Building Code. Fees shall be as prescribed in the Master Fee Schedule.
  
- B. Adopt appendices A, B, C and D.

## Chapter 14.07

### PLUMBING CODE

#### Sections:

- 14.07.010**      **Modifications of the California Plumbing Code**
- 14.07.020**      **Retrofitting with water-saving devices required.**
- 14.07.030**      **Required sewer backwater valve.**

#### **14.07.010**   **Modifications of the California Plumbing Code.**

The California Plumbing Code, adopted in Section 14.01.020, is hereby modified, amended, and/ or supplemented as follows:

A. Delete Division II of Chapter 1 and Table 1-1. Administration and Enforcement of the Plumbing Code shall be as set forth in the California Building Code. Fees shall be as prescribed in the Master Fee Schedule.

B. Adopt appendices A, B, G, I and L . Delete appendices D and K.

C. Add Section 709.5 to read as follows:

**709.5** A Backwater Valve, extended to and accessible from grade for maintenance, shall be installed on every Building Sewer.

**Exception:** Installation of a Backwater Valve shall not be required when, to the satisfaction of the Building Official, it is determined that the intent and purpose of this section is otherwise met.

D. Amend Section 713.0 to read as follows:

#### **713.0 Sewer Required.**

**713.1** Every building in which plumbing fixtures are installed and every premises having drainage piping thereon shall have a connection directly to a public or private sewer.

**713.2** Private Sewage Disposal Systems shall not be permitted.

#### **14.07.020**      **Retrofitting with water-saving devices required.**

A. Every property owner, prior to the sale or transfer of any real property upon which is located any structure connected to the city's water supply shall retrofit the structure with the water-saving devices required for new construction as set forth in this title. In cases where the Building Official determines the use of such fixtures in existing structures would fail to meet the requirements of the Plumbing Code, fixtures using the least amount of water which do meet the requirements of the Plumbing Code shall be utilized.

B. In cases where a buyer intends to demolish all structures on such property within ninety days from the date of transfer, the structure need not be retrofitted prior to transfer; provided a covenant and a bond are filed with the city as follows:

1. The property owner shall file with the city clerk a notarized covenant agreeing to either demolish all structures located on the property connected to the city water system, within ninety days from the date of transfer or to perform the retrofit required in subsection A of this section, together with a faithful performance bond, in a form satisfactory to the city in an amount equal to one hundred and fifty percent of the full cost of retrofitting all such structures securing faithful performance of the agreement.

2. The agreement shall also authorize and grant the city permission to enter onto the property and to perform such retrofit in the event the property owner fails to do so. Further, the property owner shall agree to reimburse the city for all cost incurred by the City in the event the bond is insufficient.

C. Determination of compliance with the requirements of subsection A shall be made by the Building Official after an inspection performed by the Building Official or a qualified plumbing contractor under the supervision of the Building Official, who shall issue a certificate indicating same to the seller or title company involved. Seller shall pay the fee set forth in the Master Fee Schedule for such retrofit inspection at the time seller submits the request for the retrofit inspection. No property transfer shall be recorded until such certificate has been received by the seller and transferred with the title to the buyer. If noncompliance is found, the property owner (both seller and buyer) and any title company involved in the transfer shall be in violation of this code and subject to those penalties as prescribed in Title 1 of the Morro Bay Municipal Code.

#### **14.07.030 Required sewer backwater valve.**

A. Any existing lateral sewer piping upon any premises which services fixtures whose elevation is lower than the elevation of the first upstream sewer manhole rim, lamp hole, or pump station receiving manhole, and for which the city has record of a previous sewage backflow incident involving a clogged sewer main shall be protected from backflow of sewage by installing backwater valves of a type approved by the Building Official. The property owner shall be required to provide and install such device.

B. If the property owner fails to install and maintain a backwater valve in good working condition when required under this section, the Building Official may declare said sewer connection to be a nuisance and abate such nuisance pursuant to Section 8.12.010 et seq. of this code by installing an approved-type backwater valve at the owner's expense. Said property owner may, in addition, be subject to fines as outlined in subsection E of this section.

C. All house connection sewers, industrial sewers, private sewage disposal systems and appurtenances thereto, now existing, or hereafter constructed, shall be maintained by the owner of the

property in a safe and sanitary condition and all devices or safeguards which are required by this section for the operation thereof shall also be maintained in a good working order by the owner.

D. The director of public works, the health officer, and other duly authorized employees of the city and the health department bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this section. The director of public works, the health officer, or their representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways of facilities for waste treatment.

E. Violations and Penalties. Any person who is convicted of violation of any provisions of this section is guilty of an infraction punishable as provided in Chapter 1.16 of this code.

## Chapter 14.08

### FIRE CODE

#### Sections:

<b>14.08.010.</b>	<b>Purpose.</b>
<b>14.08.020.</b>	<b>Bureau of fire prevention.</b>
<b>14.08.030.</b>	<b>Fire district established.</b>
<b>14.08.040.</b>	<b>Penalties for turning in false alarms.</b>
<b>14.08.050.</b>	<b>Fire injury report.</b>
<b>14.08.060.</b>	<b>Storage of gasoline driven vehicles.</b>
<b>14.08.070.</b>	<b>Citation powers.</b>
<b>14.08.080.</b>	<b>Fire Hazard Severity Zones</b>
<b>14.08.090.</b>	<b>Modifications of the California Fire Code</b>

#### **14.08.010. Purpose.**

This chapter shall be known and may be cited as “The Fire Prevention Regulations of the City of Morro Bay”, Chapter 8 of Title 14 of the Morro Bay Municipal Code. This chapter prescribes minimum regulations to reduce and minimize the potential for loss of and damage to life and property resulting from fire, hazardous materials, and explosions.

#### **14.08.020. Bureau of fire prevention.**

The California Fire Code shall be enforced by the fire department or building division of the public services department under the supervision of the Fire Chief.

#### **14.08.030. Fire district established.**

The entire incorporated area of the city is declared to be and is established a fire district.

#### **14.08.040. Penalties for turning in false alarms or for conviction of intentionally setting a fire.**

Individuals responsible for turning in false alarms shall be responsible for the cost the fire department incurs while responding to the fire alarm. The cost of the false alarm shall be determined in accordance with the master fee schedule. The intent of this section is not to penalize those persons who make honest mistakes. Persons convicted of intentionally setting a fire in violation of any law or ordinance within the city limits shall pay the cost of fighting that respective fire.

#### **14.08.050. Fire injury report.**

Any physician, first aid station, ambulance company or persons who treat or aid any person injured by a fire, explosion or chemical burn within the municipality shall, within twenty-four hours, report such treatment and pertinent information to the fire department.

**14.08.060. Storage of gasoline driven vehicles.**

No one shall store, repair or use any motorcycle, moped or any other gasoline driven vehicle inside of any dwelling. Storage and repair of gasoline driven vehicles are permitted in garage areas adjacent to dwellings.

**14.08.070. Citation powers.**

The Fire Chief, Fire Marshall and full-time safety members of the Fire Department shall have the powers of a Peace Officer in performing their duties under this Code, and shall have the powers of a Peace Officer as provided in California Penal Code, Sections 830.31 and shall have the authority to issue citations as provided in Title 1 of the Morro Bay Municipal Code.

**14.08.080. Fire Hazard Severity Zones.**

A. Purpose and Intent. The purpose of this chapter is to provide authority for the identification of local fire hazard severity zones and provide authority for enforcement of state and local codes in these zones. The intent of this chapter is to reduce the potential for fire losses by providing minimum requirements for the protection of properties constructed in very high hazard severity zones and other wildland/urban interface areas designated by the fire chief and supported by substantial evidence.

B. Designation-Recommendation. The fire chief is hereby authorized to designate very high fire hazard severity zones within one hundred twenty days of receiving recommendations from the California Department of Forestry and Fire Protection.

C. Designation-Not identified. The fire chief may designate areas not identified as very high fire hazard Severity Zones by the California Department of Forestry and Fire Protection following a finding supported by substantial evidence in the record that the requirements for very high fire hazard severity zones are necessary for effective fire protection within the area(s).

D. Designation-Declined. The fire chief may decline to designate areas identified by the California Department of Forestry and Fire Protection as Very high fire hazard severity zones following a finding supported by substantial evidence in the record that the requirements for very high fire hazard severity zones are not necessary for effective fire protection with the area(s).

E. Supported by substantial evidence in the record. "Supported by substantial evidence in the record" shall require the city council to hold a public hearing and make findings that there is competent substantial evidence in the record to support the fire chief's designation as fire hazard areas.

F. Enforcement. The Building Official shall enforce the provisions of Chapter 7A of the California Building Code and Chapter 47 of the California Fire Code in all very high fire hazard severity zones and other areas designated by the Fire Chief and supported by substantial evidence in the record.

G. Permits. All submittals for subdivision, entitlement, or building permits shall demonstrate that the proposed project allows for compliance with the provisions of Government Code Section 51182 and Public Resource Code Section 4291, except where otherwise allowed by law, to the satisfaction of the Fire Chief and the Building Official.

#### **14.08.090. Modifications of the California Fire Code.**

The California Fire Code, adopted in Section 14.01.020, is hereby modified, amended, and/ or supplemented as follows:

A. Adopt Appendix Chapter 4 and appendices B, C, D, and H. Delete appendices A, E, F, G, I and J.

B. Section 101.1 is amended to read as follows:

**Section 101.1 Title.** These regulations shall be known as the Fire Code of the City of Morro Bay.

C. Section 103.1 is amended to read as follows:

**Section 103.1 General.** The Fire Department of the City of Morro Bay is hereby established and the person in charge thereof shall be known as the Fire Chief. Where the Code uses the term Fire Official, it shall mean the Fire Chief.

D. Section 113.2 is amended to read as follows:

**113.2 Schedule of permit fees.**

Fees shall be paid in accordance with the Master Fee Schedule.

E. Section 507.5.4 is amended to read as follows:

**507.5.4 Obstruction.** Unobstructed access to fire hydrants shall be maintained at all times. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants.

The Fire Chief shall have the authority to remove or cause to be removed, without notice, any vehicle, vessel, or object that is in violation of this section. The owner of said item, so removed, shall be responsible for all towing, storage, or other costs incurred therein.

F. Section 308.1.1.1 is added to read as follows:

**308.1.1.1 Burning Prohibited in Residential Neighborhoods.** Open burning, bon fires, recreational fires, and all other outdoor fires are prohibited in residential neighborhoods.

**Exception:**

Barbeques and portable outdoor fireplaces that conform with the following provision are allowed.

1. Fires shall be conducted at a safe distance from and in accordance with the applicable manufacturer's instructions to prevent the spread of fire to adjacent structures or other combustible materials.
2. Fire shall be contained in a non-combustible container, not to exceed 3 feet in diameter and 2 feet in height.
3. Fuel loading shall not exceed 3 feet in diameter or 2 feet in height.
4. Fire shall be fueled by propane, natural gas, charcoal, dried wood, commercial fire logs, or pellets. Fuels shall not include green waste, yard trimmings, pressure treated wood, trash, plastic, or other noxious or hazardous materials.
5. Ground fires, sub-surface or pit fires, and earth floored fire rings are prohibited.
6. If in the opinion of the Fire Chief or his or her designee, a fire is potentially hazardous or smoke is causing a nuisance, the fire shall be extinguished immediately.

G. Section 901.4.5 is added to read as follows:

**901.4.5 Partial Sprinkling of Buildings.** Partial sprinkling of buildings shall not be permitted, except where otherwise allowed by NFPA 13R, 13D, and Section 903.3.1.1.1.

H. Delete Sections 903.2 through 903.2.10.1.

I. Add Section 903.2 to read as follows:

**903.2 Where Required.** An approved automatic fire sprinkler system shall be installed throughout:

1. All **new** buildings exceeding 1000 square feet of floor area.

**Exceptions:**

- a. A structure containing only Group A, Division 5 occupancy.
- b. Agricultural accessory buildings and greenhouses.

2. All **new** buildings and structures on the west side of Embarcadero Road.

**Exception:**

Installation of an automatic fire sprinkler system shall not be required when, to the satisfaction of the Fire Chief and the Building Official, it is demonstrated that the proposed construction, use,

and occupancy are minor in scope and nature, that the installation of an automatic fire sprinkler system would be impractical, and that the intent and purpose of this section is otherwise met.

3. All **existing** buildings exceeding 1000 square feet of floor area, where an automatic fire sprinkler system does not already exist, and a change in the character of use or occupancy is made, which increases the fire hazard level.
4. All **existing** buildings, where alterations result in:
  - a. An increase in floor area in excess of 50 percent, or
  - b. An increase in floor area in excess of 1000 square feet.

**903.2.1 Determination of Floor Area.** For the purposes of this section, floor area shall be defined as the area within the exterior walls of the building under consideration. The floor area of a building, or portion thereof, not provided with surrounding walls, shall include the usable area under the horizontal projection of the roof or floor above.

For the purposes of this section, buildings shall be considered separate when:

1. The fire separation distance as defined in CBC Sec. 702.1 is not less than that permitted in CBC Table 705.8 where unprotected openings are allowed in an exterior wall of a non-sprinklered building, or
2. The buildings are structurally independent, the adjoining walls are constructed of fire-resistant construction as prescribed in CBC Table 602 without openings or penetrations, projections comply with CBC Section 705.2, and parapets are constructed where required by CBC Section 705.11.

J. Amend Section 903.3.1.1 to read as follows:

**903.3.1.1 NFPA 13 sprinkler systems.** Where other provisions of this code require that a building or portion thereof be equipped throughout with an automatic sprinkler system in accordance with this section, or where a building contains two or more occupancies or uses, sprinklers shall be installed throughout in accordance with NFPA 13 as amended in Chapter 47 except as provided in Section 903.3.1.1.1.

K. Section 4504.1 is amended to read as follows:

**4504.1 General.** Piers, marinas, docks, fuel docks, wharves and similar boat mooring facilities shall be equipped with fire protection equipment in accordance with Section 4504.2 through 4504.6 and as otherwise required by the Chief.

L. Section 3310 is added to read as follows:

**3310. Sale and Use of Fireworks Unlawful.** The sale or use of fireworks, pyrotechnics, and others explosives shall be unlawful.

**Exceptions:**

1. The use of fireworks, approved by the State Fire Marshall as “safe and sane,” shall be permitted on private property only.
2. Public fireworks displays may be allowed, subject to the approval of a permit by the Chief.
3. Pyrotechnics for use in movie industry operations may be allowed, subject to the approval of a permit by the Chief.
4. This section shall not apply to the sale and use of State Fire Marshall approved and listed party poppers and snap caps.

## Chapter 14.09

### EXISTING BUILDING CODE

#### 14.09.010 Modifications of the California Existing Building Code

The California Existing Building Code, adopted in Section 14.01.020, is hereby modified, amended, and/or supplemented as follows and shall be the technical strengthening provisions for buildings subject to Chapter 14.18 of this title:

A. Amend Section A102.1 of Appendix Chapter A1 to read as follows:

**A102.1 General.** The provisions of this chapter shall apply to all existing buildings having at least one unreinforced masonry bearing wall. The elements regulated by this chapter shall be determined in accordance with Table A1-A. Except as provided herein, other structural provisions of the building code shall apply. This chapter does not apply to the alteration of existing electrical, plumbing, mechanical or fire safety systems.

**Exception:** This section shall not apply to detached one-family or two-family dwellings and detached apartment houses containing less than five dwelling units and used solely for residential purposes.

**Chapter 14.10**

**GREEN BUILDING CODE**

**Chapter 14.11**  
**HOUSING CODE**

**14.11.010 Modifications of the Uniform Housing Code.**

The 1997 Uniform Housing Code, adopted in Section 14.01.020, shall have the full force and effect as if printed here in its entirety and is hereby modified, amended, and/ or supplemented as follows:

- A. Amend Section 103 to read as follows:

**SECTION 103-SCOPE**

The provisions of this code shall apply to all buildings or portions thereof used, or designed or intended to be used, for human habitation. Such occupancies in existing buildings may be continued as provided in Chapter 34 of the Building Code, except such structures as are found to be substandard as defined in this code.

Where any building or portion thereof is used or intended to be used as a combination apartment house- hotel, the provisions of this code shall apply to the separate portions as if they were separate buildings.

Rooming houses, congregate residences or lodging houses shall comply with all requirements of this code for dwellings.

- B. Amend Section 104.1 to read as follows:

**104.1 Additions, Alterations, or Repairs.** For additions, alterations or repairs, see Chapter 34 of the Building Code.

- C. Amend the following definitions, located in Section 401, to read as follows:

**BUILDING CODE** is the 2010 California Building Code, as adopted and amended by this jurisdiction.

**HEALTH OFFICER** is the legally designated head of the San Luis Obispo County Department of Public Health.

**MECHANICAL CODE** is the 2010 California Mechanical Code, as adopted and amended by this jurisdiction.

**PLUMBING CODE** is the 2010 California Plumbing Code, as adopted and amended by this jurisdiction.

## Chapter 14.12

### DANGEROUS BUILDINGS CODE

#### 14.12.010 Modifications of the Uniform Code for the Abatement of Dangerous Buildings.

The 1997 Uniform Code for the Abatement of Dangerous Buildings, adopted in Section 14.01.020, shall have the full force and effect as if printed here in its entirety and is hereby modified, amended, and/ or supplemented as follows:

- A. Amend Section 103 to read as follows:

#### **SECTION 103- ALTERATIONS, ADDITIONS AND REPAIRS**

All buildings or structures which are required to be repaired under the provisions of this code shall be subject to the provisions of Chapter 34 of the Building Code.

- B. Amend the following definitions, located in Section 301, to read as follows:

**BUILDING CODE** is the 2010 California Building Code, as adopted and amended by this jurisdiction.

**HOUSING CODE** is the 1997 Uniform Housing Code, as adopted and amended by this jurisdiction.

## Chapter 14.18

### SEISMIC SAFETY PROGRAM

#### Sections:

14.18.010	Purpose.
14.18.020	Scope.
14.18.030	Definitions.
14.18.050	Notification.
14.18.060	General requirements.
14.18.070	Administration.

#### 14.18.010 Purpose.

A. The purpose of this chapter is to promote public safety and welfare by reducing the risk of death or injury that may result from the effects of earthquakes on unreinforced masonry-bearing wall buildings constructed prior to the county of San Luis Obispo's adoption of the 1955 Edition of the Uniform Building Code. Such buildings have been widely recognized for sustaining life-hazardous damage, including partial and complete collapse during moderate to strong earthquakes.

B. The provisions of this chapter are intended as minimum standards for structural seismic resistance established primarily to reduce the risk of life loss or injury. Voluntary compliance with these standards will not necessarily prevent loss of life or injury or prevent earthquake damage to rehabilitated buildings. This chapter does not require alteration of existing electrical, plumbing, mechanical or fire safety systems unless they constitute a hazard to life or property.

C. This chapter, in accordance with California Health and Safety Code § 19160 through 19169, provides voluntary compliance and standards for identification and classification of unreinforced masonry-bearing wall buildings based on their present use.

#### 14.18.020 Scope.

Appendix Chapter One of the Uniform Code for Building Conservation and subsequent additions and/or amendments is adopted by reference with the same force and effect as if fully set forth in this section. The provisions of this chapter shall apply to all buildings constructed or under construction prior to July 1957, which on the effective date of the ordinance codified in this chapter have unreinforced masonry-bearing walls as defined herein.

**Exception:** This section shall not apply to detached one-family or two-family dwellings and detached apartment houses containing less than five dwelling units and used solely for residential purposes.

#### 14.18.030 Definitions.

For purposes of this chapter, the applicable definitions in Sections 2302 and 2312 of the 1985 Uniform Building Code (hereinafter 1985 UBC) shall apply. Chapters 23 and 24 of the 1985 Edition of the Uniform Building Code are incorporated herein by reference and adopted for the purposes of this chapter only and made a part hereof as though set forth full herein.

Where the term "building code" is used in Appendix Chapter One of the Uniform Code for Building Conservation, the term shall mean the current edition of the California Building Code as adopted in this title.

A. “Low risk building” means any building, not classified as an essential building, having an occupant load of less than twenty occupants as determined by Section 3302(1) 1985 UBC.

B. “Medium risk building” means any building, not classified as a high risk building or an occupant load of twenty occupants or more as determined by Section 3302(a) 1985 UBC.

C. “Unreinforced masonry-bearing wall” means a wall having all of the following characteristics:

1. Provides the vertical support for a floor or roof;
2. The total superimposed load is over one hundred pounds per linear foot;
3. The area of reinforcing steel is less than twenty-five percent of that required by Section 2407(b) UBC.

**14.18.050 Notification.**

The building official shall notify the legal owner of each building within the scope of this chapter that the building is considered to be one of the general type of structures that historically has exhibited little resistance to earthquake motion.

**14.18.060 General requirements.**

The owner of each building within the scope of this chapter may cause a structural analysis of such building to be made by a civil or structural engineer or architect licensed by the state. If the building does not meet the minimum earthquake standards specified in this chapter, the owner may either cause it to be structurally altered to conform to such standards, or cause the building to be demolished.

**14.18.070 Administration.**

**A. Service and Order.** A final order, to comply with this chapter as provided in subsection B of this section, specifying the rating classification of the building, has been issued by the building official to the owner of each building within the scope of this chapter.

**B. Recordation.**

1. At the time that the aforementioned order was served, the building official filed on July 15, 1991, with the office of the county recorder, certificates identifying all subject buildings within the scope of this chapter.

2. If any building for which an order under this section was served is found not to be within the scope of this chapter, or as a result of structural alterations or an analysis is found to be structurally capable of resisting minimum seismic forces required by this chapter, or is demolished; the building official shall file with the office of the county recorder a certificate terminating the status of the subject building as being classified within the scope of this chapter.

## Chapter 14.40

### UNSAFE BUILDINGS

Sections:

14.40.010	Unsafe building defined.
14.40.020	Unsafe buildings or structures declared public nuisances.
14.40.030	Notice and order of building official or fire marshal.
14.40.040	Manner of giving notice.
14.40.050	Method of service.
14.40.060	Proof of service.
14.40.070	Second notice.
14.40.080	Proof of service.
14.40.090	Subpoenas.
14.40.100	Hearing.
14.40.110	Record.
14.40.120	Oaths certification.
14.40.130	Rules.
14.40.140	Oral evidence.
14.40.150	Hearsay evidence.
14.40.160	Admissibility of evidence.
14.40.170	Exclusion of evidence.
14.40.180	Rights of parties.
14.40.190	Inspection of the premises.
14.40.200	Decision of council.
14.40.210	Time to bring action.
14.40.220	Extension of time to perform work.
14.40.230	Failure to commence work.
14.40.240	Procedure for repair or demolition.
14.40.250	Account of expense—Filing of report.
14.40.260	Set for hearing.
14.40.270	Protests and objections.
14.40.280	Hearing of protest.
14.40.290	Assessment.
14.40.300	Collection of assessment.

**14.40.010 Unsafe Building defined.**

All buildings or portions thereof that are or which may hereafter become substandard as defined in Health and Safety Code § 17920.3, or any building or structure that is or which may hereafter become a dangerous building as defined in the Code for the Abatement of Dangerous Buildings shall be known as “Unsafe Buildings.”

**14.40.020 Unsafe buildings or structures declared public nuisances.**

All unsafe buildings or structures are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in this chapter. The Building Official may, as an alternate to the procedure set forth in this chapter, follow those procedures set forth in the Housing Code and/ or Code for the Abatement of Dangerous Buildings.

**14.40.030 Notice and order of Building Official or Fire Marshal.**

Whenever the Building Official or Fire Marshal has inspected or caused to be inspected any building or structure and has found and determined that such building or structure is an unsafe building or structure, he shall commence proceedings to cause the repair, rehabilitation or demolition of the building or structure.

**14.40.040 Manner of giving notice.**

The Building Official or Fire Marshal shall issue a notice and order to the recorded owner of the building. The notice and order shall contain:

1. The street address and a legal description sufficient for identification of the premises on which the building is located;
2. A statement that the building official has found the building to be unsafe and a public nuisance, with a brief description of the conditions which render the building unsafe and a public nuisance;
3. An order to secure permits and physically commence within thirty days from the date of service of the notice and order, and to complete, within ninety days from such date, the elimination of the described conditions by repair or demolition;
4. A statement advising that if the required repair or demolition work is not commenced within the time specified, the building official or fire marshal shall institute proceedings for the abatement of such nuisance before the city council.

**14.40.050 Method of service.**

Service of the notice and order shall be made upon all persons entitled thereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to the recorded owner of the building, at his address as it appears on the last equalized assessment roll of the county of San Luis Obispo, or as known to the building official or fire marshal.

**14.40.060 Proof of service.**

Proof of service of the notice and order shall be certified at the time of service by a written declaration under perjury executed by the person effecting service; declaration, together with any receipt card returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the notice and order retained by the building official.

**14.40.070 Second notice.**

If the building official or fire marshal determines to proceed with the abatement of such nuisance through proceedings initiated before the city council, he shall serve a second notice in the same manner as set forth in Section 14.40.050. He also shall post one copy of the notice, conspicuously, on the building or buildings to be abated. The notice shall be substantially in the following form, but may include other information:

NOTICE TO ABATE NUISANCE

You are hereby notified to appear before the City Council of the City of Morro Bay at its meeting to be held \_\_\_\_\_ (Date) at \_\_\_\_\_ (Place of Meeting) at the hour of \_\_\_\_\_ o'clock \_\_\_\_ M., or as soon thereafter as you may be heard and show cause, if any, why said building, located at \_\_\_\_\_ (Address) Lt. \_\_\_\_\_ Blk. \_\_\_\_\_ Tract \_\_\_\_\_ Assessors No. \_\_\_\_\_ should not be declared a public nuisance and said nuisance be abated by repair, rehabilitation, demolition or removal.

You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit thereof with the City Clerk, City of Morro Bay, California.

\_\_\_\_\_ Date

\_\_\_\_\_ Building Official or Fire Marshal

**14.40.080 Proof of service.**

Proof of service shall be as required in Section 14.40.060. Failure of any owner or other person to receive such notice shall not affect in any manner the validity of any proceedings taken under this chapter.

**14.40.090 Subpoenas.**

The city clerk of the city of Morro Bay may obtain the issuance and service of a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of any member of the city council, the building official, fire marshal, or upon the written demand of any party. The issuance and service of such subpoena shall be obtained upon the filing of an affidavit therefor which states the name and address of the proposed witness; specifies the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states that the witness has the desired things in his possession or under his control. A subpoena need not be issued when the affidavit is defective in any particular.

**14.40.100 Hearing.**

At the time fixed in the notice, the city council shall proceed to hear the testimony of the building official or fire marshal, the owner or his representative, witnesses, or other persons who may wish to testify, respecting the condition of the building or buildings.

**14.40.110 Record.**

A record of the entire proceedings shall be made by tape recording, or by any other means of permanent recording determined to be appropriate by the city council.

The proceedings at the hearing may also be reported by a phonographic reporter if such reporter is provided by the owner at his own expense.

**14.40.120 Oaths certification.**

In any proceedings under this code, the city clerk has the power to administer oaths and affirmations and to certify to official acts.

**14.40.130 Rules.**

Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

**14.40.140 Oral evidence.**

Oral evidence shall be taken only on oath or affirmation. (Ord. 175 § 2 (part), 1980)

**14.40.150 Hearsay evidence.**

Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.

**14.40.160 Admissibility of evidence.**

Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

**14.40.170 Exclusion of evidence.**

Irrelevant and unduly repetitious evidence shall be excluded.

**14.40.180 Rights of parties.**

Each party shall have these rights, among others:

1. To call and examine witnesses on any matter relevant to the issues of the hearing;
2. To introduce documentary and physical evidence;
3. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
4. To impeach any witness regardless of which party first called him to testify;
5. To rebut the evidence against him;
6. To represent himself or to be represented by anyone of his choice who is lawfully permitted to do so.

**14.40.190 Inspection of the premises.**

The council may inspect the building or premises during the course of the hearing, provided that notice of such inspection shall be given to the parties before the inspection is made and the parties are given an opportunity to be present during the inspection.

**14.40.200 Decision of council.**

The decision of the council shall be in the form of a motion or resolution, declaring its finds; in the event that it so concludes, it may declare the building or buildings to be a nuisance and direct the owner to abate the same within thirty days after the date of passage of the resolution or motion by having the building properly reconstructed or repaired, or by having the same demolished or removed and notifying the owner that if the nuisance is not abated, the buildings will be repaired, demolished or removed by the city and the expense thereof made a lien on the lot or parcel of land upon which the building is located.

Copies of the decision shall be delivered to the owner as required in Section 14.40.050 and posted as required in Section 14.40.070.

**14.40.210 Time to bring action.**

Any owner or other interested person having any objection, or feeling aggrieved at any proceedings taken by the council in ordering abatement of the nuisance, must bring action in a court of competent jurisdiction within thirty days after the passage of the resolution or motion declaring the nuisance to exist to contest the validity of any proceedings leading up to and including the adoption of the resolution or motion; otherwise all objections will be deemed to have been waived.

**14.40.220 Extension of time to perform work.**

Upon receipt of an application from the person required to conform to the resolution or motion and an agreement by such person that he will comply with the resolution or motion if allowed additional

time, the council may, at its discretion, grant an extension of time. The extended time shall be limited to the repair, rehabilitation or demolition of the building and will not in any way affect the time to bring an action in a court of competent jurisdiction.

**14.40.230 Failure to commence work.**

Thirty days after the passage of the resolution or motion, if the repair, rehabilitation or demolition has not been commenced, the city shall be deemed to have acquired jurisdiction to abate such nuisance by repair, rehabilitation or demolition.

1. The building official shall cause the building or buildings described in such resolution or motion to be vacated by posting at each entrance thereto a notice reading:

DANGER  
THIS STRUCTURE IS DEEMED UNSAFE  
DO NOT OCCUPY  
BUILDING OFFICIAL OF THE CITY OF MORRO BAY  
(Signed) \_\_\_\_\_

No person shall use or occupy any building upon which has been posted at each entrance door thereto a notice as prescribed in this subsection from and after the date of such posting until such building shall be restored to a condition of safety and stability, as required by the order of the building official, except that entry may be made to repair, demolish or remove such building. No person shall remove or deface any such notice so posted until the repairs, demolition or removal ordered by the building official has been completed and a certificate of occupancy issued pursuant to the provisions of the building code.

2. The city administrator shall have the power, in addition to any other remedy provided in this chapter, to cause the building to be repaired to the extent reasonably necessary to correct the conditions which render the building dangerous as set forth in the resolution or motion, or, if the resolution or motion shall have directed demolition, to cause the building to be sold and demolished or demolished and the materials, rubble and debris therefrom removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided in this code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning of the lot, shall be paid to the person or persons lawfully entitled thereto.

**14.40.240 Procedure for repair or demolition.**

Whenever any work or repair or demolition is to be done pursuant to Section 14.40.230, the city administrator shall issue an order therefor to the city engineer and the work shall be accomplished by city personnel or by private contract under the direction of the engineer. Plans and specifications may be prepared by the city engineer, or he may employ such architectural and engineering assistance on a contract basis as he may deem reasonably necessary.

**14.40.250 Account of expense—Filing of report.**

The city engineer shall keep an itemized account of the net expense incurred by the city in the repairing or demolishing of any building. Upon the completion of the work or repair or demolition, the city engineer shall prepare and file with the city clerk a report specifying the work done, with itemized net cost of the work in accordance with the Master Fee Schedule, and a description of the real property upon which the building or structure is or was located.

**14.40.260 Set for hearing.**

Upon receipt of the report, the city clerk shall present it to the city council for consideration. The city council shall fix a time, date and place for hearing the report and any protests or objections thereto. The city clerk shall cause notice of the hearing to be posted upon the property involved, published once in

a newspaper of general circulation in the city, and served by certified mail, postage prepaid, addressed to the owner of the property as his name and address appear on the last equalized assessment roll of the county, if such so appear, or as known to the clerk. Such notice shall be given at least ten days prior to the date set for hearing and shall specify the day, hour and place when the council will hear and pass upon the engineer's report, together with any objections or protests which may be filed as provided in this chapter by any person interested in or affected by the proposed charge.

**14.40.270 Protests and objections.**

Any persons interested in or affected by the proposed charge may file written protests or objections with the city clerk at any time prior to the time set for the hearing on the report of the engineer. Each such protest or objection must contain a description of the property in which the signer thereof is interested and the grounds of such protest or objection. The city clerk shall endorse on every such protest or objection the date it was received by him. He shall present such protests or objections to the city council at the time set for the hearing, and no other protests or objections shall be considered.

**14.40.280 Hearing of protest.**

Upon the day and hour fixed for the hearing, the city council shall hear and pass upon the report of the engineer together with any such objections or protests. The council may make such revision, correction or modification in the report or the charge as it may deem just; and when the council is satisfied with the correctness of the charge, the report (as submitted or as revised, corrected or modified) together with the charge, shall be confirmed or rejected. The decision of the city council on the report and the charge, and on all protests or objections, shall be final and conclusive.

**14.40.290 Assessment.**

The city council may thereupon order that the charges be assessed against the property, to be recorded on the assessment roll, and thereafter the assessment shall constitute a special assessment against and a lien upon the property.

All such assessments remaining unpaid thirty days, as deemed appropriate by the council, from the date of recording on the assessment roll, shall become delinquent and shall bear interest at the rate often percent per year from and after said date.

**14.40.300 Collection of assessment.**

The amount of the assessment shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to such assessment.

## Chapter 14.48

### STORM WATER CONTROL

#### Sections:

- 14.48.010 Purpose.**
- 14.48.020 Applicability**
- 14.48.030 Improvements Required**

#### **14.48.010 Purpose.**

The purposes of the requirements of this chapter are to:

Prevent water quality degradation and prevent erosion and sedimentation of creeks, streams, bay and other water bodies;

Prevent damage to property from increased runoff rates and volumes;

Establish sound developmental policies which protect and preserve the city's water resources;

Protect city streets and rights-of-way from damage due to inadequately controlled runoff and erosion;

Preserve and enhance the aesthetic quality of the City's water resources;

Protect the health, safety and welfare of the inhabitants of the city;

Further the goals of no net negative impact caused by quantity of runoff entering streams and no net negative change in the quality of runoff entering streams through the implementation of best management practices; and

Minimize erosion and control sediment from land development and land disturbing activities.

#### **14.48.020 Applicability.**

Stormwater runoff from all improved areas of a development or redevelopment site resulting in 2,500 ft<sup>2</sup> of impervious surface shall be treated in accordance with the Best Management Practices (BMP) published in the most current edition of the California Stormwater Quality Association's Best Management Practices Handbook.

For the purpose of water quality design, peak flows BMPs shall be designed to treat the runoff from 28% of the 2-year storm event and volumetric BMPs shall be designed to treat the runoff from a 1 inch/24 hour storm event.

For the purposes of water quantity design, peak runoff shall be managed to prevent any significant increase in downstream peak flows, including 2-year, 10-year, 50-year, and 100-year events. Significant is an increase of over 5 percent at and immediately downstream of the project site. Roof areas and roof replacement are exempt from this water quality requirement.

For the purpose of this section, redevelopment means on an already developed parcel, the creation or addition of impervious surfaces; structural development including construction, installation or expansion of a building or other structure and/or replacement of impervious surface that is not part of a routine maintenance activity; and land-disturbing activities associated with structural or impervious redevelopment that results in a total of 2,500 ft<sup>2</sup> of impervious surface.

For the purposes of Erosion and Sediment Control, development or redevelopment of sites less than one-half acre or less than 15 percent average slope shall require a standard erosion control plan; on sites one-half acre or greater or 15 percent average slope or greater a detailed erosion control plan is required. Sites greater than one acre will require a Construction Permit issued by the State and a Stormwater Pollution Prevention Plan (SWPPP). The SWPPP shall be submitted to the City for approval prior to construction.

**14.48.030 Improvements required.**

Property owners and/or applicants for development permits shall at their own expense design, construct and install stormwater control facilities meeting the requirements of 14.48.020 pursuant the City's Engineering Standards and Specifications and the California Stormwater Quality Association's Best Management Practice Manual or as approved by the City Engineer. Erosion and sediment control measures shall be in place from October 1 through April 30 of each year.

## Chapter 14.52

### MARINE DOCKS AND STRUCTURES

#### Sections:

<b>14.52.010</b>	<b>Floating docks.</b>
<b>14.52.020</b>	<b>Definitions.</b>
<b>14.52.030</b>	<b>Permits required.</b>
<b>14.52.040</b>	<b>Application for permit.</b>
<b>14.52.050</b>	<b>Parking requirements.</b>
<b>14.52.060</b>	<b>Safety.</b>
<b>14.52.070</b>	<b>Sanitation.</b>
<b>14.52.080</b>	<b>Floating dock construction.</b>
<b>14.52.090</b>	<b>Large floating dock construction.</b>
<b>14.52.100</b>	<b>Small private floating dock construction.</b>
<b>14.52.110</b>	<b>Materials except for private floating docks.</b>
<b>14.52.120</b>	<b>Flotation for all floating docks.</b>
<b>14.52.130</b>	<b>Gangway design.</b>

#### **14.52.010 Floating docks.**

The intent of this chapter is to regulate floating docks and marina construction as defined in this chapter within the city limits. The design and specification criteria is in addition to all other city codes, ordinances and rules and regulations and is in addition to applicable laws or statutes of the United States or the state and to any applicable rule, regulation, or order of any state or federal agency. (Ord. 37 § 1 (part), 1965: prior code § 4270)

#### **14.52.020 Definitions.**

A. "Floating dock" means a moorage for boats, ships and sailing vessels supported by a buoyant method acceptable to this chapter which may or may not be attached to land. For purposes of this chapter, floating docks are further classified in this section as public floating docks and private floating docks limited to single family use.

B. "Floating marina" means a moorage defined as a floating dock which has buildings or equipment and/or structures on it used for service to boats. (Ord. 37 § 1 (part), 1965: prior code § 4271)

#### **14.52.030 Permits required.**

It is unlawful for any person to commence, or cause to be commenced, any construction of any floating dock or marina or other similar work governed by this chapter without having first obtained a permit evidencing approval of the city building department of all construction plans, specifications and schematic and working drawings pursuant to which such structure is to be constructed, all as provided in this chapter. After the issuance of such permit and approval of such plans and specifications and other documents, the construction of such approved structure or facility shall be in strict compliance with such approved plans, specifications and documents. See Master Fee Schedule. (Ord. 225 § 78, 1982; Ord. 37 § 1 (part), 1965: prior code § 4272(a))

#### **14.52.040 Application for permit.**

The applicant for a permit for the construction of any floating dock or marina or other facility of a similar nature governed by this chapter shall submit to the planning and building department of the city the following:

A. Three copies each of the plot plan (including the parking layout), full construction plans and specifications, complete working drawings, schematic drawings of electrical and mechanical work, and other similar documents;

B. Evidence that an encroachment permit has been obtained from the city if the construction work is to be done on or abutting city property;

C. Evidence that the applicant has the approval of the owner of the property over which the facility is to be located and the abutting land area to construct such facility;

D. Evidence that the applicant has complied with all applicable statutes and laws of the United States, or the state, and with all applicable rules, regulations and orders of any state or federal agency;

E. Where the approval of any other city or county department or agency is required, evidence that such approval has been obtained;

F. Where the applicant seeks a permit for construction of a floating marina or any floating dock in excess of four hundred square feet in area or fifty feet in length measured perpendicular to the shoreline, evidence that a licensed civil engineer has prepared the plans and specifications for the construction thereof;

G. The complete design criteria on which the plans and specifications for such facility are based, including the severity of the design wave action; and

H. Any other information reasonably required by the planning and building department in order to evaluate the proposed facility. (Ord. 37 § 1 (part), 1965: prior code § 4272(b))

#### **14.52.050 Parking requirements.**

A. Commercial boat docking facilities shall provide one vehicle parking space for each one and one-half mooring spaces and/or each twenty-five lineal feet of dock, plus one added space for each two employees. Parking spaces shall be located within one thousand feet of the mooring or dock spaces.

B. Parking requirements for commercial facilities housed in buildings, such as restaurants, which are used in conjunction with a marina or dock facility shall be the same as required by Title 17, zoning.

C. All other parking shall conform to the standards established in Title 17, zoning. (Ord. 66 § 16, 1967; Ord. 37 § 1 (part), 1965: prior code § 4273)

#### **14.52.060 Safety.**

Firefighting appliances and equipment shall be provided and maintained in an operable manner for all commercially operated marinas and dock facilities, as specified by ordinances of the city, and all installations shall be subject to the approval of the chief of the fire department.

Domestic water service to any floating facility shall meet minimum requirements established by the department of public works, and the county health department and such approval shall be made a part of the construction plans.

All commercial piers, floats and docks used for loading of passengers shall be illuminated at a minimum five footcandle level for all such loading areas.

All railing on floating facilities shall be designed for a minimum twenty pound lineal foot horizontal load applied at the top railing. The minimum height of the railing shall be forty-two inches above adjacent floor level. (Ord. 37 § 1 (part), 1965: prior code § 4274)

#### **14.52.070 Sanitation.**

Removal of sewage from floating facilities shall be subject to the approval of the department of public works and the county health department and approval of the method of disposal desired shall be obtained at the time the construction plans are submitted. In addition to other sanitary requirements for buildings, all public floating docks or floating marinas shall have a minimum of two restroom facilities (one for male and one for female) for each seventy-five mooring spaces available. The maximum walking distance from boat berth to restroom shall not exceed four hundred feet. (Ord. 37 § 1 (part), 1965: prior code § 4275)

**14.52.080 Floating dock construction.**

Construction requirements for a floating dock less than two thousand square feet, except private floating docks less than four hundred square feet, are as follows:

Pier width	— 4'0" minimum
Gangway width	— 3'0" minimum
Main access width	— 6' for finger floats 35' or less in length. 8' for over 35' finger length or when main access float exceeds 350'.
Finger float width	— 3' minimum for 30' or less in length. 4' minimum for over 30' in length.

All docks shall be designed for boat moorage on at least one side of the boat unless otherwise approved by the building official. Guardrails shall be provided on all access piers and gangways and floats intended for gathering places such as food distribution areas and similar service areas.

The clear water dimension between opposing rows of finger floats shall be a minimum of 1.75 times the length of the longest finger float. (Ord. 37 § 1 (part), 1965: prior code § 4276.1)

**14.52.090 Large floating dock construction.**

Construction requirements for large floating docks (over two thousand square feet of float area) are as follows:

Pier width	— 8'0" minimum.
Gangway width	— 4'0" minimum.
Fueling float or similar service areas	— 10' minimum width.
Finger floats	— 4'0" minimum width.

The clear water dimensions between opposing rows of finger floats shall be a minimum of two times the length of the longest finger float.

Guide piles shall be installed at ends of all fingers attached to outboard end of main access float and at all floats exceeding thirty-five feet in length in ocean waters and inland waters not subject to fluctuation. Maximum spacing of guide piles for main floats shall be forty feet. Piles shall meet the requirements of the Uniform Building Code. (Ord. 37 § 1 (part), 1965: prior code § 4276.2)

**14.52.100 Small private floating dock construction.**

Small private floating docks (less than four hundred square feet, etc.) shall meet flotation and anchorage requirements of this chapter. (Ord. 37 § 1 (part), 1965: prior code § 4276.3)

**14.52.110 Materials except for private floating docks.**

Flotation units shall be made of one of the following types of material: Concrete, pressure molded fiberglass, reinforced plastic, or an expanded cellular plastic material coated with an approved material to prevent physical or chemical damage.

Iron and steel parts shall be heavily galvanized or equally protected with a corrosion resistant coating.

Deck surfaces may be either concrete, plastic or wood. Lumber shall be a minimum of one and five-eighths inches net thickness. Plywood shall be marine exterior of three-fourths inches minimum thickness. All surfaces shall have a nonslip finish.

All lumber shall receive a full cell process salt preservative treatment in accordance with the specifications of the American Wood Preservers' Association. (Ord. 37 § 1 (part), 1965: prior code § 4277)

**14.52.120 Flotation for all floating docks.**

A. Design Loads. All portions of facility shall be designed to resist full dead load plus live loads. All buoyant units shall resist full design loads with maximum seventy-five percent submergence of unit.

B. Lateral Loads. All portions of facility shall be designed according to minimum requirements of the Uniform Building Code.

C. Vehicular Loads. All portions of facility shall be designed in accordance with the standard specifications for highway bridges as adopted by the American Association of State Highway Officials.

D. Finger Floats and Main Access Floats. The minimum design live load shall be fifteen pound square feet or a five hundred pound concentrated load on one square foot at any location, whichever causes the worst condition.

E. Fueling floats and Similar Service Area Floats. The minimum design live load shall be twenty pound square feet or a five hundred pound concentrated load on one square foot at any location, whichever causes the worst condition. (Ord. 37 § 1 (part), 1965: prior code § 4278)

**14.52.130 Gangway design.**

Gangways shall be provided at the end of all main floats. Where the gangway rests on the main float, adequate width shall be provided at the main float to provide clear width of eight feet on one side or four feet on each side of the gangway to the edge of the main float.

Gangways shall be designed for a live load of fifty pound square feet minimum. Special float conditions may require a greater live load to be considered, subject to the approval of the building official. (Ord. 37 § 1 (part), 1965: prior code § 4279)

## Chapter 14.56

### MOVING BUILDINGS

#### Sections:

14.56.010	Scope.
14.56.020	Permit application.
14.56.030	Conditions prohibiting issuance of permit.
14.56.040	Restorable buildings permitted.
14.56.050	Investigations and appeal.
14.56.060	Terms and conditions of permit.
14.56.070	Form of terms and conditions.
14.56.080	Notice of moving.
14.56.090	Time of issuance.
14.56.100	Protests filed.
14.56.110	Place of filing.
14.56.120	Forwarding of protests.
14.56.130	Term of denial.
14.56.140	Conditions and terms of council action.
14.56.150	Procedure for moving building—Posting of bonds.
14.56.160	Terms of bond.
14.56.170	Deposits allowed.
14.56.180	Conditions of permits mandatory.
14.56.190	Termination of bond.
14.56.200	Refunds.
14.56.210	Default.
14.56.220	Contents of notice.
14.56.230	Required performance.
14.56.240	Work by contract.
14.56.250	Inspection.
14.56.260	Completion by surety.
14.56.270	Building permit fee required.
14.56.280	Application fee required.
14.56.290	Moving application and inspection fees designated.
14.56.300	Building permit fee—Refund.
14.56.310	Penalty payments.

#### **14.56.010 Scope.**

A person shall not relocate on or move onto any premises or lot within the incorporated area of the city any building, house or other structure, except a contractor's tool house, construction building or similar structure which is moved as construction requires, until he first obtains from the planning and building department a permit for such moving, and building permit for necessary and required alterations, repairs, and additions. Transit permits are required by both the city and the state for moving buildings on public roads. (Ord. 36 § 1 (part), 1966: prior code § 4500)

#### **14.56.020 Permit application.**

Every application for a moving permit shall be in writing upon a form furnished by the building official and shall set forth such information as the building official may reasonably require in order to carry out the purpose of this chapter. (Ord. 36 § 1 (part), 1966: prior code § 4501)

**14.56.030 Conditions prohibiting issuance of permit.**

Except as otherwise provided in this chapter, the building official shall not issue a moving permit for any building or structure which:

- A. Is so constructed or in such condition as to be dangerous;
- B. Is infested with pests or is unsanitary;
- C. If it is a dwelling for habitation, is unfit for such use;
- D. Is so dilapidated, defective, unsightly or in such condition of deterioration or disrepair that its relocation at the proposed site would cause appreciable harm to or be materially detrimental to the property or improvements in the district;
- E. Is intended for a use which is prohibited by any zoning ordinance, land use or any other ordinances;
- F. If the structure is of a type prohibited at the proposed location by this or by any other law or ordinance. (Ord. 36 § 1 (part), 1966: prior code § 4502)

**14.56.040 Restorable buildings permitted.**

If the condition of the building or structure in the judgment of the building official admits of practicable and effective repair he may issue a moving permit upon conditions as provided in this chapter. (Ord. 36 § 1 (part), 1966: prior code § 4503)

**14.56.050 Investigations and appeal.**

With respect to any application under this chapter, the building official may make or cause to be made any investigation which he believes necessary or helpful in order to carry out the purpose of this chapter, and he may petition to the city council for instructions as to any matter involving any such application. (Ord. 36 § 1 (part), 1966: prior code § 4504)

**14.56.060 Terms and conditions of permit.**

The building official shall grant or deny the application in compliance with this code unless a protest is filed as provided in this chapter. Prior to the issuance of a moving permit, the building official shall impose thereon such terms and conditions as are necessary to make the building or structure comply with all the requirements of the building regulations of the city, and may impose thereon such other terms and conditions as he may deem reasonable and proper, including, but not limited to the requirements of changes, alterations, additions or repairs to be made to or upon the building or structure, to the end that the moving thereof will not be materially detrimental or injurious to public health, safety or welfare or to the property and improvements, or either, in the district to which it is to be moved. (Ord. 36 § 1 (part), 1966: prior code § 4505)

**14.56.070 Form of terms and conditions.**

The terms and conditions upon which each permit is granted shall be written upon the application or appended in writing thereto. (Ord. 36 § 1 (part), 1966: prior code § 4506)

**14.56.080 Notice of moving.**

When such application is filed with the required information, the building official shall cause moving notice cards to be posted for fifteen consecutive days upon the building or structure to be moved and at the premises where the building or structure is to be moved. (Ord. 36 § 1 (part), 1966: prior code § 4507)

**14.56.090 Time of issuance.**

No permit shall be issued before the expiration of fifteen days from the date of the posting of the moving notice cards. (Ord. 36 § 1 (part), 1966: prior code § 4508)

**14.56.100 Protests filed.**

Any protest against the moving of said building or structure shall be filed within fifteen days of the posting of the moving notice cards and shall be signed by two or more individual property owners of the surrounding area, within one thousand feet of the site. The applicant may protest the decision of the building official granting or denying the application or imposing restrictions or conditions thereon within ten days of such decision of such building official. (Ord. 36 § 1 (part), 1966: prior code § 4509)

**14.56.110 Place of filing.**

Any protest shall be in writing and filed in the office of the building official of the city. (Ord. 36 § 1 (part), 1966: prior code § 4510)

**14.56.120 Forwarding of protests.**

The building official shall cause such protest to be presented to the city council at the first regular meeting period. Upon the protest being received by the city council, the council may set a date for hearing the protest, and the council may appoint a committee, which committee may consist partly or entirely of members of the council or consist entirely of nonmembers of the council, to investigate the protest and recommend to the city council at such hearing whether or not the building or structure shall be moved. Notice of the hearing shall be published at least once in a newspaper of general circulation within the city at least ten days prior to such hearing, or, in the alternative, the city clerk may notify the applicant and all protestants who have filed protests against such application by ordinary mail, addressed to the last known address of the applicant and such protestants as shown on the protests filed with the building official at least ten days prior to said hearing. Such hearing may be continued from time to time at the discretion of the city council. Within thirty days after the close of such hearing, the city council shall grant or deny such application. (Ord. 36 § 1 (part), 1966: prior code § 4511)

**14.56.130 Term of denial.**

In the event the city council denies the application after notice and hearing, a second application to move the same building or structure to the same property and address shall not be applied for, nor permit granted therefor, within six months from and after the date of the city council's denial of the application to move the building or structure. (Ord. 36 § 1 (part), 1966: prior code § 4512)

**14.56.140 Conditions and terms of council action.**

In the event that the city council grants the application after notice and hearing, the building official shall issue a permit therefor, subject to such terms and conditions as may be imposed, providing all other requirements of this chapter have been fulfilled. (Ord. 36 § 1 (part), 1966: prior code § 4513)

**14.56.150 Procedure for moving building—Posting of bonds.**

The building official shall not issue a moving permit unless the owner of the building or a licensed contractor shall first post with the building official a bond executed by the permittee, as principal, and by a surety company authorized to do business in the state, as surety, or makes a deposit as provided in this chapter. (Ord. 36 § 1 (part), 1966: prior code § 4514)

**14.56.160 Terms of bond.**

The surety bond required by this chapter shall:

- A. Be in form joint and several;
- B. Name the city of Morro Bay as obligee;

C. Be in the amount equal to the estimated cost plus ten percent of the work required to be done in order to comply with all the conditions of the moving permit, such estimate to be approved by the building official. (Ord. 36 § 1 (part), 1966: prior code § 4515)

**14.56.170 Deposits allowed.**

The deposit, if made in place of the surety bond, shall also be equal to the cost plus ten percent of such work. (Ord. 36 § 1 (part), 1966: prior code § 4516)

**14.56.180 Conditions of permits mandatory.**

Every bond posted and every deposit made pursuant to this chapter shall be conditioned as follows:

A. That each and all of the terms and conditions of the moving permit shall be complied with to the satisfaction of the building official;

B. That all of the work required to be done pursuant to the conditions of the moving permit shall be fully performed and completed within the time limit specified in the moving permit. If no time limit is specified, the work shall be completed within ninety days after the date of this issuance of the moving permit. The time limits herein specified or the time limit specified in any permit issued within the provisions of this section may be extended for good and sufficient cause, either before or after said time period has expired, by a written order of the building official. (Ord. 36 § 1 (part), 1966: prior code § 4517)

**14.56.190 Termination of bond.**

The terms of each bond posted pursuant to this chapter shall end upon the completion to the satisfaction of the building official of the performance of all the terms and conditions of the moving permit. (Ord. 36 § 1 (part), 1966: prior code § 4518)

**14.56.200 Refunds.**

When a cash bond has been posted, the building official shall authorize the return of the cash to the depositor or to his successors or assigns upon the termination of the bond, except any portion thereof that may have been used or deducted as elsewhere in this chapter provided. (Ord. 36 § 1 (part), 1966: prior code § 4519)

**14.56.210 Default.**

Whenever the building official finds that a default has occurred in the performance of any term or condition of any moving permit, he shall give written notice thereof to the principal and to the surety on the bond. Such notice shall be served upon the principal and the surety by depositing the same in the United States mail, postage prepaid, addressed to the recipient at the last known address as shown by the records of the building official. Such notice shall be deemed to be given on the date such notice is so deposited in the United States mail. (Ord. 36 § 1 (part), 1966: prior code § 4520)

**14.56.220 Contents of notice.**

In a notice of default the building official shall state the work to be done, the estimated cost thereof, and the period of time deemed by him to be reasonably necessary for the completion of such work. (Ord. 36 § 1 (part), 1966: prior code § 4521)

**14.56.230 Required performance.**

Within the time specified in the notice of default, the surety shall cause the required work to be performed. (Ord. 36 § 1 (part), 1966: prior code § 4522)

**14.56.240 Work by contract.**

If a cash bond has been posted, the building official shall give notice of default, as provided in Sections 14.56.210 and 14.56.220, to the principal, and if compliance is not had within the time specified, the building official shall proceed without delay and without further notice or proceeding whatever, to use the cash deposit or any portion of said deposit to cause the required work to be done by contract or otherwise in his discretion. The balance, if any, of cash deposit, upon completion of the work, shall be

returned to the depositor or to his successors or assigns after deducting the cost of the work plus ten percent thereof. (Ord. 36 § 1 (part), 1966: prior code § 4523)

**14.56.250 Inspection.\***

The building official, the surety and the duly authorized representatives of either shall have access to the premises described in the moving permit for the purpose of inspecting the progress of work. (Ord. 36 § 1 (part), 1966: prior code § 4524)

\* For specific provisions regarding right of entry, see Chapter 1.08 of this code.

**14.56.260 Completion by surety.**

In the event of any default in the performance of any term or condition of the moving permit, the surety or any person employed or engaged on its behalf or any persons employed or engaged on his behalf, may enter upon the premises to complete the required work or to remove the building or structure pursuant to the terms and conditions of the permit. (Ord. 36 § 1 (part), 1966: prior code § 4525)

**14.56.270 Building permit fee required.**

Before a permit is issued for the moving of a building or structure, a building permit shall be applied for and a fee therefor in accordance with the Master Fee Schedule should be paid to the planning and building department in accordance with the fee schedules set forth in Sections 14.16.030, 14.16.070 and 14.16.080. (Ord. 225 § 79, 1982; Ord. 36 § 1 (part), 1966: prior code § 4526.1)

**14.56.280 Application fee required.**

In addition to the building permit fees in Section 14.56.270, an application fee shall accompany each application to cover costs of processing said application, inspection of the building and premises, route approval and other matters in connection therewith and said fee shall not be refunded in the event that said application is denied or is for any reason withdrawn. (Ord. 36 § 1 (part), 1966: prior code § 4526.2)

**14.56.290 Moving application and inspection fees designated.**

Moving application and inspection fees shall be as follows:

A. For moving a building or structure from one location to another location within the city the fee shall be in accordance with the Master Fee Schedule;

B. For moving a building or structure from an area outside of the city into the city the fee shall be in accordance with the Master Fee Schedule. (Ord. 225 §§ 80 and 81, 1982; Ord. 36 § 1 (part), 1966: prior code § 4526.3)

**14.56.300 Building permit fee—Refund.**

In the event that the building permit hereunder is denied or withdrawn, or for any other reason upon good cause shown, the building official may authorize a refund to the applicant of the building permit fees theretofore paid; provided, however, that the moving application and inspection fee shall not be refunded. (Ord. 36 § 1 (part), 1966: prior code § 4526.4)

**14.56.310 Penalty payments.**

Failure to obtain a permit in accordance with this chapter before moving the building shall cause a penalty of double fees to be assessed against the applicant or removal of the building or prosecution of any violator as set forth in Chapter 1.16 or any combination of such penalties. Said penalty payments shall not relieve any persons from fully complying with other requirements of this chapter. (Ord. 36 § 1 (part), 1966: prior code § 4526.5)



## Chapter 14.62

### SELF-INSPECTION FIRE SAFETY PROGRAM

Sections:

<b>14.62.010</b>	<b>Purpose and intent.</b>
<b>14.62.020</b>	<b>Business Group B premises defined.</b>
<b>14.62.030</b>	<b>Established.</b>
<b>14.62.040</b>	<b>Functions.</b>
<b>14.62.050</b>	<b>Violation—Penalty.</b>
<b>14.62.060</b>	<b>Liability for damages.</b>

#### **14.62.010 Purpose and intent.**

It is the purpose of this chapter, by the creation of a fire safety self-inspection program, to promote the public health, safety and welfare by better protecting the citizens of Morro Bay from the dangers to life and property caused by fire and panic. The new program will:

- A. Better insure that regular annual inspections of premises within the city occur;
- B. Provide better fire prevention and fire prevention education to the public;
- C. Minimize expenditure of public money for annual inspections of premises within the city;
- D. Minimize inconvenience and work interruptions to owners of premises to be inspected. (Ord.

315 § 1, 1987)

#### **14.62.020 Business Group B premises defined.**

The term “Business Group B premises,” as used in this chapter, means those drinking and dining establishments having an occupant load of less than fifty, wholesale and retail stores, office buildings, printing plants, municipal police and fire stations, factories and workshops using materials not highly flammable or combustible, storage and sales rooms for combustible goods, paint stores without bulk handling and buildings or portions of buildings having rooms used for educational purposes beyond the twelfth grade with less than fifty occupants in any room, all as defined in Section 202 of the California Fire Code. (Ord. 315 § 3, 1987)

#### **14.62.030 Established.**

A fire safety self-inspection program is established to be administered and conducted as set forth in this chapter. (Ord. 315 § 2, 1987)

#### **14.62.040 Functions.**

A. The fire department has authority to prepare and distribute self-inspection worksheet forms to the owner or person having control of each of the Business Group B premises within the city on an annual basis.

B. The owner or person having control of the premises shall conduct an inspection for fire safety following directions contained within the self-inspection forms, complete such forms and return completed forms to the fire department within fifteen calendar days from issue date, as shown on the self-inspection worksheet. (Ord. 315 § 4, 1987)

#### **14.62.050 Violation—Penalty.**

Failure to conduct the required inspection to complete and/or return the self-inspection worksheets within the time specified shall constitute a misdemeanor/infraction punishable as set forth in Title 1 of this code. Any person knowingly or intentionally misrepresenting any material fact on the self-inspection forms is guilty of a misdemeanor/infraction punishable as set forth in Title 1 of this code. (Ord. 315 § 5, 1987)

**14.62.060 Liability for damages.**

This code shall not be construed to hold the public entity or any officer or employee responsible for any damage to persons or property by reason of the inspection or re-inspection authorized in this chapter, or by reason of the approval or disapproval of any equipment or process authorized in this chapter, or for any action in connection with the control or extinguishment of any fire or in connection with any other official duties. (Ord. 315 § 6, 1987)

## Chapter 14.68

### WELLS

#### Sections:

<b>14.68.010</b>	<b>Purpose.</b>
<b>14.68.020</b>	<b>Definitions.</b>
<b>14.68.030</b>	<b>Permit required.</b>
<b>14.68.040</b>	<b>Chapter and permit compliance required.</b>
<b>14.68.050</b>	<b>Construction of individual domestic wells.</b>
<b>14.68.060</b>	<b>Permit applications.</b>
<b>14.68.070</b>	<b>Permit application fees.</b>
<b>14.68.080</b>	<b>Expiration of permit.</b>
<b>14.68.090</b>	<b>Permit qualification.</b>
<b>14.68.100</b>	<b>Bonds.</b>
<b>14.68.110</b>	<b>Conditions.</b>
<b>14.68.120</b>	<b>Term, completion of work.</b>
<b>14.68.130</b>	<b>Reports.</b>
<b>14.68.140</b>	<b>Appeal procedure.</b>
<b>14.68.150</b>	<b>Inspection.</b>
<b>14.68.160</b>	<b>Standards.</b>
<b>14.68.170</b>	<b>Public nuisance.</b>
<b>14.68.180</b>	<b>Immediate abatement.</b>

#### **14.68.010 Purpose.**

It is the purpose of this chapter to provide for the construction, repair, modification and destruction of wells in such a manner to safeguard the municipal water system and to prevent reduction of capacity of city owned and/or operated wells, and that the ground water of the city will not be contaminated or polluted and that water obtained from wells will be suitable for beneficial use and will not jeopardize the health, safety or welfare of the people of the city. (Ord. 111 § 1 (part), 1973: prior code § 3400)

#### **14.68.020 Definitions.**

For the purpose of this chapter, the following words and phrases are defined and shall be construed as hereinafter set out, unless it is apparent from the content that they have a different meaning:

A. "Abandoned" or "abandonment" apply to a well which had not been used for a period of one year, unless the owner declares in writing to the health officer, through the director of public works, his intention to use the well again for supplying water or other associated purpose (such as an observation well or injection well) and received approval of such declaration. All such declarations shall be renewed annually. Test holes and exploratory holes shall be considered abandoned twenty-four hours after construction work has been completed, unless otherwise approved by the health officer.

B. "Agricultural wells" means water wells used to supply water for irrigation or other agricultural purposes, including stock wells.

C. "Cathodic protection wells" means any artificial excavation in an aquifer or in excess of fifty feet, constructed by any method for the purpose of installing equipment or facilities for the protection electrically of metallic equipment in contact with the ground commonly referred to as cathodic protection.

D. "Community water supply well" means a water well for domestic purposes in systems subject to Chapter 7 of Part 1 of Division 5 of the California Health and Safety Code.

E. "Completion" or "completion operation" means any work conducted after artificial excavation to include:

1. Placement of well casing;
2. Gravel packing;
3. Sealing;
4. Casing perforation; or
5. Other operations deemed necessary by the health officer.

F. "Contamination" means an impairment of the quality of water to a degree which creates a hazard to the public health through poisoning or through spread of disease.

G. "Destruction" or "destroy" means the complete filling of a well in such a manner that it will not produce water or act as a conduit for the interchange of water, when such interchange will result in deterioration of the quality of water in any water-bearing formations penetrated.

H. "Electrical grounding well" means any artificial excavation in an aquifer or in excess of fifty feet, constructed by any method for the purpose of establishing an electrical ground.

I. "Health officer" means the San Luis Obispo county health officer, his medical deputies, his sanitarians, or his duly authorized representatives shall perform the duties as the Morro Bay health officer in accordance with Section 1.04.130 of this code.

J. "Individual domestic well" means a water well used to supply water for domestic needs of an individual residence or commercial establishment.

K. "Industrial wells" means water wells used to supply industry on an individual basis.

L. "Modification" or "repair" means the deepening of a well, re-perforation, sealing or replacement of a well casing.

M. "Observation well" means a well used for monitoring or sampling the condition of a water-bearing aquifer, such as water pressure, depth, movement or quality.

N. "Person" includes any person, firm, association, corporation, organization, partnership, business trust, company, or special district formed under the laws of the state.

O. "Pollution" means an alteration of the quality of water to a degree which unreasonably affects:

1. Such water for beneficial uses; or
2. Facilities which serve beneficial uses.

Pollution may include contamination.

P. "Public nuisance" when applied to a well, means any well which threatens to impair the quality of ground water or otherwise jeopardize the health and safety of the public.

Q. "Salt water (hydraulic) barrier wells" means wells constructed to extract or introduce water into the ground as a means of preventing intrusion of salt water into a fresh water-bearing aquifer.

R. "Test or exploratory hole" means an excavation used for determining the nature of underground geological or hydrological conditions, whether by seismic investigation, direct observation or any other means.

S. 1. "Well" means any artificial excavation constructed by any method for the purpose of extracting water from or injecting water into, the underground, or for providing cathodic protection or electrical grounding of equipment, or for making tests or observations of underground conditions, or for any other similar purpose. Wells include, but are not limited to:

- a. Community water supply wells;
  - b. Individual domestic wells;
  - c. Industrial wells;
  - d. Cathodic protection wells;
  - e. Electrical grounding wells;
  - f. Test and exploratory holes;
  - g. Observation wells;
  - h. Salt water (hydraulic barrier wells) as defined herein;
  - i. Agricultural wells;
  - j. Other wells whose regulation is necessary to fulfill the purpose of this chapter.
2. This definition shall not include:

- a. Oil and gas wells, or geothermal wells constructed under the jurisdiction of the State Department of Conservation, except those wells converted to use as water wells; or
- b. Wells used for the purpose of:
  - i. Dewatering excavation during construction, or
  - ii. Stabilizing hillsides or earth embankments; or
- c. The following artificial excavations:
  - i. Drill holes for soil testing purposes where such holes are less than twenty-five feet in depth,
  - ii. Holes or excavations for soil percolation tests,
  - iii. Drill holes for seismic exploration where such drill holes are less than twenty-five feet in depth,
  - iv. Excavations for drainage percolation ponds or spreading basins.

T. "Well drilling contractor" means a contractor licensed in accordance with the provisions of the California Contractor's Law, Chapter 9, Division 3, of the Business and Professions Code, commencing with Section 7000. (Ord. 118 § 2, 1973; Ord. 111 § 1 (part), 1973: prior code § 3401)

#### **14.68.030 Permit required.**

No person shall, within the incorporated area of the city, construct, repair, modify or destroy any well unless such person possesses a valid permit issued by the health officer of the city as provided in this chapter. (Ord. 111 § 1 (part), 1973: prior code § 3402a)

#### **14.68.040 Chapter and permit compliance required.**

No person shall construct, repair, modify or destroy any well unless such construction, repair, modification or destruction is in conformance with the terms, conditions, and standards specified in this chapter and in the written permit issued by the health officer. (Ord. 111 § 1 (part), 1973: prior code § 3402b)

#### **14.68.050 Construction of individual domestic wells.**

The construction of individual domestic wells within the incorporated area of the city is prohibited unless a permit to do so is first obtained from the health officer and the city council. Any person may apply for said permit by submitting an application in accordance with Section 14.68.060. In addition to the provision of Section 14.68.060 the application shall include, but is not limited to the following:

- A. A statement as to why water cannot be obtained from the city water system; and
- B. Quantities and use of the water to be developed.

The city council shall consider the application within thirty days of its receipt by the director of public works at which time it may approve the application if in its discretion the drilling of the well and the operation thereof will not deplete nor contaminate the city water supply, and that service from the municipal water system is neither practicable nor feasible. If the council grants a permit for the well, it may impose thereon reasonable conditions to prevent depletion and contamination of the city water supply and to protect the public health, safety and general welfare. In no case shall such conditions be less restrictive than the conditions specified herein. (Ord. 111 § 1 (part), 1973: prior code § 3402c)

#### **14.68.060 Permit applications.**

Applications for permits shall be made to the health officer through the director of public works of the city and shall include the following:

- A. A plot plan indicating the exact location of the well with respect to the following items within a radius of two hundred feet of the well:
  - 1. Property lines;
  - 2. Sewage disposal systems or works carrying or containing sewage or industrial wastes;
  - 3. All intermittent or perennial, natural or artificial water bodies or water courses;
  - 4. Drainage pattern of the property;

5. Existing wells;
6. Access roads;
- B. Location of the property (Include township, range and section);
- C. Name of person who will construct the well;
- D. Estimated or proposed depth of well;
- E. Use of well;
- F. Other information as may be necessary to determine if underground waters will be protected.

(Ord. 111 § 1 (part), 1973: prior code § 3403)

**14.68.070 Permit application fees.**

Every permit application except those made by a public agency shall be accompanied by a fee. See Master Fee Schedule. No part of the fee is refundable. (Ord. 225 § 86, 1982; Ord. 111 § 1 (part), 1973: prior code § 3404a)

**14.68.080 Expiration of permit.**

Each permit issued pursuant to this chapter shall expire within six months following the issuance of the permit. Upon expiration of any permit issued pursuant hereto, no further work may be done in connection with the construction, repair, modification, or abandonment of a well unless and until a new permit for such purpose is secured in accordance with the provisions of this chapter. (Ord.111 § 1 (part), 1973: prior code § 3404b)

**14.68.090 Permit qualification.**

No permit shall be issued to any person who is not a well drilling contractor; provided, that a permit may be issued to an owner or occupant of property who does the work of construction, repair, modification or destruction of a well located on such property himself or through his own employees; and provided further that a permit may be issued to any person exempt from the provisions of the Contractor's License Law, Chapter 9, Division 3, of the Business and Professions Code, commencing with Section 7000. (Ord. 111 §1 (part), 1973: prior code § 3405)

**14.68.100 Bonds.**

As a condition precedent to the issuance of a permit, every applicant for a permit shall file or have on file with the city a corporate surety bond in the sum of two thousand five hundred dollars issued by a surety company licensed to do business in the state, or in lieu thereof, a cash deposit in the sum of two thousand five hundred dollars.

As used in this section, the term "cash deposit" includes, without limitation, certificates of deposit payable to the city issued by banks doing business in the state, investment certificates or share accounts assigned to the city and issued by savings and loan associations doing business in the state, or bearer bonds issued by the United States Government or by the state.

Said surety bond shall be conditioned to secure the compliance and faithful performance by the permittee of the terms, conditions and standards imposed by this chapter, or by any permit issued hereunder.

If cash is deposited in lieu of such bond, said cash deposit shall secure the compliance and faithful performance by the permittee of the terms, conditions and standards imposed by this chapter, or by any permit issued hereunder. (Ord. 111 § 1 (part), 1973: prior code § 3406)

**14.68.110 Conditions.**

Permits shall be issued subject to compliance with the standards provided in Section 14.68.160. (Ord. 111 § 1 (part), 1973: prior code § 3407)

**14.68.120 Term, completion of work.**

The permittee shall complete the work authorized by the permit prior to the expiration date set forth in the permit. The permittee shall notify the health officer in writing upon completion of the work and such work shall not be deemed to have been completed until such written notification has been received. (Ord. 111 § 1 (part), 1973: prior code § 3408)

**14.68.130 Reports.**

A copy of the well driller report required under Section 13751, California Water Code, shall be submitted to the health officer upon completion of construction of each well. (Ord. 111 § 1 (part), 1973: prior code § 3409)

**14.68.140 Appeal procedure.**

Any person aggrieved by the refusal of the health officer to issue a permit or by the terms of a permit may appeal from the action of the health officer to the city council by filing a written notice of appeal with the city clerk. The clerk shall set the matter for hearing before the council and shall give reasonable notice of the time and place thereof to the applicant and to the health officer. The city council shall hear the evidence offered by the applicant or permittee and the health officer, and shall forthwith decide the issue. Unless the city council rescinds the health officer's action by a majority vote, his decision shall be deemed affirmed. (Ord. 111 § 1 (part), 1973: prior code § 3410)

**14.68.150 Inspection.\***

The health officer and his inspectors may at any and all reasonable times enter any and all places, property, enclosures and structures for the purpose of making examinations and investigations to determine whether any provision of this chapter is being violated. The health officer may require that each completion, modification, repair or destruction operation be inspected prior to any further work. See Master Fee Schedule. (Ord. 225 § 87, 1982; Ord. 111 § 1 (part), 1973: prior code 3411)

\* For specific provisions regarding right of entry. see Chapter 1.08 of this code.

**14.68.160 Standards.**

Standards for the construction, repair, modification or destruction of wells shall be as set forth in Chapter II of the California Department of Water Resources Bulletin No. 74, "Water Well Standards," state of California and Department of Water Resources Bulletin No. 74-1 entitled "Cathodic Protection Well Standards, State of California." (Ord. 118 § 3, 1973; Ord.111 § 1 (part), 1973: prior code § 3412)

**14.68.170 Public nuisance.**

In the event the health officer determines that a well constitutes a public nuisance, he shall abate said nuisance in accordance with the provisions of this code. (Ord. 111 § 1 (part), 1973: prior code § 3413)

**14.68.180 Immediate abatement.**

If the health officer finds that immediate action is necessary to prevent impairment of the ground water or a threat to the health or safety of the public, he may immediately abate the nuisance without complying with the provisions of this code. After abating the nuisance, the health officer shall comply with the provisions of this code. (Ord. 111 § 1 (part), 1973: prior code § 3414)

## Chapter 14.72

### FLOOD DAMAGE PREVENTION\*

#### Sections:

<b>14.72.010</b>	<b>Statutory authorization, findings of fact, purpose and methods.</b>
<b>14.72.020</b>	<b>Definitions.</b>
<b>14.72.030</b>	<b>General provisions.</b>
<b>14.72.040</b>	<b>Administration.</b>
<b>14.72.050</b>	<b>Provisions for flood hazard reduction.</b>
<b>14.72.060</b>	<b>Variance procedure.</b>

\* Prior ordinance history: Ord. 225, 306

#### **14.72.010 Statutory authorization, findings of fact, purpose and methods.**

A. Statutory Authorization. The Legislature of the state of California has in Government Code Sections 65302, 65560, and 65800 conferred upon local government units authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the city council of the city of Morro Bay does hereby adopt the following floodplain management regulations.

##### B. Findings of Fact.

1. The flood hazard areas of the city of Morro Bay are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

2. These flood losses are caused by uses that are inadequately elevated, floodproofed, or protected from flood damage. The cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities also contribute to the flood loss.

C. Statement of Purpose. It is the purpose of this chapter promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life and health;
  2. Minimize expenditure of public money for costly flood control projects;
  3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
  4. Minimize prolonged business interruptions;
  5. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;
  6. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future blighted areas caused by flood damage;
  7. Ensure that potential buyers are notified that property is in an area of special flood hazard;
- and
8. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

D. Methods of Reducing Flood Losses. In order to accomplish its purposes, this chapter includes methods and provisions to:

1. Restrict or prohibit uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

3. Control the alteration of natural floodplains, stream channels and natural protective barriers which help accommodate or channel flood waters;
4. Control filling, grading, dredging, and other development which may increase flood damage; and
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Ord. 477 (part), 1999)

#### **14.72.020 Definitions.**

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1. "Accessory use" means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.
2. "Alluvial fan" means a geomorphologic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and then deposited on the valley floors, and which is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement and deposition, and channel migration.
3. "Apex" means the point of highest elevation on an alluvial fan, which on undisturbed fans is generally the point where the major stream that formed the fan emerges from the mountain front.
4. "Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.
5. Area of Special Flood Hazard. See "Special flood hazard area."
6. "Base flood" means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used throughout this chapter.
7. "Basement" means any area of the building having its floor below grade (i.e., below ground level) on all sides.
8. "Breakaway walls" means type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic or any other suitable building material which is not part of the structural support of the building and which is designed to break away under abnormally high tides or wave action without causing any damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters. A breakaway wall shall have a safe design loading resistance of not less than ten and no more than twenty pounds per square foot. Use of breakaway walls must be certified by a registered engineer or architect and shall meet the following conditions:
  - a. Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
  - b. The elevated portion of the building shall not incur any structural damage due to the effects of wind and water loads acting simultaneously in the event of the base flood.
9. Building. See "Structure."
10. "Coastal high hazard area" means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. It is an area subject to high velocity waters, including coastal and tidal inundation or tsunamis. The area is designated on a Flood Insurance Rate Map (FIRM) as Zone V1-V30, VE, or V.
11. "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
12. "Encroachment" means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

13. "Existing manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

14. "Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

15. "Flood, flooding, or flood water" means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source.

16. "Flood boundary and floodway map (FBFM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the floodway.

17. "Flood hazard boundary map" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated the areas of flood hazards.

18. "Flood insurance rate map (FIRM)" means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

19. "Flood insurance study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.

20. "Floodplain or flood-prone area" means any land area susceptible to being inundated by water from any source. See "Flooding."

21. "Floodplain administrator" is the individual appointed to administer and enforce the floodplain management regulations.

22. "Floodplain management" means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

23. "Floodplain management regulations" means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof which provide standards for preventing and reducing flood loss and damage.

24. "Floodproofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

25. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "regulatory floodway."

26. "Floodway fringe" is that area of the floodplain on either side of the "regulatory floodway" where encroachment may be permitted.

27. "Fraud and victimization" as related to Section 14.72.060 of this chapter, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City Council will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one-hundred years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In

addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

28. “Functionally dependent use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term storage or related manufacturing facilities.

29. “Governing body” is the local governing unit, i.e. county or municipality, that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

30. “Hardship” as related to Section 14.72.060, of this ordinance means the exceptional hardship that would result from a failure to grant the requested variance. The city council requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one’s neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

31. “Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

32. “Historic structure” means any structure that is

a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register,

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district,

c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states with approved programs.

33. “Levee” means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

34. “Levee system” means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

35. “Lowest floor” means the lowest floor of the lowest enclosed area, including basement (see “basement” definition).

1. An unfinished or flood resistant enclosure below the lowest floor that is usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building’s lowest floor provided it conforms to applicable nonelevation design requirements, including, but not limited to:

a. The wet floodproofing standard in Section 14.72.050(A)(3)(C);

b. The anchoring standards in Section 14.72.050(A)(1);

c. The construction materials and methods standards in Section 14.72.050(A)(2);

d. The standards for utilities in Section 14.72.050 B.

2. For residential structures in special flood hazard areas, all subgrade enclosed areas are prohibited as they are considered to be basements (see “basement” definition). This prohibition includes below-grade garages and storage areas.

36. “Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include a “recreational vehicle.”

37. “Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

38. “Mean sea level” means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map are referenced.

39. “New construction,” for floodplain management purposes, means structures for which the “start of construction” commenced on or after the effective date of floodplain management regulations adopted by this community, and includes any subsequent improvements to such structures.

40. “New manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by this community.

41. “Obstruction” includes, but is not limited to, any dam, wall, wharf; embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

42. One-Hundred-Year Flood or 100-Year Flood. See “Base flood.”

43. “Primary frontal dune” means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively mild slope.

44. “Public safety and nuisance” as related to Section 14.72.060 of this chapter means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

45. “Recreational vehicle” means a vehicle which is:

- a. Built on a single chassis;
- b. Four hundred square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently towable by a light-duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

46. “Regulatory floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

47. “Remedy a violation” means to bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing state or federal financial exposure with regard to the structure or other development.

48. “Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

49. “Sand dunes” mean naturally occurring accumulations of sand in ridges or mounds landward of the beach.

50. "Special flood hazard area (SFHA)" means an area having special flood hazards and shown on an FHBM or FIRM as Zone A, A1-A30, AE, A99, M, V1-V30, VE or V.

51. "Start of construction" includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

52. "Structure" means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

53. "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent of the market value of the structure before the damage occurred.

54. "Substantial improvement" means any reconstruction, rehabilitation, addition, or other proposed new development of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

a. Any project for improvement of a structure to correct existing violations or state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

b. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

55. V Zone. See "Coastal high hazard area."

56. "Variance" means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this chapter.

57. "Violation" means the failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

58. "Water surface elevation" means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

59. "Watercourse" means a lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur. (Ord. 477 (part), 1999)

#### **14.72.030 General provisions.**

A. Lands to Which this Chapter Applies. This chapter shall apply to all areas of special flood hazards within the jurisdiction of the city of Morro Bay.

B. Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency (FEMA) in the Flood Insurance Study (FIS) dated November 1, 1985, and accompanying Flood Insurance Rate Map (FIRM), dated November 1, 1985, and all subsequent amendments and/or revisions, are hereby

adopted by reference and declared to be a part of this chapter. This FIS and attendant mapping is the minimum area of applicability of this ordinance and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended to the city council by the floodplain administrator. The study and FIRM are on file at the department of public works.

C. Compliance. No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the term of this ordinance and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Nothing herein shall prevent the city council from taking such lawful action as is necessary to prevent or remedy any violation.

D. Abrogation and Greater Restrictions. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. Interpretation. In the interpretation and application of this ordinance, all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

F. Warning and Disclaimer of Liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions~ Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of city council, any officer or employee thereof, the state of California, or the Federal Insurance Administration, Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

G. Severability. This chapter and the various parts thereof are hereby declared to be severable. Should any section of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter or any portion thereof other than the section so declared to be unconstitutional or invalid. (Ord. 477 (part), 1999)

#### **14.72.040 Administration.**

A. Establishment of Development Permit A development permit shall be obtained before any construction or other development begins within any area of special flood hazard established in Section 14.72.030 B. Application for a development permit shall be made on forms furnished by the floodplain administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing.

Specifically, the following information is required:

1. Proposed elevation in relation to mean sea level, of the lowest floor (including basement) of all structures; or
2. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, if required in Sections 14.72.050(A)(3)(b) and 14.72.050(A)(3)(c); and
3. All appropriate certifications listed in Section 14.72.040 C.4 of this chapter; and
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

B. Designation of the floodplain administrator. The city engineer is hereby appointed to administer, implement, and enforce this ordinance by granting or denying development permits in accord with its provisions.

C. Duties and Responsibilities of the Floodplain Administrator. The duties and responsibilities of the floodplain administrator shall include, but not be limited to the following:

1. Permit Review. Review all development permits to determine that:
    - a. Permit requirements of this ordinance have been satisfied,
    - b. The site is reasonably safe from flooding, and
    - c. The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated. For purposes of this ordinance, “adversely affects” means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point;
  2. Review and Use of Any Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 14.72.030 B, the Floodplain Administrator may obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal or state agency, or other source, in order to administer Section 14.72.050. Any such information shall be submitted to the city council for adoption;
  3. Notification of Other Agencies. In alteration or relocation of a watercourse:
    - a. Notify adjacent communities and the California Department of Water Resources prior to alteration or relocation,
    - b. Submit evidence of such notification to the Federal Insurance Administration, Federal Emergency Management Agency, and
    - c. Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained;
  4. Documentation of Floodplain Development. Obtain and maintain for public inspection and make available as needed the following:
    - a. Certification required by Section 14.72.050 (A)(3)(a) (lowest floor elevations),
    - b. Certification required by Section 14.72.050 (A)(3)(b) (elevation or floodproofing of nonresidential structures),
    - c. Certification required by Sections 14.72.050 (A)(3)(c) (wet floodproofing standard),
    - d. Certification of elevation required by Section 14.72.050(C)(2) (subdivision standards),
    - e. Certification required by Section 14.72.050(F)(1) (floodway encroachments),
    - f. Information required by Section 14.72.050(G)(6) (coastal construction standards);
  5. Map Determinations. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard, for example, where there appears to be a conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 14.72.060;
  6. Remedial Action. Take action to remedy violations of this ordinance as specified in Section 14.72.030 C.
- D. Appeals. The city council of the city of Morro Bay shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter. (Ord. 477 (part), 1999)

**14.72.050 Provisions for flood hazard reduction.**

- A. Standards of Construction. In all areas of special flood hazards the following standards are required:
  1. Anchoring.
    - a. All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
    - b. All manufactured homes shall meet the anchoring standards of Section 14.72.050 D.
  2. Construction materials and methods. All new construction and substantial improvement shall be constructed.
    - a. With materials and utility equipment resistant to flood damage;
    - b. Using methods and practices that minimize flood damage;

c. With electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. Elevation and Floodproofing. (See Section 14.72.020, definitions for “basement,” “lowest floor,” “new construction,” “substantial damage” and “substantial improvement.”)

a. Residential construction, new or substantial improvement, shall have the lowest floor, including basement,

1. In an A zone, elevated to at least one foot above the base flood elevation, as determined by this community.

2. In all other zones, elevated to at least one foot above the base flood elevation.

Upon the completion of the structure, the elevation of the lowest floor including basement shall be certified by a registered professional engineer or surveyor retained by the applicant, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the floodplain administrator.

b. Nonresidential construction, new or substantial improvement, shall either be elevated to conform with Section 14.72.050 (A)(3)(a) or together with attendant utility and sanitary facilities.

1. Be floodproofed below the elevation recommended under Section 14.72.050(A)(3)(a) so that the structure is watertight with walls substantially impermeable to the passage of water;

2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

3. Be certified by a registered professional engineer or architect retained by the applicant that the standards of this Section 14.72.050(A)(3)(a) are satisfied. Such certification shall be provided to the floodplain administrator.

c. All new construction and substantial improvement with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must exceed the following minimum criteria:

1. Be certified by a registered professional engineer or architect, or

2. Have a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

d. Manufactured homes shall also meet the standards in Section 14.72.050 D.

B. Standards for Utilities.

1. All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:

a. Infiltration of flood waters into the systems; and

b. Discharge from the systems into flood waters.

2. On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.

C. Standards for Subdivisions.

1. All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood.

2. All subdivision plans will provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood elevation, the lowest floor and pad elevations shall be certified by a registered professional engineer or surveyor retained by the applicant and provided to the floodplain administrator.

3. All subdivision proposals shall be consistent with the need to minimize flood damage.

4. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

5. All subdivisions shall provide adequate drainage to reduce exposure to flood hazards.

D. Standards for Manufactured Homes.

1. All manufactured homes that are placed or substantially improved, within Zones A1-30 on the Flood Insurance Rate Map, on sites located:

a. Outside of a manufactured home park or subdivision;

b. In a new manufactured home park or subdivision;

c. In an expansion to an existing manufactured home park or subdivision; or

d. In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred “substantial damage” as the result of a flood;

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at least one foot above the base flood elevation and be securely fastened to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

2. All manufactured homes that are placed or substantially improved on sites located within Zones V1-30 on the Flood Insurance Rate Map will meet the requirements of Section 14.72.050(D)(1) and Section 14.72.050 G.

3. All manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30 and V1-30 on the Flood Insurance Rate Map that are not subject to the provisions of Section 14.72.050(D)(1) will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:

a. Lowest floor of the manufactured home is at least one foot above the base flood elevation;

b. Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six inches in height above grade.

E. Standards for Recreational Vehicles.

1. All recreational vehicles placed on sites within Zones A1-30 on the Flood Insurance Rate Map will either:

a. Be on the site for fewer than one hundred eighty consecutive days, and be fully licensed and ready for highway use—a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

b. Meet the permit requirements of Section 14.72.040 of this chapter and the elevation and anchoring requirements for manufactured homes in Section 14.72.050(D)(1).

2. Recreation vehicles placed on sites within Zones V1-30 on the Flood Insurance Rate Map will meet the requirements of Section 14.72.050(E)(1) and Section 14.72.050 G.

F. Floodways. Located within areas of special flood hazard established in Section 14.72.030 B are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvement, and other new development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in the base flood elevation during the occurrence of the base flood discharge.

2. If Section 14.72.050(F)(1) is satisfied, all new construction, substantial improvement, and other proposed new development shall comply with all other applicable flood hazard reduction provisions of Section 14.72.050.

G. Coastal High Hazard Areas. Within coastal high hazard areas as established under Section 14.72.030 B, the following standards shall apply:

1. All new construction and substantial improvement shall be elevated on adequately anchored pilings or columns and securely anchored to such pilings or columns so that the lowest horizontal portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level. The pile or column foundation and structure attached thereto is anchored to resist

flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state or local building standards.

2. All new construction and other development shall be located on the landward side of the reach of mean high tide.

3. All new construction and substantial improvement shall have the space below the lowest floor free of obstructions or constructed with breakaway walls as defined in Section 14.72.020. Such enclosed space shall not be used for human habitation and will be usable solely for parking of vehicles, building access or storage.

4. Fill shall not be used for structural support of buildings.

5. Man-made alteration of sand dunes which would increase potential flood damage is prohibited.

6. The floodplain administrator shall obtain and maintain the following records:

a. Certification by a registered engineer or architect that a proposed structure complies with Section 14.72.050(G)(1).

b. The elevation (in relation to mean sea level) of the bottom of the lowest structural member of the lowest floor (excluding pilings or columns) of all new and substantially improved structures, and whether such structures contain a basement (Ord. 477 (part), 1999)

#### **14.72.060 Variance procedure.**

A. Nature of Variances. The variance criteria set forth in this section of the chapter are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants, or the property owners.

It is the duty of the city council to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below flood level are so serious that variances from the flood elevation or from other requirements in the flood ordinance are quite rare. The long term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this chapter are detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

B. Appeal Board.

1. In passing upon requests for variances, the city council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and the:

a. Danger that materials may be swept onto other lands to the injury of others;

b. Danger of life and property due to flooding or erosion damage;

c. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the existing individual owner and future owners of the property;

d. Importance of the services provided by the proposed facility to the community;

e. Necessity to the facility of a waterfront location, where applicable;

f. Availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

g. Compatibility of the proposed use with existing and anticipated development,

h. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

i. Safety of access to the property in time of flood for ordinary and emergency vehicles;

j. Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and

k. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water system, and streets and bridges.

2. Any applicant to whom a variance is granted shall be given written notice over the signature of the floodplain administrator that

a. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars for one hundred dollars of insurance coverage; and

b. Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the floodplain administrator in the Office of the San Luis Obispo County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.

3. The floodplain administrator will maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Insurance Administration, Federal Emergency Management Agency.

#### C. Conditions for Variances.

1. Generally, variances may be issued for new construction, substantial improvement, and other proposed new development to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing that the procedures of Sections 14.72.040 and 14.72.050 have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

2. Variances may be issued for the repair or rehabilitation of “historic structures” (as defined in Section 14.72.020) upon a determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

3. Variances shall not be issued within any mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.

4. Variances shall only be issued upon a determination that the variance is the “minimum necessary” considering the flood hazard, to afford relief. “Minimum necessary” means to afford relief with a minimum of deviation from the requirements of this ordinance. For example, in the case of variances to an elevation requirement, this means the city council will not grant permission for the applicant to build at grade, or even to whatever elevation the applicant proposes, but only to that elevation which the city council believes will both provide relief and preserve the integrity of the local ordinance.

5. Variances shall only be issued upon a:

a. Showing of good and sufficient cause;

b. Determination that failure to grant the variance would result in exceptional “hardship” (as defined in Section 14.72.020) to the applicant; and

c. Determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create a nuisance (as defined in Section 14.72.020, “Public safety and nuisance”), cause fraud or victimization (as defined in Section 14.72.020) of the public, or conflict with existing local laws or ordinances.

6. Variances may be issued for new construction, substantial improvement, and other proposed new development necessary for the conduct of a functionally dependent use provided that the provisions of subsections (C)(1) through (C)(5) of this section are satisfied and that the structure or other development is protected by methods that minimize flood damages during the base flood and does not result in additional threats to public safety and does not create a public nuisance.

7. Upon consideration of the factors of Section 14.72.060(B)(1) and the purposes of this ordinance, the city council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter. (Ord. 477 (part), 1999)

## Chapter 14.75

### MANDATORY CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING PROGRAM

#### Sections:

<b>14.75.010</b>	<b>Definitions.</b>
<b>14.75.020</b>	<b>Threshold for covered projects.</b>
<b>14.75.030</b>	<b>Submission of recycling plan.</b>
<b>14.75.040</b>	<b>Review of recycling plan.</b>
<b>14.75.050</b>	<b>Compliance with recycling plan.</b>
<b>14.75.060</b>	<b>Infeasible exemption.</b>
<b>14.75.070</b>	<b>Appeals.</b>
<b>14.75.080</b>	<b>Civil penalties.</b>
<b>14.75.090</b>	<b>Severability.</b>

#### **14.75.010 Definitions.**

A. "Applicant" means any individual, firm, limited liability company, association, partnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever who applies to the city for the applicable permits to undertake any construction, demolition, or renovation project within the city, unless otherwise specifically exempted by law.

B. "Compliance Official" means the chief building official or his/her designee.

C. "Construction" means the building of any structure or any portion thereof including any tenant improvements to an existing facility or structure.

D. "Construction and demolition debris" means used or discarded materials removed from premises during construction or renovation of a structure resulting from construction, remodeling, repair, or demolition operations on any pavement, house, commercial building, or other structure.

E. "Conversion rate" means the rate set forth in the standardized conversion rate table approved by the city pursuant to this article for use in estimating the volume or weight of materials identified in a recycling plan.

F. "Covered project" shall have the meaning set forth in Section 14.75.020(A) of this article.

G. "Deconstruction" means the systematic removal of usage items from a structure.

H. "Demolition" means the decimating, razing, ruining, tearing down or wrecking of any facility, structure, pavement or building, whether in whole or in part, whether interior or exterior.

I. "Divert" means to use material for any purpose other than disposal in a landfill.

J. "Diversion requirement" means the diversion of at least fifty percent by weight of the total construction and demolition debris generated by a project via reuse or recycling, unless the applicant has been granted an infeasible exemption pursuant to Section 14.75.060 of this chapter, in which case the diversion requirement shall be the maximum feasible diversion rate established by the recycling plan compliance official for the project.

K. "Noncovered project" shall have the meaning set forth in Section 14.75.020(C) of this article.

L. "Project" means any activity that requires an application for a building or demolition permit or any similar permit from the city.

M. "Renovation" means any change, addition, or modification in an existing structure.

N. "Reuse" means further or repeated use of construction or demolition debris.

O. "Salvage" means the controlled removal of construction or demolition debris from a permitted building or demolition site for the purpose of recycling, reuse or storage for later recycling or reuse.

P. "Recycling plan" means a completed recycling plan form, approved by the city for the purpose of compliance with this article, submitted by the applicant for any covered or noncovered project. (Ord. 488 § 1 (part), 2002)

**14.75.020 Threshold for covered projects.**

A. Covered Projects. All construction and renovation projects within the city, the valuation of which are, or are projected to be, greater than or equal to fifty thousand dollars ('covered projects'), shall be required to divert at least fifty percent of all project construction and demolition debris in compliance with this chapter. The cost of the project shall be the valuation ascribed to the project by the building official. In addition, all demolition projects having a total footage of more than one thousand square feet shall be a covered project. Failure to comply with any of the terms of this chapter shall subject the project applicant to the full range of enforcement mechanisms set forth in Sections 14.75.050(C)(3) and 14.75.060 below.

B. City-Sponsored Projects. All city-sponsored construction and renovation projects within the city, the costs of which are, or are projected to be, greater than or equal to fifty thousand dollars ('covered projects') shall be required to divert at least fifty percent of all project construction and demolition debris in compliance with this chapter. The cost of the project shall be the valuation attributed to the permit issued by the building official. In addition, all demolition projects having a total square footage of more than one thousand shall be a covered project.

These city-sponsored covered projects shall submit a recycling plan to the compliance official prior to beginning any construction or demolition activities and shall be subject to all applicable provisions of this chapter with the exception of Section 14.75.050(C)(3).

C. Non-covered Projects. Applicants for construction, demolition, and renovation projects within the city whose permit valuations are less than fifty thousand dollars ('non-covered projects') shall be encouraged to divert at least fifty percent of all project-related construction and demolition debris.

D. Compliance as a Condition of Approval. Compliance with the provisions of this chapter shall be listed as a condition of approval on any building or demolition permit issued for a covered project. (Ord. 488 § 1 (part), 2002)

**14.75.030 Submission of recycling plan.**

A. Recycling Plan Forms. Applicants for building or demolition permits involving any covered project shall complete and submit a recycling plan on a recycling plan form approved by the city for this purpose as part of the application packet for the building or demolition permit. The completed recycling plan shall indicate all of the following:

1. The estimated volume or weight of project construction and demolition debris, by materials type, to be generated;
2. The maximum volume or weight of such materials that can feasibly be diverted via reuse or recycling;
3. The vendor or facility that the applicant proposes to use to collect or receive that material; and
4. The estimated volume or weight of construction and demolition debris that will be landfilled.

B. Calculating Volume and Weight of Debris. In estimating the volume or weight of materials identified in the recycling plan, the applicant shall use the standardized conversion rates approved by the city for this purpose.

C. Deconstruction. In preparing the recycling plan, applicants for building or demolition permits involving the removal of all or part of an existing structure shall deconstruct, to the maximum extent feasible, and shall make the materials generated thereby available for salvage. (Ord. 488 § 1 (part), 2002)

**14.75.040 Review of recycling plan.**

A. Approval. Notwithstanding any other provision of this code, no building or demolition permit shall be issued for any Covered Project unless and until the recycling plan compliance official has

approved the recycling plan. Approval shall not be required, however, where an emergency demolition is required to protect the public health, welfare or safety as determined by the chief building official. The recycling plan compliance official shall only approve a recycling plan if he or she first determines that all of the following conditions have been met:

1. The recycling plan provides all of the information set forth in Section 14.75.030(A) of this chapter; and

2. The recycling plan indicates that at least fifty percent by weight of all construction and demolition debris generated by the project will be diverted.

If the recycling plan compliance official determines that these conditions have been met, he or she shall mark the recycling plan 'Approved', return a copy of the recycling plan to the applicant, and notify the building department that the recycling plan has been approved.

B. Nonapproval. If the recycling plan compliance official determines that the recycling plan is incomplete or fails to indicate that at least fifty percent by weight of all construction and demolition debris generated by the project will be reused or recycled, he or she shall either:

1. Return the recycling plan to the applicant marked 'Denied', including a statement of reasons, and so notify the building department; or

2. Return the recycling plan to the applicant marked 'Further Explanation Required'. (Ord. 488 § 1 (part), 2002)

#### **14.75.050 Compliance with recycling plan.**

A. Documentation. Prior to receiving a certificate of occupancy for the project, the applicant shall submit to the recycling plan compliance official documentation that the diversion requirement for the project has been met. The diversion requirement shall be that the applicant has diverted at least fifty percent of the total construction and demolition debris generated by the project via reuse or recycling, unless the applicant has been granted an infeasible exemption pursuant to Section 14.75.060 of this chapter, in which case the diversion requirement shall be the maximum feasible diversion rate established by the recycling plan compliance official for the project. This documentation shall include all of the following:

1. Receipts from the vendor or facility which collected or received each material showing the actual weight or volume of that material;

2. A copy of the previously approved recycling plan for the project adding the actual volume or weight of each material diverted and landfilled;

3. Any additional information the applicant believes is relevant to determining its efforts to comply in good faith with this chapter.

B. Weighing of Wastes. Applicants shall make reasonable efforts to ensure that all construction and demolition debris diverted or landfilled are measured and recorded using the most accurate method of measurement available. To the extent practical, all construction and demolition debris shall be weighed by measurement on scales. Such scales shall be in compliance with all regulatory requirements for accuracy and maintenance. For construction and demolition debris for which weighing is not practical due to small size or other considerations, a volumetric measurement shall be used. For conversion of volumetric measurements to weight, the applicant shall use the standardized conversion rates approved by the city for this purpose.

C. Determination of Compliance. The recycling plan compliance official shall review the information submitted under Section 14.75.050(A) and determine whether the applicant has complied with the diversion requirement, as follows:

1. Full Compliance. If the recycling plan compliance official determines that the applicant has fully complied with the diversion requirements applicable to the project, he or she shall approve the recycling plan and inform the building division that a certificate of occupancy can be issued.

2. Substantial Compliance. If the recycling plan compliance official determines that the diversion requirement has not been achieved, he or she shall determine on a case-by-case basis whether the applicant has made a good faith effort and is in substantial compliance with this chapter.

In making this determination, the recycling plan compliance official shall consider the availability of markets for the construction and demolition debris landfilled, the size of the project, and/or the documented efforts of the applicant to divert construction and demolition debris. If the recycling plan compliance official determines that the applicant has made a good faith effort to comply with this chapter and is in substantial compliance, he or she shall approve the recycling plan and inform the building division that a certificate of occupancy can be issued.

3. Noncompliance. If the recycling plan compliance official determines that the applicant is not in substantial compliance with this chapter, or if the applicant fails to submit the documentation required by Section 14.75.050(A), then the applicant shall pay a civil penalty as prescribed in Section 14.75.080 prior to the issuance of a certificate of occupancy.

D. Falsification of Records. If the applicant deliberately provides false or misleading data to the city in violation of this chapter, the applicant may be subject to penalties in addition to those specified in Section 14.75.080. In any civil enforcement action, administrative or judicial, the city shall be entitled to recover its attorneys' fees and costs from an applicant who is determined by a court of competent jurisdiction to have violated this chapter.

E. Final Approval. Prior to final approval by the building division all conditions of this chapter shall be met. (Ord. 488 § 1 (part), 2002)

#### **14.75.060      Infeasible exemption.**

A. Application. If an applicant for a covered project experiences unique circumstances that the applicant believes make it infeasible to comply with the diversion requirement, the applicant may apply for an exemption at the time that he or she submits the recycling plan required under Section 14.75.030(A) of this chapter. The applicant shall indicate on the recycling plan the maximum rate of diversion he or she believes is feasible for each material and the specific circumstances that he or she believes make it infeasible to comply with the diversion requirement.

B. Meeting with recycling plan compliance official. The recycling plan compliance official shall review the information supplied by the applicant and may meet with the applicant to discuss possible ways of meeting the diversion requirement. Based on the information supplied by the applicant and, if applicable, San Luis Obispo County Integrated Waste Management Authority staff or designee, the recycling plan compliance official shall determine whether it is possible for the applicant to meet the diversion requirement.

C. Granting of Exemption. If the recycling plan compliance official determines that it is infeasible for the applicant to meet the diversion requirement due to unique circumstances, he or she shall determine the maximum feasible diversion rate for each material and shall indicate this rate on the recycling plan submitted by the applicant. The recycling plan compliance official shall return a copy of the recycling plan to the applicant marked 'Approved for Infeasible Exemption' and shall notify the building division that the recycling plan has been approved.

D. Denial of Exemption. If the recycling plan compliance official determines that it is possible for the applicant to meet the diversion requirement, he or she shall so inform the applicant in writing. The applicant shall have thirty days to resubmit a recycling plan form in full compliance with Section 14.75.030(A) of this chapter. If the applicant fails to resubmit the recycling plan, or if the resubmitted recycling plan does not comply with Section 14.75.030(A) of this chapter, the recycling plan compliance official shall deny the recycling plan in accordance with Section 14.75.040(B) of this chapter. (Ord. 488 § 1 (part), 2002)

#### **14.75.070      Appeals.**

A. Contents of Appeals. An appeal of the recycling plan compliance official decision may be made to the public services director in writing not longer than ten days after the compliance official's decision. The decision of the public services director shall be final. The appellant must specifically state in the notice of appeal:

1. The name and address of the appellant and appellant's interest in the decision;

2. The nature of the decision appealed from and/or the conditions appealed from;
3. A clear, complete, but brief statement of the reasons why, in the opinion of the appellant, the decision or the conditions imposed were unjustified or inappropriate; and
4. The specific facts of the matter in sufficient detail to notify the city. The appeal shall not be stated in generalities.

B. Acceptance of Appeal. An appeal shall not be accepted by the public services director unless it is complete. (Ord. 488 § 1 (part), 2002)

**14.75.080 Civil penalties.**

A. Civil Penalty. If the recycling plan compliance official, or on upon appeal, the public services director determines that an applicant is in noncompliance as described in Section 14.75.050(C)(3), the applicant shall pay a civil penalty in the amount calculated as two percent of the total project valuation. Until the civil penalty is paid, the building division may withhold a certificate of occupancy. In order to provide adequate education to applicants of this chapter and allow time for them to become familiar with the necessary requirements, enforcement of the civil penalty shall not occur until twelve months after the effective date of this chapter.

B. Enforcement. The city attorney is authorized to bring a civil action in any court of competent jurisdiction to recover such civil penalties for the city of Morro Bay. (Ord. 488 § 1 (part), 2002)

**14.75.090 Severability.**

If any subdivision, paragraph, sentence, clause, or phrase of the this chapter is, for any reason, held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity or enforcement of the remaining portions of this chapter, or any other provisions of the city's rules and regulations. It is the city's express intent that each remaining portion would have been adopted irrespective of the fact that any one or more subdivisions, paragraphs, sentences, clauses, or phrases be declared invalid or unenforceable. (Ord. 488 § 1 (part), 2002)

**INTRODUCED** at a regular meeting the of the City Council of Morro Bay, held on the 25<sup>th</sup> day of October, 2010 by motion of Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_.

**PASSED AND ADOPTED** on the \_\_\_\_ day of \_\_\_\_\_, 2010, by the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
JANICE PETERS, Mayor

ATTEST:

\_\_\_\_\_  
BRIDGETT KESSLING, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
ROBERT SCHULTZ, City Attorney



AGENDA NO: D-1

MEETING DATE: October 25, 2010

## Staff Report

**TO:** Mayor and Council

**DATE:** October 18, 2010

**FROM:** Robert Schultz, City Attorney

**SUBJECT:** Resolution Determining Issuance of an Alcoholic Beverage Control Permit for a Wine Tasting Room Located at 1099 Embarcadero.

### **RECOMMENDATION:**

Staff recommends the City Council review and approve Resolution 58-10.

### **FISCAL IMPACT:**

Not applicable.

### **SUMMARY:**

Giovanni Michael Degarimore applied for a permit from the Department of Alcoholic Beverage Control to operate a Wine Tasting Room at 1099 Embarcadero. The Department of Alcoholic Beverage Control (ABC) automatically denies permits to sell alcoholic beverages if there is an "undue concentration" of licenses in the census tract (Business and Professions Code Section 23958). In order for the ABC to issue the license, they require the local governing body to determine that the "public convenience and necessity" would be served by issuance of the license. The ABC requires the governing board/council to pass a resolution or a signed letter on official letterhead stating whether or not the issuance of the applied license would serve as a public convenience or necessity.

The Police Department has reviewed this application and has no significant concerns at this time in regard to a wine tasting room at this location. Furthermore, the approval of Resolution 58-10 will support the City Council's goals and priorities to develop ways to attract businesses to Morro Bay.

Prepared By: \_\_\_\_\_ Dept Review: \_\_\_\_\_

City Manager Review: \_\_\_\_\_

City Attorney Review: \_\_\_\_\_

**RESOLUTION NO. 58-10**

**RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF MORRO BAY, CALIFORNIA  
DETERMINING THAT ISSUANCE OF AN ABC PERMIT  
FOR A WINE TASTING ROOM LOCATED AT  
1099 EMBARCADERO WOULD SERVE AS A  
PUBLIC CONVENIENCE OR NECESSITY**

**THE CITY COUNCIL  
CITY OF MORRO BAY, CALIFORNIA**

**WHEREAS**, Giovanni Michael Degarimore applied for a Department of Alcoholic Beverage Control Permit for a Wine Tasting Room located at 1099 Embarcadero; and,

**WHEREAS**, the permit is automatically denied by the Department of Alcoholic Beverage Control due to an “undue concentration of alcohol licenses” in this census tract; and,

**WHEREAS**, in order for the Department of Alcoholic Beverage Control to issue the license, the local governing body must determine that the public convenience or necessity would be served by issuance of the license and pass a resolution stating such; and,

**WHEREAS**, after review by the Police Department there are no significant concerns in regard to the opening of a Wine Tasting Room at this location.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Morro Bay, California, that the public convenience or necessity will be served by issuance of license from the Department of Alcoholic Beverage Control for a wine tasting room at 1099 Embarcadero.

**BE IT FURTHER RESOLVED** by the City Council of the City of Morro Bay, California, that this action support new business in Morro Bay and is in conformance with the goals set by the Morro Bay City Council to “develop ways to be attractive to new businesses”.

**PASSED AND ADOPTED** by the City Council of the City of Morro Bay at a regular meeting thereof held on the 25<sup>th</sup> day of October 2010 on the following vote:

AYES:  
NOES:  
ABSENT:

\_\_\_\_\_  
JANICE PETERS, Mayor

ATTEST:

\_\_\_\_\_  
BRIDGETT KESSLING, City Clerk



AGENDA NO: D-2

MEETING DATE: October 25, 2010

## Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** October 19, 2010

**FROM:** Andrea K. Lueker, City Manager

**SUBJECT:** Review and Approval of the Video Production Services & Local Government Channel Insertion Point Management Agreement with APG Video, Inc.

### **RECOMMENDATION**

Staff recommends the City Council approve the Video Production Services & Local Government Channel Insertion Point Management Agreement with APG Video, Inc.

**MOTION:** I move the City Council approve the Video Production Services & Local Government Channel Insertion Point Management Agreement with APG Video, Inc.

### **FISCAL IMPACT**

The 2010/11 Fiscal Year budget was adopted with the allocation of \$60,000 of funding for APG Video, Inc. for the televising of City Brown Act meetings. The approval of this contact further details that action.

### **BACKGROUND**

The Video Production Services and Local Government Channel Insertion Point Management Agreement has been on a month to month extension for some time. Staff and APG Video have successfully completed negotiations and agreed upon the attached Agreement which outlines services and funding.

**Prepared By:** \_\_\_\_\_      **Dept Review:** \_\_\_\_\_

**City Manager Review:** \_\_\_\_\_

**City Attorney Review:** \_\_\_\_\_

## **Video Production Services & Local Government Channel Insertion Point Management Agreement**

This Agreement is entered into by and between the **City of Morro Bay**, a municipal corporation, hereinafter referred to as “City,” and **AGP Video, Inc.**, hereinafter referred to as “Contractor,” for Contractor to provide video production services to record regular City Brown Act meetings (City Council, JPA, Planning Commission, Recreation and Parks Commission, Harbor Advisory Board, Public Works Advisory Board, Community Promotions, Citizen’s Oversight Committee and Morro Bay Tourism Business Improvement District), and for management services of the City’s local government channel insertion point, Channel 20.

### **WITNESSETH**

**WHEREAS**, the City of Morro Bay cablecasted a pilot program of City Council, Advisory Board and Commission meetings, community events, and Community Calendar on the City’s local government channel provided by Charter Communications since July 23, 1996; and

**WHEREAS**, the City Council feels it is important to continue to broadcast these meetings on Channel 20 to inform the public on government issues.

**NOW, THEREFORE**, the parties agree as follows:

### **ARTICLE 1: REPRESENTATIONS AND WARRANTIES OF CONTRACTOR**

#### **1.1 Contractor Status**

Contractor shall be an independent contractor and not an agent or employee of the City. Contractor shall be duly organized, validly existing and in good standing under the laws of the State of California and has the power to own its properties and to carry on its business as now owned and operated and as required by this Agreement.

#### **1.2 Contractor Authorization**

Contractor has the authority to enter into and perform its obligations under this Agreement. The Board of Directors and Contractor (or the shareholders, if necessary) have taken all actions required by law, its articles of incorporation, its bylaws or otherwise to authorize the execution of this Agreement. The persons signing this Agreement on behalf of Contractor have the authority to do so.

#### **1.3 Compliance With Laws and Regulations**

Contractor shall comply with all existing and future City, county, state, and federal laws, including all Environmental Laws.

#### **1.4 Grant and Acceptance of Agreement**

Subject to Article 2.2, City hereby grants to Contractor the right and privilege to record regular City Brown Act meetings and provide management services for the Channel 20 insertion point as outlined in Article 3.1.

Contractor shall perform all duties required under this Agreement in accordance with all applicable current and future laws, rules, and regulations at rates established by City pursuant to the procedures set forth herein below. For purposes of this Agreement, said laws, rules, and regulations shall include but not be limited to any policy, resolution, or ordinance adopted by a duly constituted governing body of a public agency, including joint powers authorities and districts.

Contractor hereby accepts the Agreement on the terms and conditions set forth in this Agreement.

#### **1.5 Permits and Licenses**

Contractor shall procure and maintain in force and effect all necessary governmental permits and licenses and give all notices necessary to the due and lawful performance of the work contemplated herein. Contractor shall pay the currently approved amount for an annual business license to operate in the City as delineated in the City Master Fee Schedule, current edition.

## ARTICLE 2: TERM OF AGREEMENT

### 2.1 Term of Agreement

The effective date of this Agreement shall be July 1, 2010. The term of this Agreement shall be for a period of one year, commencing at 12:01 a.m., July 1, 2010, and expiring at midnight June 30, 2011. The City shall at its sole discretion extend the term of this Agreement on a year- to- year basis depending upon the City budget appropriations for these services. The terms and conditions of this Agreement, including compensation, shall be applicable during said extension unless the parties mutually agree upon any changes.

### 2.2 Conditions to Effectiveness of Agreement

The obligation of City to permit this Agreement to become effective and to perform its undertakings provided for in this Agreement is subject to the satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City.

- A. **Accuracy of Representations.** The representations and warranties made by Contractor throughout this Agreement are accurate, true and correct on and as of the effective date of this Agreement.
- B. **Absence of Litigation.** There is no litigation pending in any court challenging the award of this Agreement to Contractor or the execution of this Agreement or seeking to restrain or enjoin its performance.
- C. **Furnishing of Insurance and Bonds.** Contractor has furnished evidence of the insurance and bonds required by Article 7, Indemnification, Insurance and Bond.

## ARTICLE 3: SCOPE OF AGREEMENT

### 3.1 Scope of Agreement

The Agreement granted to Contractor shall be for the video production of 120 Regular City Brown Act meetings and for management services of the Channel 20 insertion point as outlined in the Scope of Work in Exhibit A. The City Manager shall have the authority to designate a Special City Brown Act meeting in place of a Regular City Brown Act meeting.

### 3.2 Administration of Agreement

The City Manager shall administer this Agreement and the City's Public Services Director, or his/her designee, shall supervise Contractor compliance with the Agreement terms and conditions.

### 3.3 Ownership of Video Recorded City Brown Act Meetings

All City Brown Act meetings video recorded by Contractor pursuant to this Agreement shall be the property of City.

## ARTICLE 4: DIRECT SERVICES

### 4.1 General

The video production work to be done by Contractor pursuant to this Agreement shall include the furnishing of all labor, supervision, equipment, materials, supplies, and all other items necessary to perform the services required. Contractor shall at all times during the term of this Agreement provide quality, efficient, technical and professional service to the reasonable satisfaction of City and shall perform all work required under this Agreement.

### 4.2 Start-Up Activities

Contractor shall perform start-up activities in a manner to assure no interruption in video production or Channel 20 insertion point management service.

### 4.3 Video Production Schedules

City shall provide a list of all anticipated regular City Brown Act meetings, including their dates, time and locations for each meeting. Contractor shall establish schedules for video production of meetings, including set up and take down, and shall notify City of said schedules.

### 4.4 Operations

#### 4.4.1 Operations Management.

Contractor shall be responsible for the management and operation of the video production services provided pursuant to this Agreement, including but not limited to training and meeting-to-meeting supervision of operations. In addition, Contractor shall also be responsible for the management and operation of the Channel 20 insertion point located in the Veteran's Memorial Building pursuant to this Agreement.

#### **4.4.2 Equipment.**

Contractor is required to provide all equipment necessary to record regular City Brown Act meetings under this Agreement. All equipment used by Contractor to perform work under this Agreement shall conform to reasonable industry standards and shall be maintained and kept in good repair at all times. Said equipment shall be operated in a safe manner consistent with reasonable industry standards. City shall provide playback equipment necessary to cablecast meetings, community events and the Community Calendar on Channel 20. City is to be notified in writing by Contractor of any changes in or augmentation to the playback equipment located at the insertion point in the Veteran's Memorial Building.

### **ARTICLE 5: OTHER SERVICES**

#### **5.1 Liaison With City**

Contractor shall maintain on-going liaison with City regarding all video production and insertion point activities, and any matters relating to the performance of this Agreement, including complaints.

#### **5.2 Records**

Contractor shall maintain records required to conduct its operations, to support requests it may make to City, and to respond to requests from City in the conduct of City business. Adequate record security shall be maintained to preserve records from events that can be reasonably anticipated such as a fire, theft and earthquake. Financial records shall be maintained and cost and revenue information for the City segregated from other clients served by Contractor relating to:

- Type of meeting that was electronically recorded, including start and end time, location and length of meeting.
- Facilities, equipment and personnel used for video production activities and management of the Channel 20 insertion point.

#### **5.3 Monthly Reports**

Contractor shall provide the City monthly with electronically recorded data of the Community Calendar PowerPoint.

#### **5.4 Adjustments to Level of Video Production Services**

The City has the right to request additional video production services in the event that a new Advisory Board and Commission is created by the City Council. Compensation for any additional video production service will be negotiated and agreed upon by both parties. Similarly, the City has the right to reduce video production services in the event that an Advisory Board or Commission is re-structured by the City Council, and a reduction in compensation paid by City would be negotiated and agreed upon by both parties.

### **ARTICLE 6: CONTRACTOR'S COMPENSATION**

#### **6.1 Compensation, Maximum City Financial Obligation and Overtime**

City hereby agrees to pay Contractor for full and complete performance of the work set forth in this Agreement pursuant to Articles 6.1, 6.2 and 6.3 herein below.

The maximum financial obligation by the City to compensate Contractor will be in the amount of \$60,000 for 120 Regular City Brown Act meetings. The City Manager shall have the authority to designate a Special City Brown Act meeting in place of a Regular City Brown Act meeting. Compensation to Contractor for meetings exceeding the 120 regular City Brown Act meetings or special meetings designated by the City manager shall be charged at \$500.00 per meeting.

Video production services over the 120 Regular City Brown Act meetings or special meetings designated by the City Manager shall be in addition to the City's maximum financial obligation and shall cost \$500.00 per

meeting.

**6.2 Invoices**

Contractor shall submit to City by the 15th of each month an invoice for the services provided during the previous month. Said invoice shall indicate at a minimum the work performed during the month and the monthly fee, as provided in Article 6.1 hereinabove. Recorded meetings for the month invoiced shall be submitted to the City prior to payment of the invoice.

**6.3 Payments**

City shall pay monthly within twenty (20) days after receipt of a complete and accurate invoice and submission of the required number of recorded copies for City meetings.

City reserves the right to withhold payment either wholly or partially if said electronically recorded audio/visual content of meetings are not provided or if Contractor fails to provide on a consistent basis sufficient qualified personnel for video production activities. Such withholding shall be in addition to any liquidated damages or penalties as provided in Article 8.3 herein below. Payments shall be made by check payable and mailed first class to:

AGP Video, Inc.  
390 Preston Lane  
Morro Bay, CA 93442

**ARTICLE 7: INDEMNIFICATION, INSURANCE AND BOND**

**7.1 Indemnification**

Contractor shall indemnify and hold harmless City and its officers, officials, employees and volunteers from and against all claims, damages, losses and expenses including attorney fees and litigation expenses arising out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of the contractors, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct of the city. Contractor's duty to indemnify and defend shall survive the expiration or earlier termination of the Agreement.

**7.2 Insurance**

During the term of this Agreement, Contractor shall carry insurance in accordance with Exhibit B attached hereto and incorporated as part of this Contract and such other insurance as required by law. Lack of insurance does not negate the Contractor's obligation under this Agreement. Contractor agrees that in the event of loss due to any of the perils for which it has agreed to provide insurance, Contractor shall look solely to its insurance for recovery, except where caused by the active negligence, sole negligence, or willful misconduct of the City. Contractor hereby grants to the City, on behalf of any insurer providing insurance to either Contractor or city with respect to the services (occupancy of premises) of Contractor herein, a waiver of any right to subrogation which any such insurer of said Contractor may acquire against the City by virtue of the payment of any loss under such insurance.

Insurance shall be secured and approved by City's risk manager prior to commencement of work according to this Agreement.

**Maintenance of proper insurance coverage is a material element of this Agreement and failure to maintain or renew coverage or to provide evidence of coverage and/or renewal may be treated by the City as a material breach of Agreement. Contractor shall forward the City specifications and forms to Contractor's insurance agent for compliance.**

**ARTICLE 8: DEFAULT, REMEDIES AND LIQUIDATED DAMAGES**

## 8.1 Events of Default

All provisions of this Agreement to be performed by Contractor are considered material. Each of the following shall constitute an event of default.

- A. **Fraud or Deceit.** If Contractor practices, or attempts to practice, any fraud or deceit upon City.
- B. **Insolvency or Bankruptcy.** If Contractor shall at any time during the term of this Agreement become insolvent, or if proceedings in bankruptcy shall be instituted by or against Contractor, or if Contractor shall be adjudged bankrupt or insolvent by any court, or if a receiver or trustee in bankruptcy or a receiver of any property of Contractor shall be appointed in any suit or proceeding brought by or against Contractor, or if Contractor shall make an assignment for the benefit of creditors, then and in each and every such case, City may at its sole discretion immediately terminate this Agreement upon written notice to Contractor and without the necessity of suit or other proceeding and avail itself of any of the various remedies set forth in Article 8.10 hereinbelow or any other remedies provided by law. Contractor shall provide written notice to City in a timely manner in the event Contractor files for bankruptcy or takes any other action as protection from creditors during the term of this Agreement.
- C. **Failure to Maintain Coverage.** If Contractor fails to provide or maintain in full force and effect the insurance or performance surety requirements pursuant to Article 7.
- D. **Failure to Perform.** If Contractor ceases to provide video production services as required under this Agreement for a period of two (2) meetings, for any reason within the control of Contractor.
- E. **Failure to Provide Recorded Meetings/Records.** If Contractor fails to provide the required number of copies for each City meeting recorded under this agreement and/or refuses to provide City with required information and/or records in a timely manner as provided for in the Agreement.
- F. **Acts or Omissions.** Any other act or omission by Contractor which violates the terms, conditions, or requirements of this Agreement as it may be amended from time to time, or any order, directive, rule, or regulation issued thereunder and which is not corrected or remedied within the time set in the written notice the violation or, if Contractor cannot reasonably correct or remedy the breach within the time set forth in such notice, if Contractor should fail to commence to correct or remedy such violation within the time set forth in such notice and diligently effect such correction or remedy thereafter.
- G. **False or Misleading Statements.** Any representation or disclosure made to City by Contractor in connection with or as an inducement to entering into this Agreement, or any future amendment to this Agreement, which proved to be false or misleading in any material respect as of the time such representation or disclosure is made, whether or not any such representation or disclosure appears as part of this Agreement.

## 8.2 Breach and Termination

All terms and conditions of this Agreement are material and binding, and failure by Contractor to perform any portion of the work described herein or any related covenants or agreements shall be considered a breach of this Agreement. In the event this Agreement is breached in any manner, City may at its sole option terminate this Agreement no less than twenty (20) days after written notice is given to Contractor setting forth the breach and Contractor fails, neglects, or refuses to remedy said breach. Contractor shall thereafter have no further rights, powers, or privileges against City under or arising out of this Agreement. In the event a breach does not result in termination, but does result in costs being incurred by City, said costs shall be deducted from any amounts due or to become due to Contractor.

In addition to all other remedies and damages provided by law in the event of a breach of this Agreement, City may, at its sole discretion, assess the actual damage caused by the breach as the remedy and obtain said remedy through set-off against Contractor's invoice or by any other appropriate procedure, including but not limited to wholly or partially withholding payment of any amounts billed to City by Contractor. City may also provide, directly or through a contract, the services required under this Agreement and deduct actual costs to City from any amounts due or to become due to Contractor, including but not limited to start-up costs, labor, material, and equipment. The provisions of this Article shall not be exclusive, but shall be cumulative and in addition to any other remedies provided herein or pursuant to law.

In the event City terminates this Agreement as provided herein, Contractor shall meet all terms and conditions of this Agreement through the effective date of said termination. In the event there is a transition to a different contractor, Contractor shall cooperate with City and any successor contractor City may select to

provide the services required herein. In the event Contractor fails to comply with the conditions of this paragraph, City may withhold any compensation due Contractor until Contractor complies.

### **8.3 Liquidated Damages and Penalties**

The parties agree it is difficult to establish actual damages which may result from failure of Contractor to perform any of the work required under this Agreement and resulting loss to City. The parties shall be limited to fixed sums as follows:

- Liquidated damages may be assessed at the rate of \$340 for each City Council or Planning Commission meeting and \$200 for each Recreation & Parks Commission, Public Works Advisory Board, Harbor Advisory Board or Community Promotions Committee meeting Contractor does not video record pursuant to this Agreement.
- Liquidated damages may be assessed at the rate of \$50 per day for each failure to deliver to City the required recorded copies of the City Brown Act meetings by the 15<sup>th</sup> of the month following the month covered by an invoice.
- Liquidated damages may be assessed at the rate of \$50 for each day the monthly report is not submitted by the 15<sup>th</sup> of the month.

Failure of City to assert any right under this Agreement or assess any liquidated damages as provided herein shall not constitute a waiver of City's right to enforce the provisions of this Agreement or to assess liquidated damages in the future. Assessment of liquidated damages and/or deductions as provided under this Agreement shall in no way relieve Contractor of its obligation to provide sufficient service and personnel and meet all of the terms of this Agreement.

## **ARTICLE 9: OTHER AGREEMENTS**

### **9.1 Relationship of Parties**

Contractor shall be an independent contractor and not an agent or employee of City. Contractor shall not represent that Contractor is an agent or employee of City. Contractor shall not give any person any reason to believe Contractor is an agent or employee of City. No act of Contractor shall bind or obligate City.

Contractor assumes full and sole responsibility for the payment of all compensation and all other expenses related to Contractor's personnel, including but not limited to state and federal income taxes, Social Security contributions, workers compensation, and disability and unemployment insurance contributions. Contractor shall be responsible for the payment of all required state and federal taxes. Contractor agrees City shall not be requested or obligated to withhold from payments to Contractor Social Security contributions or state and federal income taxes.

Contractor and Contractor's employees shall not be entitled to any employment benefits provided by City to City employees. In the event Contractor provides similar benefits to Contractor's employees, Contractor shall be fully responsible for purchasing said benefits separately and independently of the relationship established between City and Contractor under this Agreement.

**9.2 Governing Law**

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of California.

**9.3 Assignment**

Contractor shall not assign, sell, subcontract, or otherwise delegate authority to perform any portion of this Agreement either voluntarily or involuntarily or by operation of law without the prior express written consent of City. Neither shall any interest in this Agreement of any right or privilege accruing to Contractor be so assigned without the prior express written consent of City. Such consent shall not be withheld unreasonably. In the event of any assignment duly authorized, the assignee shall assume the liability of Contractor.

**9.4 Transfer of Stock or Interest**

No sale, gift, or transfer of stock of Contractor, which shall result in a change in control of Contractor during the term of this Agreement, shall be made without the prior written approval of City, which shall not be withheld unreasonably. Violation of this provision shall be a breach of this Agreement and grounds for termination by City.

**9.5 Subcontracting**

Except as approved in writing by the City, Contractor shall not enter into an agreement to have another person perform Contractor's duties of this Agreement. Contractor shall undertake to pay City its reasonable expenses for attorney's fees and investigation costs necessary to investigate the suitability of any proposed subcontractor, and to review and finalize any documentation required as a condition for approving any such subcontracting agreement.

**9.6 Transition to Next Contractor**

If the transition of services to another Contractor occurs through expiration of term, default and termination, or otherwise, Contractor will cooperate with City and subsequent Contractor(s) to assist in an orderly transition. Contractor will not be obliged to sell video production equipment to the next Contractor.

**9.7 Reservation of Rights**

It is hereby expressly agreed by and between the parties hereto that City shall have, and there is hereby reserved unto City and to its officers and officials, all rights, powers, and privileges which might be expressly set out in this Agreement in favor of City and its officers. The express mention of certain rights, powers, and privileges in favor of City is not intended to and shall not be deemed or construed to exclude any other right, power, or privilege in favor of City that might be expressly reserved herein.

**9.8 Non-Waiver**

No acquiescence, failure, or neglect of either party to insist upon strict performance of any or all of the provisions of this Agreement shall be construed to constitute a waiver of any term, condition, or provision of this Agreement nor of any performance required hereunder, nor of any remedy, damages, or other liability arising as a result of any failure of performance, neglect, or inability to perform at any time.

**9.9 Severability**

If any term or provision of this Agreement shall to any extent be determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

**9.10 Survival**

Upon the expiration or termination of this Agreement, each party shall be released from all obligations and liabilities to the other occurring or arising after the date of such expiration or termination, except that any expiration or termination of this Agreement shall not relieve Contractor of Contractor's obligations under Articles 7.1, nor shall any such expiration or termination relieve Contractor from any liability arising from any breach of this Agreement.

**9.11 Waiver of Performance**

The parties to this Agreement shall be excused from performance hereunder during the time and to the extent that they are prevented from performing their respective responsibilities by an act of God, fire, strike, lockout, or commandeering of materials, products, plants, or facilities by the state or federal government, when

satisfactory evidence therefore is presented to the other party, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the party not performing.

**9.12 Entire Agreement and Notice**

This Agreement, together with the Exhibits attached hereto and incorporated herein by reference, contains the full, complete, and entire agreement between the parties and replaces and supersedes all previous agreements, understandings, and arrangements between the parties with respect to the subject matter hereto. This Agreement may not be modified except by written agreement expressly authorized by City and as mutually agreed by the parties. All notices hereunder and communications with respect to this Agreement shall be in writing and shall be effective upon the mailing thereof by registered or certified mail, return receipt requested, and postage prepaid as follows:

City  
City of Morro Bay  
595 Harbor Street  
Morro Bay, CA 93442  
Attn: Andrea K. Lueker, City Manager

Contractor  
AGP Video, Inc.  
1600 Preston Lane  
Morro Bay, CA 93442  
Attn: Steve Mathieu, CEO

**IN WITNESS WHEREOF**, the parties hereto have caused this agreement to be duly executed this \_\_\_\_ day of \_\_\_\_\_, 2010.

CITY OF MORRO BAY

CONTRACTOR

\_\_\_\_\_  
ANDREA LUEKER, City Manager

\_\_\_\_\_  
STEVE MATHIEU, CEO

ATTEST

\_\_\_\_\_  
NANCY CASTLE, CFO

\_\_\_\_\_  
BRIDGETT KESSLING, City Clerk

APPROVED AS TO FORM

\_\_\_\_\_  
ROBERT SCHULTZ, City Attorney

## **EXHIBIT A SCOPE OF WORK**

### **General Requirements**

Contractor is to comply with the following general requirements:

1. Opening and closing for each meeting.
  - Opening: Contractor will create a title page(s) with the meeting name and date for all meetings cablecast live and recorded for re-cablecast. The title page will be followed by an agenda.
  - Closing: At the end of each meeting, Contractor will focus on a closing image, such as the City Seal for a minimum of ten (10) seconds then fade.
2. Meeting is to be recorded to prevailing electronic media and/or tape for re-cablecast.
3. Provide three (3) copies of each recorded meeting to the City.
  - One unedited original for City to air on Channel 20
  - One unedited copy to the City Administration office, delivered to the department responsible for the meeting held
  - One unedited copy for checkout from the City library, delivered to the library

### **Video Production Requirements**

Contractor is to provide video production services to record regular City Brown Act meetings during the term of the agreement.

### **Production Layout Requirements**

Contractor will use a minimum of two (2) cameras either robotic or operable for live cablecast and recording production. Cameras will be focused primarily on the City Council, Commission, Advisory Board or other group who is meeting with focusing on staff and speakers at the podium as necessary.

### **Insertion Point**

Contractor will manage the Channel 20 insertion point, located in the Veteran's Memorial Building. This management includes three (3) primary tasks:

1. Live Cablecasts of Regular City Brown Act meetings Held at Veteran's Memorial Building and Community Center

Live cablecasts from the Veteran's Memorial Building and Community Center will be preceded by an opening graphic and agenda for all regular City Brown Act meetings and an opening announcement of live cablecast.

\*For Joint Powers Agreement meetings with the Cayucos Sanitary District that are held in Cayucos, there will be no live cablecast, only recorded delayed cablecast of the meeting.

2. Channel 20 Insertion Point Management Activities:

- Contractor will set up guidelines and criteria for such activities as determining what programming goes on at what time of the day, determining whether an item would fall under the government only programming status, as previously approved by the City Council, and determining the criteria for public service announcements (both text and video based), including when they would be cablecast. These guidelines and criteria shall be submitted to the City for information purposes, and in addition, any subsequent revisions shall also be submitted to the City. The City shall provide Contractor with written acknowledgement of receipt of these guidelines and criteria when submitted. Exhibit C lists the current operating policies and guidelines for Channel 20 as of the date of execution of this agreement.
- Contractor will be responsible for insertion of cablecast ready recordings of all City Brown Act meetings and community events.

3. Character Generated Information:

- Program Schedule: Contractor will regularly update and keep current the schedule of programs to be seen on Channel 20. This guide will cablecast between the end of one program and the beginning of another and/or as a crawl line at the bottom of the screen at regularly spaced intervals.
- Community Calendar: The Contractor will work with City staff and outside agencies, including, but not limited to, the Chamber of Commerce, Merchants Association and Motel/Restaurant Association on developing information of upcoming events and informational items for the citizens of Morro Bay.
- Contractor will be responsible for maintenance of the dual computer system of the channel. One computer is dedicated to channel operations and presentation of the Community Calendar PowerPoint. The second computer is dedicated to perform synchronized internet streaming of the Channel 20 content.





Reproduction of Insurance Services Office, Inc. Form

**INSURER:** ISO Form CG 20 10 11 85: (Modified)  
**POLICY NUMBER:** Commercial General Liability  
**ENDORSEMENT NUMBER:**

**THIS ENDORSEMENT CHANGES THE POLICY, PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED -- OWNERS, LESSEES OR CONTRACTORS (FORM B)**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

**SCHEDULE**

City of Morro Bay  
595 Harbor St.  
Morro Bay, CA 93442

(If no entry appears above, the information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

**WHO IS AN INSURED** (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you.

- |  |
|--|
| <p>Modifications to ISO form CG 20 10 11 85:</p> <ol style="list-style-type: none"> <li>1. The Insured scheduled above includes the Insured's officers, officials, employees and volunteers.</li> <li>2. This insurance shall be primary as respects the Insured shown in the schedule above, or if excess, shall stand in an unbroken chain of coverage excess of the Named Insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the Insured scheduled above shall be in excess of this insurance and shall not be called upon to contribute with it.</li> <li>3. The insurance afforded by this policy shall not be canceled except after thirty days prior written notice by certified mail return receipt requested has been given to the City.</li> <li>4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.</li> </ol> |
|--|

\_\_\_\_\_  
Signature-Authorized Representative

\_\_\_\_\_  
Address

CG 20 10 11 85 Insurance Services Office, Inc. Form (Modified)

Insurance\Form#2  
Rev. 8/01

**CITY OF MORRO BAY  
MORRO BAY GOVERNMENT CHANNEL  
OPERATING POLICIES AND GUIDELINES  
Revised October 15, 2010**

Statement of Purpose: The purpose of Morro Bay government Channel 20 is to cablecast Morro Bay Council meetings, Morro Bay Commission and Advisory Board meetings and State and regional meetings of local interested. These meetings will be presented live when held in those buildings with live capability. Public safety/emergency information programs, community events and community calendar/bulletin board will also be presented. This programming will be seen on the Charter Communications channel designated for local government programming, currently Channel 20.

1. The first priority of City Government Channel is to cable cast all open meetings of the Morro Bay City Council.
2. The second priority of the City Government Channel is to cablecast Morro Bay City Commission and Advisory board meetings.
3. All City Brown Act meetings will be cablecast uncut, unedited, and in their entirety (gavel-to-gavel)
4. Third priority for the channel will be:
  - a. State and regional meetings with import to the citizens of Morro Bay;
  - b. Public safety/emergency and information programs as available;
  - c. Programs of community events shall be shown as cablecast time permits. The type of events include but are not limited to coverage of July 4<sup>th</sup> celebrations, Harbor Festival activities, the Cruisin' Morro Bay Car Show, winter holiday programs;
  - d. Programs of campaign forums that have impact on the voters of Morro Bay and present both sides of issues and/or all available candidates for office.

From time to time, live cablecasts of community events will be scheduled and preempt all other cablecast scheduling.

5. Except when circumstances beyond the control of the Channel Operations Manager occur, the programming schedule on the Government Channel shall be as follows:
  - a. Live cablecast of City Brown Act meetings will pre-empt any other program schedule parameters. In the case of two meetings held simultaneously, City Council meetings will have priority of live cablecast. Decisions concerning other meetings will be made on a case-by-case basis.
  - b. City Brown Act meetings will be re-cablecast for at least six (6) days after their live cablecast or their initial electronic media cablecast. Reasonable effort will be made to adhere to a program schedule of City Council or Planning Commission meetings (depending on which week it is) beginning at 9 am, 6 pm and 1 am.
  - c. Special meetings that are not considered regularly scheduled meetings, and meetings whose data has changed due to a City holiday or other unforeseen action, will be cablecast live at the time of the special or re-scheduled meeting occurs and will preempt other programming.

For those times when there are several meetings in one week and recablcasting of those meetings may run more than six (6) hours, the regularly scheduled times for the beginning City Council or Planning Commission may be adjusted to allow for replay of all current meetings. A good faith effort will be made to inform the public of this scheduling irregularity and return to the regular schedule as soon as possible.

6. Copies of any material that is cablecast on the City Government Channel, and which is not covered by copyright may be obtained from the City Video Contractor for a fee not to exceed \$25 per copy. Requests will be processed within a reasonable period of time.
7. The community calendar/bulletin board shall present information of interest for residents of visitors. The community calendar bulletin board shall include, but not be limited to:
  - a. Phone numbers of City Departments, Council members;
  - b. The City's website address;
  - c. Resource numbers and websites pertaining to current City business;
  - d. Information indicating the regular meeting times and places of the council, Commissions Boards and Committees and notices about upcoming meetings;
  - e. Information and event notices provided by non-profit organizations;
  - f. Announcements about special events, presentations and local meetings earth provided by City staff or noted by the Channel Operator as information becomes public knowledge;
  - g. Emergency and public health information, both general resources and specific timely material; and,
  - h. Regularly updated program guide.



**AGENDA NO: D-3**

**Meeting Date: 10/25/10**

## Staff Report

**TO:** Honorable Mayor and City Council      **DATE:** October 20, 2010

**FROM:** Mayor Janice Peters

**SUBJECT:** Approval to Send Letter to the San Luis Obispo County Board of Supervisors  
Recommending the Board Select Mary Ann Reiss as the City Council  
Member Nominee for Appointment to the California Coastal Commission

**RECOMMENDATION:**

Approve recommendation letter to SLOC Board of Supervisors.

**FISCAL IMPACT:** None.

**DISCUSSION:**

Supervisor Katcho Achadjian has served as the Central Coast representative on the California Coastal Commission for several years, and Pismo Beach Mayor Mary Ann Reiss has been serving as his alternate. After the November election, Katcho will no longer be eligible to hold this position and Mayor Reiss is requesting support for appointment to succeed him.

Mayor Reiss is currently running for a seat on the Pismo Beach City Council, and the CCC appointment will be contingent on her election. Her resume is attached for your information.

Mayor Reiss has participated in several CCC meetings as the alternate, and has often appeared before the CCC on behalf of Pismo Beach issues. Her long time experience in Pismo Beach city government and with coastal issues makes her an ideal candidate to represent the Central Coast.

**Prepared By: Mayor Janice Peters**

**Dept Review: \_\_\_\_\_**

**City Manager Review: \_\_\_\_\_**

**City Attorney Review: \_\_\_\_\_**

**Page 1 of 3**

**MARY ANN REISS**  
**MAYOR PISMO BEACH**

**Objective**

Governor's appointment as the South Central Coast Region representative on the California Coastal Commission

**Summary**

I presently serve as the Alternate to Supervisor Achadjian, the South Central Coast Region representative on the Coastal Commission. In Supervisor Achadjian's absence, I have had the opportunity to work with the 11 other Commissioners and staff at two Coastal Commission meetings this year.

Serving as Mayor and City Council Member in a coastal community for the past 14 years, combined with my experience serving on regional boards, I am familiar with county and city land use laws, conflicting environmental and private property rights issues, the importance of preserving agriculture, wetlands, wildlife, water quality, coastal tourism, and coastal access.

I have a BA Degree in Public Administration and worked in the Public Sector as a Human Resources Director from 1967-1994. I have lived in Pismo Beach since 1994, am married with two adult children, and have been self-employed since moving to San Luis Obispo County.



# City of Morro Bay

Morro Bay, CA 93442

(805) 772-6200

October 26, 2010

San Luis Obispo County  
Board of Supervisors  
1055 Monterey Street  
County Government Center, Room D-430  
San Luis Obispo, CA 93408

Dear Supervisors:

The City of Morro Bay has appreciated the service of Supervisor Katcho Achadjian as the Central Coast representative on the California Coastal Commission. We have also appreciated the service of Pismo Beach Mayor Mary Ann Reiss, who has been acting effectively as alternate to this position.

We would like to continue that quality of local representation by recommending Mayor Mary Ann Reiss for appointment as the new commissioner for the Central Coast, as we feel her knowledge of coastal issues will serve our county well.

Very truly yours,

Mayor Janice Peters  
for the Morro Bay City Council

**FINANCE**  
595 Harbor Street

**ADMINISTRATION**  
595 Harbor Street

**FIRE DEPT.**  
715 Harbor Street

**PUBLIC SERVICES**  
955 Shasta Avenue

**HARBOR DEPT.**  
1275 Embarcadero Road

**CITY ATTORNEY**  
595 Harbor Street

**POLICE DEPT.**  
870 Morro Bay Boulevard

**RECREATION & PARKS**  
1001 Kennedy Way



AGENDA NO: D-4

MEETING DATE: October 25, 2010

# Staff Report

**TO:** Honorable Mayor and City Council **DATE:** October 19, 2010  
**FROM:** Rob Livick PE/PLS, Public Services Director/City Engineer  
**SUBJECT:** Discussion of Whether to Hold A Joint Planning Commission/City Council Meeting on November 15, 2010 and if a Meeting is to be Held, Topics to be Discussed

## **RECOMMENDATION:**

1. Provide direction to staff on whether to hold the joint City Council/Planning Commission Meeting on November 15, 2010 or to reschedule that meeting.
2. If the meeting is to be held, staff recommends that the City Council consider and discuss potential discussion topics for the November 15, 2010 joint City Council/Planning Commission meeting; including a review of the Planning Commission's recommendations for meeting topics that were acted on at their October 18, 2010 meeting.

## **FISCAL IMPACT:**

There is no fiscal impact associated with this action other than the administrative costs for staff support at the meeting.

## **BACKGROUND/DISSION:**

Section 2.28.120 MBMC provides for the Planning Commission to meet twice annually with the City Council to discuss proposed policies, programs, goals and objectives, budgeting, future planning, or any other planning matter requiring joint deliberation.

The scheduled meeting date (November 15, 2010) for the joint meeting occurs after the City's election of a new Mayor and City Councilpersons. This election will result in a change in the make-up of the City Council and the potential change to the Planning Commission.

In anticipation of the joint City Council/Planning Commission meeting on November 15, 2010, the Planning Commission discussed potential topics at their October 18, 2010 meeting. The following is a list of topics that the Planning Commission established through consensus:

- Downtown Revitalization

Prepared By: \_\_\_\_\_ Dept Review: \_\_\_\_\_  
City Manager Review: \_\_\_\_\_  
City Attorney Review: \_\_\_\_\_

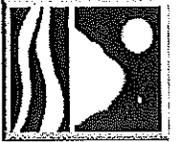
- Chain Link Fences – Visual Resources and LCP Consistency
- Sign Ordinance
- Draft EIR for the Wastewater Treatment Plant Project
- Planning Workload

**CONCLUSION:**

Staff recommends that the City Council provide direction to staff on whether to hold the joint City Council/Planning Commission Meeting on November 15, 2010. If the meeting is to be held, staff recommends that the City Council consider and discuss potential discussion topics for the November 15, 2010 joint City Council/Planning Commission meeting; including a review of the Planning Commission's recommendations for meeting topics that were acted on at their October 18, 2010 meeting.

Attachment:

1. Current and Advance Planning Processing List



# City of Morro Bay Public Services Current Project Tracking Sheet

New items or items which have been recently updated are italicized. Approved projects are deleted on next version of log.

#	Applicant/Property Owner	Project Address	Date	Permit Numbers	Project Description/Status	Project Planner	Approval Body
<b>Hearing or Action Ready</b>							
1	<i>Gio Degarimore</i>	<i>1099 Embarcadero</i>	<i>9/7/10</i>	<i>UP0-301</i>	<i>Retail Wine Shop. Scheduled for 10/18/10 PC Meeting.</i>	<i>SD</i>	<i>AD</i>
2	David Foote	Atascadero	12/16/09	CP0-322	CUP and Coastal Development Permit. Solar Arrays. Solar arrays located on carport structures at Morro Bay High School. Incomplete letter sent . 1/15/10. Mtg follow up letter sent 1/29/10. Resubmittal - change in project description 3/16/10. Comments sent 4/16/10. Resubmittal 5/18/2010. Project deemed complete for processing 5/25/2010. Agent indicates that the project has been revised so that no trees will be removed. Resubmittal 6/29/10. School district revised environmental. Project Scheduled for 10/4/10 P.C. Project was heard at the 10/4/10 P.C. but noticing was wrong. The project will be noticed for 11/1/2010 P.C. meeting	KW	PC
<b>30 -Day Review, Incomplete or Additional Submittal Review</b>							
3	Valley and Crafton	430 Olive	11/23/09	S00-102	Lot Line Adjustment. Incomplete letter sent 12/23/09. Resubmittal 4/16/10. Project does not meet Zoning Standards, letter sent indicating the project is deficient. Applicant resubmitted new plans 9-22-2010. Project approval pending.	KW	AD
4	Giovanni DeGarimore	1001 Front	3/22/10	UP0-284	Floating Dock. CUP to reconfigure existing side tie floating dock to include 4 new finger floating docks, 50 ft. x 4 ft. Incomplete letter sent 4/26/10. Resubmittal 6/10/10. Resubmittal 6/29/10. Incomplete Letter 7/29/10. Resubmittal 7/30/10. Incomplete Letter and Request for Addition funds 8/24/10.	SD	PC
5	Walter & Karen Roza	595 Driftwood	3/30/10	UP0-285 S00-103 CP0-325	Coastal Development Permit, Use Permit, Parcel Map Demo Reconstruct SFR & 2nd Unit. VPM, CUP & CDP. Pending resubmittal. Revised plans submitted on 9/1/10.	KW	PC
6	Hammick Associates	1129 Market	6/10/10	UP0-291	Remodel and Addition. Incomplete letter 6/23/10. Submitted additional information 6/30/10. Submitted additional information 7/7/10. Building Comments. 7/9/10. Met with agent 7/15/10. Applicant will resubmit addressing fire/building comments.	SD	PC
7	Dan Reddell	550 Morro Bay Blvd	6/14/10	UP0-293	Farmer's Market. Conditional Use Permit for vendors and events. Resubmittal 6/17/10. Scheduled for 9/20/10 PC Mtg. Met with agent 8/24/10 and discussed feasibility of project, needs to be revised.	SD	PC
8	<i>Robert and Elizabeth Mastro</i>	<i>582 Zanzibar</i>	<i>6/29/10</i>	<i>CP0-332</i>	<i>New SFR. Incomplete Letter 7/29/10. Resubmittal 9/3/10. Incomplete letter 9/10/10. Applicant resubmitted 10/12/2010</i>	<i>SD</i>	<i>AD</i>
9	Doug Hoppe	505 Yerba Buena	8/17/10	CP0-334	New SFR. Incomplete letter 8/25/10. Resubmittal 9/10/2010. Noticed project on 9/20/2010. Renoticed because of inconsistencies 9/27/10. Approval pending	SD	AD

#	Applicant/Property Owner	Project Address	Date	Permit Numbers	Project Description/Status	Project Planner	Approval Body
10	Bob and Janet Bradford	3025 Ironwood	9/1/10	CP0-336	New SFR. Contacted agent, requested CC & Rs 9/7/2010. Noticed Project 9/28/10. Approval pending.	SD	AD
11	Frantz	499 Nevis	9/27/10	CP0-337	New SFR. Incomplete Letter 10/7/10.	SD	PC
<b>Projects in Process</b>							
12	Rudolph Kubus	1181 Main & Bonita	11/23/06	UP0-086 & CP0-130	Morro Mist 20 Lot SFR Subdivision. Submitted 11/23/06, SRB 3/15/06, Staff requested information Resubmitted 8/16/06 MND analysis needed MIND Complete 7/20 PC 8/20/07 Continued date uncertain revised project smaller units still 100% residential. Applicant has redesigned project and resubmitted on June 1, 2009. Project under review. Letter sent to applicant regarding issues on 7/20/09. Subsequent meeting with applicant team 8/20/09. Staff has had additional correspondence with the applicant. Project tentatively scheduled for Planning Commission late February/early March 2010. Applicant considering redesign of project. Change in agent. Project resubmitted on June 29, 2010, project routine to various divisions for comments and conditions. Resubmittal 7/6/10. Initial Study needs to be revised to reflect new project submitted. Revised Initial Study pending submittal of new Geotechnical study by applicant	KW	PC
13	Frank Loving	247 Main	10/27/07	UP0-192	Docking for Vessels. Submitted 10/29/07, Incomplete 11/19/07 PC 2/4/08, Continued to PC 3/17/08, continued to PC 9/15/08 Applicant has indicated to staff that they wish to move ahead with the project. Met with applicant 5/24/10.	KW	PC
14	City of Morro Bay & Cayucos	160 Atascadero	7/1/08	EIR	WWTP Upgrade. Submitted 7/1/08, Preparing Notice of Preparation, Staff reviewing Ad Min Draft EIR. Modifications to project description underway and subsequent noticing. Staff reviewing screencheck document. Public draft out for review and comments. Comment period open until 11/4/2010	RL	PC/CC/RW OCB
15	Dan Reddell	1 Jordan Terrance	7/25/08	UP0-223 & CP0-285	New SFR. Submitted 7/25/08, Inc. Later 8/19/08; resubmitted 2/24/09, project under review. Letter sent to agent regarding issues. Applicant and staff met 1/20/10 on site to further discuss issues. Resubmittal 2/16/10. Administrative Draft Initial Study complete. Comment review period ends 6/22/10. Comments received on MND.	JH/KW	PC
16	California State Park	201 State Park Drive	2/11/09	CP0-303 & UP0-254	Solar Panels at the State Park with the addition of one carport structure for support of the panels. Coastal Development Permit and Conditional Use Permit. Comments sent 3/23/10.	SD/KW	PC
17	Tank Farm	1290 Embarcadero	2/27/10	N/A	Tank Demo. Demo of seven tanks at the Morro Bay Power Plant. Materials submitted and under review. All materials submitted to date have been reviewed and sent back to the applicant. Applicant indicated to staff that the project is on hold until better weather in 2011.	SD	AD
18	City of Morro Bay	Citywide	5/1/10	AD0-047	Text Amendment modifying Section 17.68 "Signs". Planning Commission placed the ordinance on hold pending additional work on definitions and temporary signs -5/17/2010	KW	PC/CC
<b>Environmental Review</b>							

#	Applicant/Property Owner	Project Address	Date	Permit Numbers	Project Description/Status	Project Planner	Approval Body
19	Chevron	3072 Main	12/31/08	CP0-301	Remove Underground Pipes. Submitted 12/31/08, environmental reports submitted for review 5/8/09. Project under review. Project routed to other agencies for comment. Environmental being processed. Requested additional documentation 4/29/10.	SD	PC
20	Larry Newland	Embarcadero	11/21/05	UP0-092 & CP0-139	Embarcadero-Maritime Museum (Larry Newland). Submitted 11/21/05, Incomplete 12/15/05 Resubmitted 10/5/06, tentative CC for landowner consent 1/22/07 Landowner consent granted. Incomplete 3/7/07. Resubmitted 5/25/07 Incomplete Letter sent 6/27/07 Met to discuss status 10/4/07 Incomplete 2/4/08. Met with applicants on 3/3/09 regarding inc. later. Applicant resubmitted additional material on 9/30/2009. Met with applicants on 2/19/2010. Environmental documents being prepared.	KW	PC
Coordinating with Other Jurisdictions							
21	Burt Caldwell	Embarcadero	5/15/08	UP0-212	Conference Center. Submitted 5/15/08, Inc Lt 5/23 Resubmitted MND Circulating 7/15/08 PC 9/2 Approved, CC 9/22/08 Approved, CDP granted by CCC. Waiting for Precise Plan submittal.	SD	PC/CC/CCC
22	City of Morro Bay	Atascadero	3/9/09	N/A	Nutmeg Water Tank Upgrade (City of Morro Bay CIP project). Oversight of County of San Luis Obispo application process. Preapplication meeting 3/9/09. Consultant coordination meeting 3/12/09.	KW	SLO County
23	John King	Lower State Park	7/2/08		Lower parking lot resurface and construction of 2 new stairways. Submitted 7/02/08, PC Tent 10/6, PC Date TBD Applicant coordinating w/ CCC 10/20/08.	KW	PC
Projects Continued Indefinitely or No Response to Date on Incomplete Letter							
24	SLO County	Lower State Park	09/28/04	CP0-063	Master Plan for Golf Course. Submitted 9/28/04, On hold per applicant, project to be amended. Resubmitted 2/9/07 Tentative PC 3/19/07 Continued, date uncertain; Planting trees.	KW	PC/CC
25	Cameron Financial	Quintana	04/11/07	CP0-233	New Commercial Building. Submitted 4/11/07, Inc. Letter 5/09/07. Sent letter 1/25/2010 to applicant requesting direction, letter returned not deliverable	KW	AD
26	West Millennium Homes	Monterey	7/10/07	CUP-151 S00-067 & CP0-215	Mixed-use building. 16 residential units and 3 commercial units. Submitted 7/10/07, Inc Later 7/25 Resubmitted 1/14/08 SRB 3/10/08.	KW	PC
27	Kenneth & Lisa Blackwell	Dogwood	07/20/07	UP0-178	Addition to nonconforming residence. Submitted 7/20/07, Complete, tentative PC 9/17/07 Continued, date uncertain Resubmitted 10/31/07, PC 12/17/07 Continued, date uncertain.	KW	PC
28	Jeff Gregory	Morro	09/25/07	CP0-254	Coastal Development Permit to allow a second single family residence on lot with an existing home. Incomplete letter sent 10/9/2007. Intent to Deem Application Withdrawn Letter sent 12/29/09. Response from applicant 1/8/10 keep file open indefinitely.	KW	AD
29	Nicki Fazio	Cerrito	08/15/07	CP0-246	Appeal of Demo/Rebuild SFR and 2 trees removal. Continued to a date uncertain.	KW	PC

#	Applicant/Property Owner	Project Address	Date	Permit Numbers	Project Description/Status	Project Planner	Approval Body
30	Cathy Novak	263 Main Street	09/12/07	CP0-258/SC0-078	Lot line Adjustment. Application has had no activity from the applicant since 2007. A Parcel Map was finalized for the property.	SD	AD
31	Ron McIntosh	190 Olive	8/26/08	UP0-232 & CP0-288	New SFR. Submitted 8/26/08, Inc. Letter 9/24/08; Resubmitted 12/10/08, 1/9/09 request for more information. Applicant resubmitted on 2/06/09. Environmental under review. Applicant and City agree to continuance. Applicant put project on hold.	SD	PC
32	Pina Noran	2176 Main	10/3/08	CUP-35-99 & CDP-66-99R	Convert commercial space to residential use. Submitted 10/03/08, Inc. Letter 10/22/08, resubmitted 2/5/09. Project still missing vital information for processing 11/30/09. Called applicant 3/22/10 and requested information. Applicant is considering a redesign of the project.	KW	PC
33	Candy Botich	206 MainWater Lease Site 34 Main & Oak St.	6/17/09	CP0-310	New Parking. Project under review. Agent given DRT comments July 10, 2009. Applicant submitted redesigned project 9/30/2009. Associated application submitted for a parking exception for the lease site generating the parking demand.	KW	PC/CC
34	Bob Crizer	206 Main Street, water lease site 34	11/9/09	AD0-047	Oak Street Parking Exception. Also see 206 Main Street (Botich). Request to allow parking spaces to be placed on Oak Street to replace parking currently provided at 206 Main Street. Waiting for parties to resolve issue of ownership.	KW	PC/CC
35	James Maul	530, 532, Morro Ave 534	3/12/10	SP0-323 & UP0-282	Parcel Map. CDP & CUP for 3 townhomes. Incomplete letter sent 4/20/10. Met with applicant 5/25/10.	KW	PC
36	Debbie Dover	500 Quintana	4/21/10	UP0-289	UP0-289, Use Permit Outdoor Fitness Classes. Incomplete letter sent 5/11/010. Applicant resubmitted 5/14/2010. Spoke to Ginger 6/3/10 discussed project. Comment letter 6/3/10. Project Noticed for Admin Action 6/16/10. Waiting on addition information.	SD	AD
<b>Projects in Building Plan Check</b>							
37	John & Alair Hough	285 Main	2/16/10	Building	SFR Addition. Second unit over detached garage. Comments sent 3/19/10. Resubmittal 6/10/10. Comments sent 6/16/10. Resubmittal 9/8/10. Project plans not consistent with approved planning plans.	SD	N/A
38	Lou McGonagill	690 Olive	6/7/10	Building	SFR Addition. 1,000 sf. addition with garage. Incomplete letter 6/28/10. Resubmittal 9/29/10.	SD	N/A
39	Tauras Sulatis	540 Fresno	6/23/10	Building	SFR Addition. Incomplete letter 7/13/10.	SD	N/A
40	William Fraker	575 Acacia	7/19/10	Building	SFR Alteration. Express Check. Incomplete Letter 8/6/10. Resubmittal 8/24/10. Sent covenant 9/8/10. Waiting for covenant to be recorded.	SD	N/A
41	Pam & Bob Hyland	2754 Indigo Circle	7/22/10	Building	New SFR. CP0299/UP0-248 ISSUANCE BY PC ON MARCH 2, 2009. Incomplete Letter 8/24/10.	SD	N/A
42	Steve & Tammy Wark	399 Tulare	8/23/10	Building	Demo/Addition. Incomplete letter 9/21/10. Resubmittal 10/4/10.	SD	N/A
43	Mike Wilson	957 Pacific	8/24/10	Building	Demo/Rebuild. Incomplete letter 8/26/10.	SD	N/A
44	Bob and Janet Bradford	3025 Ironwood	9/1/10	Building	New SFR. Contacted agent, requested CC&Rs 9/7/10. Pending Planning Permit review.	SD	N/A
45	Billingsley	300 Fairview	9/9/10	Building	Alterations to an existing garage. Covenant given to applicant, waiting to be recorded.	SD	N/A

#	Applicant/Property Owner	Project Address	Date	Permit Numbers	Project Description/Status	Project Planner	Approval Body
46	Frantz	499 News	9/27/10	CP0-337	New SFR. Incomplete Letter 10/7/10.	SD	PC
47	Luce	2431 Reno	9/28/10	Building	Single Family Addition.	SD	N/A
48	Camee	977 Las Tunas	10/11/10	Building	Tenant Improvements	SD	N/A
<b>Aging Building Permits - No response from applicant in more than 90 days.</b>							
49	Don Doubledee	360 Morro Bay Blvd	5/15/09	Building	Mixed Use Project - Clano. Comments sent 2/25/10.	SD	N/A
50	Valori	2800 Birch Ave	2/10/10	Building	Remodel/Repair. Sunroom, garage, and study. Comments sent 2/24/10	SD	N/A
51	Collover	2800 Dogwood	3/8/10	Building	New SFR. Comments sent 3/25/10.	SD	N/A
52	Ronald Stuard	490 Avalon	4/22/10	Building	SFR Addition. 79 sf. bedroom addition. Comments sent 4/27/10.	SD	N/A
53	Joe Silva	570 Avalon	5/12/10	Building	SFR Addition. 84 sf. addition. Comments sent 5/17/10.	SD	N/A
<b>Projects &amp; Permits with Final Action</b>							
54	David Pabinguit	760 Alta Court	8/18/10	Building	SFR Addition/Remodel. Incomplete Letter 8/25/10. Resubmittal 9/20/10. Approved 10/4/10.	SD	N/A
55	Doug and Karen Classen	470 Sunset Court	7/27/10	Building	SF Addition and Remodel. Incomplete Letter 8/6/10. Variance approved for project; plans under review	SD	N/A
56	Canaday	418-420 Avalon	9/20/10	Building	Installing of 2 small wind turbines on roof. Incomplete Letter 10/11/10. Approved	SD	N/A



**City of Morro Bay**  
**Public Services**  
**Advanced Planning Work Program**

Work Item	Planning Commission	City Council	Coastal Commission	Comments	Estimated Staff Hours
Neighborhood Compatibility Standards	TBD	TBD			120 to 160
Strategic plan for managing the greening process					200 to 300
AB811	Annual Updates continuing with updates	Annual Updates			120 to 160
Safety Element	Approved	TBD			20 to 40
Draft Urban Forest Management Plan	TBD	TBD			200 to 300
CEQA Implementation Guidelines	TBD	TBD	NA		120 to 160
Update CEQA checklist pursuant to SWMP (2/2011)	TBD	TBD			120 to 160
Downtown Visioning	TBD	TBD			120 to 160
PD Overlay	TBD	TBD			80
Annexation Proceeding for Public Facilities	Continued to hold workshop	TBD			TBD
Sign Ordinance Update					50 to 100
<i>Planning Commission Generated Items</i>					
Work Item	Requesting Body				Estimated Staff Hours
Pedestrian Plan	Planning Commission				TBD
<i>Items Requiring Further Analysis When Received Back From The Coastal Commission</i>					
Work Item	Plng. Comm.	City Council	Coastal Comm.		Estimated Staff Hours
Updated Zoning Ordinance	TBD	TBD			1,800
Updated General Plan/LCP	TBD	TBD			1,800

10/18/10

955 Shasta Avenue Morro Bay Ca 93442 805-772-6270