



CITY OF MORRO BAY CITY COUNCIL AMENDED AGENDA

The City of Morro Bay provides essential public services and infrastructure to maintain a safe, clean and healthy place for residents and visitors to live, work and play.

Regular Meeting Tuesday, June 9, 2020 – 5:30 P.M. Held Via Teleconference

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE
PLEDGE OF ALLEGIANCE
RECOGNITION
CLOSED SESSION REPORT
MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS
CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS
PRESENTATIONS - NONE

PUBLIC COMMENT

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this Meeting will be conducted telephonically through Zoom and broadcast live on Cable Channel 20 and streamed on the City website (click [here](#) to view). Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Veterans' Hall will not be open for the meeting.

Public Participation:

In order to prevent and mitigate the effects of the COVID-19 pandemic, and limit potential spread within the City of Morro Bay, in accordance with Executive Order N-29-20, the City will not make available a physical location from which members of the public may observe the meeting and offer public comment. Remote public participation is allowed in the following ways:

- *Community members are encouraged to submit agenda correspondence in advance of the meeting via email to the City Clerk's office at cityclerk@morrobayca.gov prior to the meeting and will be published on the City website with a final update one hour prior to the meeting start time. Agenda correspondence received less than an hour before the meeting start time may not be posted until after the meeting.*
- *Members of the public may watch the meeting either on cable Channel 20 or as streamed on the City [website](#).*
- *Alternatively, members of the public may watch the meeting and speak during general Public Comment or on a specific agenda item by logging in to the Zoom webinar using the information provided below. Please use the "raise hand" feature to indicate your desire to provide public comment. Each speaker will be allowed three minutes to provide input.*

Please click the link below to join the webinar:

- <https://us02web.zoom.us/j/82722747698?pwd=aWZpTzcwTHlRTk9xaTlmWVNWRFUQT09>

Password: 135692

- Or Telephone Attendee: (408) 638-0968 or (669) 900 6833 or (346) 248 7799; Webinar ID: 827 2274 7698; Password: 135692; Press * 9 to **"Raise Hand"** for Public Comment

A. CONSENT AGENDA

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion. The public will also be provided an opportunity to comment on consent agenda items.

- A-1 APPROVAL OF MINUTES FOR THE APRIL 28, 2020, CITY COUNCIL SPECIAL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-2 APPROVAL OF MINUTES FOR THE MAY 12, 2020, CITY COUNCIL MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-3 APPROVAL OF MINUTES FOR THE MAY 26, 2020, CITY COUNCIL SPECIAL CLOSED SESSION MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

- A-4 ADOPTION OF ORDINANCE NO. 633 TO AMEND CHAPTER 5.50 (COMMERCIAL CANNABIS OPERATIONS REGULATORY PROGRAM) OF TITLE 5 OF THE MORRO BAY MUNICIPAL CODE TO PERMIT CERTAIN ADULT-USE COMMERCIAL CANNABIS USES (RETAIL SALES, DELIVERIES AND (WHOLESALE) DISTRIBUTOR) AND AUTHORIZE COMMUNITY DEVELOPMENT DIRECTOR TO ISSUE ADMINISTRATIVE REGULATIONS; (CITY ATTORNEY)

RECOMMENDATION: Staff recommends Council consider adopting, by second reading and by title only with further reading waived, Ordinance No. 633, entitled "An Ordinance of the City Council of the City of Morro Bay, California, amending Chapter 5.50 (Commercial Cannabis Operations Regulatory Program) of Title 5 of the Morro Bay Municipal Code to permit certain adult-use commercial cannabis uses (retail sales, deliveries and (wholesale) distributor) and to authorize community development director to issue administrative regulations."

- A-5 AUTHORIZATION TO PROVIDE A TOTAL OF \$500,000 OF FINANCIAL ASSISTANCE TO THE HASLO AFFORDABLE HOUSING PROJECT TO BE LOCATED AT 405 ATASCADERO ROAD. THE PROPOSED FINANCIAL ASSISTANCE WILL BE IN THE FORM OF \$150,000 LOAN FROM THE AFFORDABLE HOUSING IN-LIEU FUND AND \$350,000 DEFERRED PERMIT FEE LOAN.; (COMMUNITY DEVELOPMENT)

RECOMMENDATION: Staff recommends the City Council adopt Resolution No. 46-20 authorizing a loan in the amount of \$150,000 from the Affordable Housing In-Lieu Funds and a deferred permit fee loan in the amount of \$350,000 to assist with the funding required for the Housing Authority of the City of San Luis Obispo (HASLO) affordable rental housing development located at 405 Atascadero Road.

A-6 2019 AND 2020 CITY GOALS AND ACTION ITEMS STATUS UPDATE; (CITY MANAGER)

RECOMMENDATION: Receive status update from the City Manager regarding the 2019 and 2020 City Council Goals and action items.

A-7 ADOPTION OF RESOLUTION NO. 50-20 CONDITIONALLY AUTHORIZING THE MAYOR TO EXECUTE DOCUMENTS NECESSARY FOR A NEW LOAN AND ACCEPTING A DEED OF TRUST RELATED THERETO FOR LEASE SITE 89/89W (BOATYARD, LLC, 845 EMBARCADERO); (HARBOR DEPARTMENT)

RECOMMENDATION: Staff recommend the City Council adopt Resolution No. 50-20 authorizing the Mayor to execute documents necessary for a new loan and accepting a deed of trust related thereto regarding the leasehold interest at Lease Site 89/89W, with documents subject to approval of the City Attorney.

B. PUBLIC HEARINGS

B-1 INTRODUCTION AND FIRST READING OF ORDINANCE 634; AMENDMENTS TO MORRO BAY MUNICIPAL CODE FOR SIDEWALK VENDING PERMIT REQUIREMENTS; (COMMUNITY DEVELOPMENT DEPARTMENT)

RECOMMENDATION: Council introduce for first reading by number and title only, with further reading waived, Ordinance No. 634, Amending Title 5 of the Morro Bay Municipal code, adding Chapter 5.60 - Sidewalk Vendors, and amending Chapters 5.08.150(A)(1), 5.40.020 and 10.40.120 to regulate sidewalk vendors within the City of Morro Bay.

C. BUSINESS ITEMS

C-1 CONSIDERATION OF THE MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT (TBID) ANNUAL REPORT AND CONTINUATION OF THE TBID ASSESSMENT FOR FISCAL YEAR (FY) 2020/21; AND ADOPTION OF RESOLUTION NO. 47-20 DECLARING THE INTENT TO CONTINUE THE PROGRAM AND LEVY ASSESSMENTS FOR THE FISCAL YEAR 2020/21 AND SCHEDULING A PUBLIC HEARING TO LEVY THE ASSESSMENTS; (CITY MANAGER)

RECOMMENDATION: Council to approve the Fiscal Year 2020/21 TBID Annual Report for expenditure of funds to be derived from the annual assessment and adopt Resolution No. 47-20 declaring the intent to continue the program and levy the 3% TBID assessments for FY2020/21 and schedule a public hearing to levy the assessments.

C-2 ADOPTION OF RESOLUTION 48-20 APPROVING TEMPORARY OUTDOOR DINING/SALES PROGRAM AND EXPANSION OF THE CITY'S BLANKET ENCROACHMENT PERMIT PROGRAM. USE OF CITY RIGHT OF WAY AND OTHER PRIVATE OUTDOOR SPACE TO FACILITATE SOCIAL DISTANCING AND SUPPORT COVID-19 ECONOMIC RECOVERY; (COMMUNITY DEVELOPMENT)

RECOMMENDATION: 1) Receive staff presentation on proposed temporary programs to support use of City right of way to facilitate social distancing and re-opening of restaurants and other local businesses and provide feedback and direction regarding plan implementation; and 2) Adopt Resolution 48-20 authorizing expansion of the Blanket Encroachment Permit Program and approving the Temporary Use Permit ("TUP") program for outdoor dining/sales on private property.

- C-3 DISCUSS AND CONSIDER LOCAL GOVERNMENT ACTION IN REGARDS TO THE USE OF FACE COVERINGS DURING THE COVID-19 PANDEMIC, INCLUDING ADOPTION OF RESOLUTION NO. 49-20 RECOMMENDING THE USE OF FACE COVERINGS IN CERTAIN CIRCUMSTANCES; (CITY ATTORNEY)

RECOMMENDATION: Staff recommends Council discuss possible local government action in regards to the use of face coverings during the COVID-19 pandemic, and then after discussion review options which include: A) Consider directing staff to bring back a face covering ordinance for introduction (more details from Council would be needed); and/or B) Consider adoption of Resolution No. 49-20 recommending the use of face coverings in certain circumstances; and/or C) Consider directing staff to proceed with provision to the public of face coverings and/or recommendations on making face coverings (more details from Council would be needed).

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

E. ADJOURNMENT

The next Regular Meeting will be held on **Tuesday, June 23, 2020 at 5:30 p.m.** via teleconference.

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 805-772-6205 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 UPON REQUEST BY CALLING THE CITY CLERK'S OFFICE AT 805-772-6205.

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 REASONABLE ARRANGEMENTS CAN BE MADE TO PROVIDE ACCESSIBILITY TO THE MEETING.

MINUTES - MORRO BAY CITY COUNCIL
SPECIAL MEETING – APRIL 28, 2020
TELECONFERENCE – 3:00 P.M.

AGENDA NO: A-1
MEETING DATE: June 9, 2020

City Council conducted this meeting in accordance with Section 3 of California Governor Newsom’s Executive Order N-29-20 issued on March 17, 2020 in response to the present State of Emergency in existence due to the threat of COVID-19. This meeting was held via teleconference for all participants.

PRESENT:	John Headding	Mayor
	Dawn Addis	Council Member
	Robert Davis	Council Member
	Jeff Heller	Council Member
	Marlys McPherson	Council Member
STAFF:	Scott Collins	City Manager
	Dana Swanson	City Clerk
	Jennifer Callaway	Finance Director/Acting Public Works Director
	Chris Neumeyer	City Attorney
	Scot Graham	Community Development Director
	Jody Cox	Police Chief
	Steve Knuckles	Fire Chief
	Rob Livick	City Engineer
	Jennifer Little	Tourism Manager
	Kirk Carmichael	Recreation Services Manager

ESTABLISH QUORUM AND CALL TO ORDER

Mayor Headding established a quorum by roll call vote and called the meeting to order at 3:00 p.m. with all members present.

PUBLIC COMMENT FOR ITEMS ON THE AGENDA

<https://youtu.be/wHwCcWdgpqQ?t=48>

Phillip Hill, Morro Bay, spoke in opposition to the proposed liveaboard fees.

Carole Truesdale, Morro Bay, suggested various methods of reducing operating costs.

John Weiss, Morro Bay, recommended furloughs for non-safety employees and hiring an in-house City Attorney.

Val Seymour, Morro Bay, urged the Council to pursue paid parking and RV parking at the Rock.

Dan Sedley, Morro Bay, recommended the City implement cost savings measures including a hard overtime freeze, furloughs, and layoff of non-essential employees.

Jeremiah O’Brien, Morro Bay Commercial Fisherman’s Association, expressed his appreciation for City staff.

The public comment period was closed.

SPECIAL MEETING AGENDA ITEM:

<https://youtu.be/wHwCcWdgpqQ?t=1186>

I. COMPREHENSIVE UPDATE ON THE FINANCIAL IMPACTS OF COVID-19 ON CITY FINANCES AND CONSIDERATION OF ROCK SOLID TOGETHER, THE CITY'S SHORT-TERM FISCAL EMERGENCY PLAN AND BUSINESS ASSISTANCE PROGRAM; (CITY MANAGER/FINANCE DIRECTOR/ACTING PUBLIC WORKS DIRECTOR)

City Manager Collins and Finance Director/Acting Public Works Director Callaway presented the report and responded to Council inquiries.

MOTION: Mayor Headding moved the Council adopt Resolution No. 37-20 to adopt a five percent salary reduction for unrepresented confidential and unrepresented management designated employees; and adopt Resolution No. 38-20 to adopt Amendment No. 1 to the Memorandum of Agreement between the City of Morro Bay and the Morro Bay Peace Officers' Association, adopting a five percent salary reduction; and adopt Resolution No. 39-20 to defer Tidelands Trust Lease Site rent payments to the City for the months of March, April, May and June 2020; and adopt Resolution No. 40-20 to adopt Amendment No. 1 to the Memorandum of Agreement between the City of Morro Bay and the Service Employees International Union (SEIU), adopting a five percent salary reduction. The motion was seconded by Council Member Addis for discussion.

The Council expressed its appreciation for concessions by the employee groups. Council Member Heller stated his concern with the proposed deferral of Tidelands Trust rent payments and suggested taking more time to review alternatives, including percentage rent as suggested by an existing leaseholder.

Following discussion, the motion carried 4-1 by roll call vote with Council Member Heller opposed.

There was Council consensus to move forward with the following General guidance to staff:

- Expand the City's Utility Discount Program through June 2020 billing cycle to customers who have been laid off due to COVID19 and those who are self-employed whose businesses were affected by COVID-19.
- Return with a Chamber of Commerce contract amendment to provide additional funds for business outreach and assistance efforts.
- Support for a micro loan program for the Tidelands Trust lease area businesses and local business outside the Tidelands Trust area not to exceed a maximum of \$100,000 of Castle Wind Community Benefit funds and \$200,000 of SB 1090 funds with program parameters to be developed by staff.
- Use of up to \$1 Million to Emergency Reserves for the remainder of FY 2019/20.
- Consideration of the sale or lease of City-owned properties, including 460 Bonita Street, the Teen Center, 570 Dunes Street, and others deemed appropriate.
- Explore RV Parking on a limited basis
- Ongoing advocacy for Federal and State economic support
- Agendize an ordinance permitting the sale of adult use cannabis and streamline the opening of the selected businesses.

ADJOURNMENT

The meeting adjourned at 5:14 p.m.

Recorded by:

Dana Swanson, City Clerk

City Council conducted this meeting in accordance with Section 3 of California Governor Newsom's Executive Order N-29-20 issued on March 17, 2020 in response to the present State of Emergency in existence due to the threat of COVID-19. This meeting was held via teleconference for all participants.

PRESENT: John Headding Mayor
 Dawn Addis Council Member
 Robert Davis Council Member
 Jeff Heller Council Member
 Marlys McPherson Council Member

ABSENT: None

STAFF: Scott Collins City Manager
 Chris Neumeyer City Attorney
 Dana Swanson City Clerk
 Jennifer Callaway Finance Director
 Rob Livick City Engineer
 Scot Graham Community Development Director
 Steve Knuckles Fire Chief
 Jody Cox Police Chief
 Eric Endersby Harbor Director

ESTABLISH QUORUM AND CALL TO ORDER

Mayor Headding called the meeting to order at 5:30 p.m., with all members present.

MOMENT OF SILENCE

PLEDGE OF ALLEGIANCE

RECOGNITION – None

MAYOR & COUNCILMEMBERS' REPORTS, ANNOUNCEMENTS & PRESENTATIONS

<https://youtu.be/vwCWuryTalg?t=135>

CITY MANAGER REPORTS, ANNOUNCEMENTS AND PRESENTATIONS

<https://youtu.be/vwCWuryTalg?t=911>

CLOSED SESSION REPORT – City Attorney Neumeyer stated no reportable action was taken by the City Council in accordance with the Brown Act.

PRESENTATIONS – NONE

PUBLIC COMMENT

<https://youtu.be/vwCWuryTalg?t=1098>

John Weiss, Morro Bay, was heartened a committee had been formed to address the budget deficit and hoped it would be possible to close the budget gap without using reserves.

Betty Winholtz, Morro Bay, expressed concern the Morro Bay Community Power Policy Board voted to accept nuclear power in its portfolio; asked to confirm whether the City owned the WRF property listed on the closed session agenda and, if not, when it will be brought forward in open

session; and stated the Corp of Engineers is proposing to organize committee to look at World War II munitions recovery on the sandspit.

Mayor Heading closed public comment.

The Council and staff responded to issues raised during public comment.

A. CONSENT AGENDA
<https://youtu.be/vwCWuryTalq?t=2059>

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion. The public will also be provided an opportunity to comment on consent agenda items.

A-1 APPROVAL OF MINUTES FOR THE FEBRUARY 25, 2020, CITY COUNCIL MEETING;
(ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-2 APPROVAL OF MINUTES FOR THE MARCH 10, 2020, CITY COUNCIL MEETING;
(ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-3 APPROVAL OF MINUTES FOR THE APRIL 24, 2020, CITY COUNCIL SPECIAL
CLOSED SESSION MEETING; (ADMINISTRATION)

RECOMMENDATION: Approve as submitted.

A-4 APPROVAL OF A LEASE AGREEMENT WITH THE CHAMBER OF COMMERCE FOR
CITY-OWNED PROPERTY LOCATED AT 695 HARBOR STREET AND AN
AGREEMENT FOR THE CHAMBER TO PROVIDE ECONOMIC DEVELOPMENT
SERVICES; (CITY MANAGER)

RECOMMENDATION: Staff recommends the City Council approve agreements with the Morro Bay Chamber of Commerce (Chamber) for the renewal of a property lease at 695 Harbor Street and provision of economic development services.

A-5 UPDATE ON THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL DRAFT
STATEMENT OF BASIS DOCUMENT FOR THE MORRO BAY POWER PLANT; (CITY
MANAGER)

RECOMMENDATION: Staff recommends the City Council receive and file the report.

A-6 ADOPTION OF RESOLUTION NO. 42-20 ESTABLISHING A TEMPORARY MORRO
BAY CARES COVID-19 UTILITY DISCOUNT PROGRAM; (FINANCE DEPARTMENT)

RECOMMENDATION: Staff recommends Council adopt Resolution No. 42-20, establishing a temporary Morro Bay Cares COVID-19 Utility Discount Program.

A-7 REAPPOINTMENT OF HEMANT PATEL TO THE VISIT SAN LUIS OBISPO COUNTY
(VSLOC) BOARD OF DIRECTORS; (ADMINISTRATION)

RECOMMENDATION: Staff recommends the Council reappoint Hemant Patel as the City's representative on the VSLOC Board of Directors (Board) for a 3-year term ending June 20, 2023.

Mayor Heading opened public comment for the Consent Agenda.

Betty Winholtz, Morro Bay, spoke regarding Item A-5, urging the City submit comments asking PG&E to do further clean-up of the property in preparation for future redevelopment.

The public comment period was closed.

Mayor Heading pulled Item A-5. Council Member McPherson pulled Item A-4.

MOTION: Council Member Addis moved approval of all items on Consent except Items A-4 and A-5. The motion was seconded by Council Member McPherson and carried 5-0 by roll call vote.

A-4 APPROVAL OF A LEASE AGREEMENT WITH THE CHAMBER OF COMMERCE FOR CITY-OWNED PROPERTY LOCATED AT 695 HARBOR STREET AND AN AGREEMENT FOR THE CHAMBER TO PROVIDE ECONOMIC DEVELOPMENT SERVICES; (CITY MANAGER)

<https://youtu.be/vwCWuryTalg?t=2343>

City Manager Collins responded to questions from Council and noted, without a Deputy City Manager, the Chamber's work is essential for business support and economic development.

MOTION: Council Member McPherson moved approval of Item A-4. The motion was seconded by Council Member Addis and carried 5-0 by roll call vote.

A-5 UPDATE ON THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL DRAFT STATEMENT OF BASIS DOCUMENT FOR THE MORRO BAY POWER PLANT; (CITY MANAGER)

<https://youtu.be/vwCWuryTalg?t=2827>

City Attorney Neumeyer and City Engineer Livick responded to Council questions and concerns raised during public comment.

MOTION: Mayor Heading moved approval of Item A-5. The motion was seconded by Council Member McPherson and carried 4-1 by roll call vote with Council Member Heller opposed.

B. PUBLIC HEARINGS - None

C. BUSINESS ITEMS

C-1 PRESENTATION OF HARBOR DEPARTMENT LEASE MANAGEMENT POLICY WORKING GROUP FINAL DRAFT DOCUMENT FOR CITY COUNCIL REVIEW, INPUT AND DIRECTION; (HARBOR DEPARTMENT)

<https://youtu.be/vwCWuryTalg?t=3606>

Harbor Director Endersby provided the report and responded to Council inquires.

Ron Reisner and Joan Solu, Members of the Lease Management Policy Working Group, provided individual comments.

The public comment period for Item C-1 was opened.

Cherise Hansson, Morro Bay resident and member of the Harbor Lease Management Policy Working Group, shared comments and expressed interest in continued participation as the property management aspect is considered.

The public comment period for Item C-1 was closed.

The Council expressed its appreciation to Mr. Lomeli and members of the Policy Working Group and agreed the draft document presented was an excellent foundation for moving forward. Following discussion, a majority of the Council agreed on the following:

- The current funding model for Harbor operations and capital improvements is not sustainable
- Support evaluation of paid parking, a Harbor district, and/or business improvement district where non-Tidelands properties contribute to operations and maintenance of the waterfront
- Accept draft policy language that allows loan proceeds from lease financing or refinancing to be used for acquisition, development or redevelopment anywhere in the Tidelands Trust area
- Important to have more City control of lease site development and redevelopment that aligns with the Waterfront Master Plan
- Desire for consistency and standardization of lease terms to the extent possible. While no support for fixed rate rent, it was agreed there may be opportunities to increase percentage rent in some areas
- Support further analysis of contracting some aspects of lease management to a property management firm working under the purview of the Harbor Department.

No formal action was taken by the City Council.

- C-2 ADOPTION OF RESOLUTION NO. 43-20 APPROVING THE ENGINEER'S REPORT AND DECLARING THE INTENT TO LEVY THE ANNUAL ASSESSMENT FOR THE NORTH POINT NATURAL AREA LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (PUBLIC WORKS)
<https://youtu.be/vwCWuryTalq?t=12398>

City Engineer Livick provided the report and responded to Council inquires.

The public comment period for Item C-2 was opened; seeing none, the public comment period was closed.

MOTION: Council Member McPherson moved to adopt Resolution No. 43-20 approving the Engineer's Report and declaring the intent to levy the annual assessment for maintenance of the North Point Natural Area. The motion was seconded by Council Member Heller and carried 5-0 by roll call vote.

- C-3 ADOPTION OF RESOLUTION NO. 44-20 APPROVING THE ENGINEER'S REPORT AND DECLARING THE INTENT TO LEVY THE ANNUAL ASSESSMENT FOR THE CLOISTERS LANDSCAPING AND LIGHTING MAINTENANCE ASSESSMENT DISTRICT; (PUBLIC WORKS)
<https://youtu.be/vwCWuryTalq?t=12890>

City Engineer Livick provided the report and responded to Council inquires.

The public comment period for Item C-3 was opened; seeing none, the public comment period was closed.

MOTION: Council Member McPherson moved to adopt Resolution No. 44-20 declaring the intent to levy the annual assessment for the maintenance of the Cloisters Park and Open Space for fiscal year 2020/21 and approving the Engineer's Report. The motion was seconded by Council Member Addis and carried 5-0 by roll call vote.

D. COUNCIL DECLARATION OF FUTURE AGENDA ITEMS

<https://youtu.be/vwCWuryTalg?t=13523>

Council Member Addis requested the issue of masks be addressed at Thursday's special meeting or agendized for a future meeting. The Mayor confirmed it would be discussed at the May 14 Special Meeting.

Council Member Heller requested discussion of a Harbor District or waterfront business improvement district. It was suggested that come forward as part of budget discussion in terms of how to fund harbor operations moving forward. A majority of the Council agreed with that approach.

Council Member Addis requested consideration of hiring a consultant to explore viability of paid parking and received full support for the item.

E. ADJOURNMENT

The meeting adjourned at 9:24 p.m.

Recorded by:

Dana Swanson
City Clerk

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MINUTES - MORRO BAY CITY COUNCIL
SPECIAL CLOSED SESSION MEETING –
MAY 26, 2020 – 3:00 P.M.
TELECONFERENCE.

AGENDA NO: A-3
MEETING DATE: June 9, 2020

City Council conducted this meeting in accordance with Section 3 of California Governor Newsom's Executive Order N-29-20 issued on March 17, 2020 in response to the present State of Emergency in existence due to the threat of COVID-19. This meeting was held via teleconference for all participants.

PRESENT: John Headding Mayor
 Dawn Addis Council Member
 Robert Davis Council Member
 Jeff Heller Council Member
 Marlys McPherson Council Member

ABSENT: None

STAFF: Scott Collins City Manager
 Chris Neumeyer City Attorney
 Scot Graham Community Development Director
 Eric Endersby Harbor Director

ESTABLISH QUORUM AND CALL TO ORDER

Mayor Headding called the meeting to order at 3:00 p.m. with all members present.

SUMMARY OF CLOSED SESSION ITEMS – The Mayor read a summary of Closed Session items.

CLOSED SESSION PUBLIC COMMENT – Mayor Headding opened public comment for items on the agenda; seeing none, public comment was closed.

The City Council moved to Closed Session and heard the following items:

CS-1 CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2) or (d)(3) & (e)(1): One Matter

CS-2 CONFERENCE WITH REAL PROPERTY NEGOTIATOR – GOVERNMENT CODE SECTION 54956.8

Property: Chevron Estero Bay (Former Marine Terminal) Property, north and East of the City: APN: 073-075-022, APN's: 073-075-016, 073-084-032, APN's:065-022-008, 073-075-002, 073-076-016

Property Negotiators: Chevron & Cayucos Sanitary District

Agency Negotiators: Scott Collins, City Manager, Scot Graham, Community Development Director and Chris Neumeyer, City Attorney

Under Negotiation: Price and Terms

CS-3 CONFERENCE WITH REAL PROPERTY NEGOTIATOR – GOVERNMENT CODE SECTION 54956.8

Property: 1 Jordan Terrace (Cerrito Peak): APN 066-221-001

Property Negotiators: Morro Bay Open Space Alliance

Agency Negotiators: Scott Collins, City Manager; Scot Graham, Community Development Director; and Chris Neumeyer, City Attorney

Under Negotiation: Price and Terms of Payment

CS-4 CONFERENCE WITH REAL PROPERTY NEGOTIATOR – GOVERNMENT CODE SECTION 54956.8

Property: 2783 Coral, Vacant lot at corner of Coral Avenue and San Jacinto; APN: 065-386-015
Property Negotiators: Morro Bay Ventures LLC
Agency Negotiators: Scott Collins, City Manager; Scot Graham, Community Development Director and Chris Neumeyer, City Attorney
Under Negotiation: Price and Terms of Payment

CS-5 CONFERENCE WITH REAL PROPERTY NEGOTIATOR – GOVERNMENT CODE SECTION 54956.8

Property: Lease Site 141 (Coast Guard Station Morro Bay, 1279 Embarcadero)
Property Negotiators: United States Coast Guard
Agency Negotiators: Scott Collins, City Manager; Eric Endersby, Harbor Director and Chris Neumeyer, City Attorney
Under Negotiation: Price and Terms of Payment

CS-6 CONFERENCE WITH REAL PROPERTY NEGOTIATOR – GOVERNMENT CODE SECTION 54956.8

Property: Lease Sites 96/96W (House of JuJu, 945 Embarcadero)
Property Negotiators: Stan Van Beurden
Agency Negotiators: Scott Collins, City Manager; Eric Endersby, Harbor Director; and Chris Neumeyer, City Attorney
Under Negotiation: Price and Terms of Payment

RECONVENE IN OPEN SESSION – The City Council reconvened in Open Session. The Council did not take any reportable action in accordance with the Brown Act.

ADJOURNMENT - The meeting adjourned at 4:42 p.m.

Recorded by:

Dana Swanson
City Clerk



AGENDA NO: A-4

MEETING DATE: June 9, 2020

Staff Report

TO: Honorable Mayor and City Council

DATE: June 2, 2020

FROM: Chris F. Neumeyer, City Attorney

SUBJECT: Adoption of Ordinance No. 633 to amend Chapter 5.50 (Commercial Cannabis Operations Regulatory Program) of Title 5 of the Morro Bay Municipal Code to Permit Certain Adult-Use Commercial Cannabis Uses (Retail Sales, Deliveries and (Wholesale) Distributor) and Authorize Community Development Director to Issue Administrative Regulations

RECOMMENDATION

Staff recommends Council consider adopting, by second reading and by title only with further reading waived, Ordinance No. 633, entitled "An Ordinance of the City Council of the City of Morro Bay, California, amending Chapter 5.50 (Commercial Cannabis Operations Regulatory Program) of Title 5 of the Morro Bay Municipal Code to permit certain adult-use commercial cannabis uses (retail sales, deliveries and (wholesale) distributor) and to authorize community development director to issue administrative regulations"

ALTERNATIVES

No alternatives are being recommended.

FISCAL IMPACT

The proposed ordinance amendment will allow the retail sale of adult-use cannabis by the two currently permitted medical cannabis retail operations. These additional sales would be subject to the local cannabis tax previously approved by the voters of Morro Bay. If the City allows adult-use cannabis retail sales, the City is expected to realize greater cannabis tax revenues than presently anticipated from only medical cannabis retail sales. Any estimate of revenues is speculative. The City initially estimated that tax revenues to the City from two medical cannabis retail operations would annually be from \$25,000 to \$225,000. Allowing *both* medical and adult-use cannabis retail sales reasonably may double to triple the cannabis tax revenue to the City, generating anywhere from \$50,000 to \$675,000 in cannabis tax revenues from two cannabis retail operations. The middle range of this estimate is consistent with estimates provided by one of the two current medical cannabis retail permittees. The present ordinance allows City regulatory and administrative costs associated with regulation of commercial cannabis operations to be recouped through City fees.

Prepared By: DS/HG Dept Review: _____
City Manager Review: SC City Attorney Review: CFN

BACKGROUND/DISCUSSION

On May 7, the Council Cannabis Subcommittee (consisting of Councilmembers Robert Davis and Marlys McPherson, City Manager Scott Collins, Community Development Director Scot Graham, Fire Department Chief Steve Knuckles, and Police Department Chief Jody Cox (represented by Commander Amy Watkins and Sergeant Tony Mosqueda)) met to discuss possible amendments to Chapter 5.50 of the MBMC concerning authorized commercial cannabis operations and any further revisions for recommendation to the City Council.

1. Proposed Ordinance Amendment

The Council Cannabis Subcommittee recommends two amendments to Chapter 5.50 of the MBMC as concerns commercial cannabis operations, as outlined below. Both of these recommendations are provided for in proposed ordinance.

A. Authorize Adult-Use Cannabis Retail Sales by Two Current Medical Cannabis Retail Permittees and Adult-Use (Wholesale) Distribution and Delivery

The Council Cannabis Subcommittee recommends that the two presently authorized commercial medical cannabis retail operations be permitted to also engage in commercial adult-use retail operations, and that (wholesale) distribution and delivery also be permitted to engage in adult-use cannabis operations.

The proposed ordinance amends Chapter 5.50 of the MBMC to permit such commercial activity. All regulations presently in Chapter 5.50 that apply to medical cannabis retail, (wholesale) distribution and delivery operations will equally apply to such adult-use commercial cannabis operations. Given the vetting and oversight already required for medical cannabis operations, City staff has concluded that allowing for such adult-use cannabis commercial operations will not entail any additional substantial administrative costs or activity on behalf of the City.

B. Authorize Administrative Regulations Issued by Community Development Director

The Council Cannabis Subcommittee also proposes that Chapter 5.50 of the MBMC be amended to authorize issuance of additional rules and regulations for the administration and implementation of Chapter 5.50 by the Community Development Director.

Section 5.50.150 (Administration) of Chapter 5.50 currently provides further “rules, regulations, procedures and standards for the administration and implementation of this chapter” must be enacted by resolution or ordinance from City Council. That section anticipates Council may delegate this authority to the Community Development Director by resolution.

The proposed ordinance amendment delegates such authority to the Community Development Director by amendment of Section 5.50.150. Once commercial cannabis operations are open for business, administrative and ordinance implementation issues may present themselves. This amendment will authorize the Community Development Director to address such issues. For example, issues concerning compliance with and implementation of signage requirements, security measures, or record keeping could arise.

CONCLUSION

Staff recommends that the City Council consider adopting Ordinance No. 633 by second reading and by title only, with further reading waived.

ATTACHMENT

1. Ordinance No. 633

ORDINANCE NO. 633

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, AMENDING CHAPTER 5.50 (COMMERCIAL CANNABIS OPERATIONS REGULATORY PROGRAM) OF TITLE 5 OF THE MORRO BAY MUNICIPAL CODE TO PERMIT CERTAIN ADULT-USE COMMERCIAL CANNABIS USES (RETAIL SALES, DELIVERIES AND (WHOLESALE) DISTRIBUTOR) AND TO AUTHORIZE COMMUNITY DEVELOPMENT DIRECTOR TO ISSUE ADMINISTRATIVE REGULATIONS

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

WHEREAS, in 1996 California voters approved Proposition 215, the Compassionate Use Act (“CUA”), codified as Section 11362.5 of the Health and Safety Code, to exempt certain patients and their primary caregivers from criminal liability under state law for the possession and cultivation of cannabis for medical purposes; and

WHEREAS, in 2003 the California legislature enacted Senate Bill 420, the Medical Marijuana Program Act (“MMPA”), codified as Sections 11362.7, *et seq.*, of the Health & Safety Code, and as later amended, to clarify the scope of the Compassionate Use Act of 1996 relating to the possession and cultivation of cannabis for medical purpose, and to authorize local governing bodies to adopt and enforce laws consistent with its provisions; and

WHEREAS, in October 2015, the State of California adopted AB 266, AB 243, and SB 643, collectively referred to as the Medical Cannabis Regulation and Safety Act (“MCRSA”), which established a comprehensive regulatory and licensing scheme for commercial medical cannabis operations; and

WHEREAS, at the November 8, 2016 general election, the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”) was approved by California voters as Proposition 64, which established a comprehensive regulatory and licensing scheme for commercial adult-use (recreational) cannabis operations, and which also legalized limited personal recreational cannabis use, possession, and cultivation; and

WHEREAS, on June 27, 2017 Governor Brown signed Senate Bill 94, the Medicinal and Adult Use Cannabis Regulation and Safety Act (“MAUCRSA”), which merged the regulatory regimes of MCRSA and AUMA; and

WHEREAS, the MAUCRSA provides that the State of California will begin issuing licenses in 2018 for both medical and adult-use (recreational) cannabis businesses in 20 different categories, which are found in Section 26050 of the Business & Professions Code, and which categories include cannabis cultivation, manufacturer, testing, retailer, distributor, and microbusiness; and

WHEREAS, the MAUCRSA, Section 26200(a)(1) of the Business & Professions Code, provides that local jurisdictions may completely prohibit the establishment or operation of any or all of the 20 different medical and recreational business operations to be licensed by the state under Section 26050 of the Business & Professions Code; and

WHEREAS, the MAUCRSA, Section 26055(d) of the Business & Professions Code, provides that a state commercial cannabis license may not be issued to an applicant whose operations would violate the provisions of any local ordinance or regulation; and

WHEREAS, the MAUCRSA, Section 26200(a)(1) of the Business & Professions Code, provides that local jurisdictions may adopt and enforce local ordinances to regulate any or all of the 20 different medical and adult-use business operations to be licensed by the state under Section 26050 of the Business & Professions Code, including, but not limited to, local zoning and land use requirements; and

WHEREAS, the MAUCRSA, Section 26201 of the Business & Professions Code, provides that any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state for the 20 different medical and adult-use business operations to be licensed by the state under Business & Professions Code § 26050, shall be the minimum standards, and a local jurisdiction may establish additional standards, requirements, and regulations; and

WHEREAS, pursuant to the above-described express statutory authority and its police power, the City now desires to amend Chapter 5.50 (Commercial Cannabis Operations Regulatory Program) of Title 5 to permit certain commercial adult-use cannabis uses (retail sales, deliveries and (wholesale) distributor); and

WHEREAS, pursuant to the above-described express statutory authority and its police power, the City now desires to amend Chapter 5.50 (Commercial Cannabis Operations Regulatory Program) of Title 5 so as to expressly authorize the City's Community Development Director to issue administrative rules and regulations governing commercial cannabis uses within the City of Morro Bay; and

WHEREAS, this Ordinance is enacted, consistent with the Compassionate Use Act of 1996, the Medical Marijuana Program Act of 2003, the Medical Cannabis Regulation and Safety Act of 2015, the Adult Use of Marijuana Act of 2016, and the Medicinal and Adult Use of Cannabis Regulation and Safety Act of 2017, to protect, promote and maintain the public health, safety, and welfare of City residents and visitors in relation to cannabis related uses and activities; and

WHEREAS, pursuant to the above-described express statutory authority and the City's police power, the City has the authority to prohibit, permit and regulate any and all commercial cannabis activities (whether not-for-profit or for-profit) that may otherwise be permitted by the State of California under the MCRSA, the AUMA, and the MAUCRSA; and

WHEREAS, the City finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to both the exemption provided by Section 26055(h) of the Business and Professions Code as well as Sections 15060(c)(3) and 15061(b)(3) of the CEQA Guidelines; and

WHEREAS, nothing in this Ordinance shall be construed to allow any person to engage in conduct that endangers others or causes a public nuisance;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA FINDS AND ORDAINS AS FOLLOWS:

SECTION 1. THE CITY COUNCIL OF THE CITY OF MORRO BAY HEREBY MAKES THE FOLLOWING FINDINGS:

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- A. The recitals set forth above are all true and correct and are incorporated herein.
- B. The regulation of commercial cannabis activities established by this Ordinance amendment are to protect and promote the public health, safety and welfare, and are enacted pursuant to the authority granted to the City by state law.

SECTION 2. CHAPTER 5.50 (COMMERCIAL CANNABIS OPERATIONS REGULATORY PROGRAM) OF TITLE 5 (BUSINESS TAX CERTIFICATES AND REGULATIONS) OF THE MORRO BAY MUNICIPAL CODE IS HEREBY AMENDED TO READ AS FOLLOWS (NEW TEXT IN *BOLD ITALICS* AND DELETED TEXT IN ~~STRIKETHROUGH~~):

“CHAPTER 5.50 - COMMERCIAL CANNABIS OPERATIONS REGULATORY PROGRAM

Sec. 5.50.010 - Purpose and intent.

Sec. 5.50.020 - Commercial cannabis operations prohibited without City permit.

Sec. 5.50.030 - Definitions.

Sec. 5.50.040 - Prohibited commercial cannabis operations.

Sec. 5.50.050 - Permitted commercial cannabis operations.

Sec. 5.50.060 - Commercial cannabis operation permit.

Sec. 5.50.070 - Applications for commercial cannabis operation permit.

Sec. 5.50.080 - Compliance review of commercial cannabis operation permit application.

Sec. 5.50.090 - Issuance of commercial cannabis operation permit.

Sec. 5.50.100 - Renewal of commercial cannabis operation permit.

Sec. 5.50.110 - General operating standards and restrictions.

Sec. 5.50.120 - Retail ~~(medical)~~ operating standards and restrictions.

Sec. 5.50.130 - Wholesale distribution ~~(medical)~~ operating standards and restrictions.

Sec. 5.50.140 - Delivery ~~(medical)~~ operating standards and restrictions.

Sec. 5.50.150 - Administration.

Sec. 5.50.160 - Fees.

Sec. 5.50.170 - Suspension and revocation.

Sec. 5.50.180 - Violations and penalties; public nuisance

Sec. 5.50.190 - Service of notices.

Sec. 5.50.200 - Prohibitions.

Sec. 5.50.210 - Nonconforming use.

Sec. 5.50.220 - Severability.

Sec. 5.50.010 - Purpose and intent.

- A. The purpose of this chapter is to establish a comprehensive set of regulations with an attendant regulatory permit applicable to the operation of certain types of commercial cannabis operations, while simultaneously establishing an express prohibition on certain other types of commercial cannabis operations.
- B. The regulations for, and prohibitions on, specific types of commercial cannabis operations are enacted to preserve the public health, safety, and welfare of the residents and visitors of the City of Morro Bay, consistent with California’s Compassionate Use Act of 1996, California’s Medical Marijuana Program Act of 2003, the Adult Use of Marijuana Act of 2016 (AUMA) (Proposition 64), the Medicinal and Adult-Use Cannabis Regulation and Safety Act of 2017 (MAUCRSA) and all applicable state laws governing commercial cannabis activities.
- C. The issuance of a Commercial Cannabis Operation Permit shall constitute a revocable privilege and shall not create or establish any vested rights for the development or use of a property.
- D. This chapter and its regulations shall be known as the “Commercial Cannabis Operations Regulatory Program.”

Sec. 5.50.020 - Commercial cannabis operation prohibited without City permit.

It shall be unlawful to own, establish, operate, use, or permit the establishment or activity of a commercial cannabis operation, or to participate in commercial cannabis operations as an employee, contractor, agent, volunteer, or in any manner or capacity, other than as provided in this chapter and pursuant to both a current and valid City of Morro Bay Commercial Cannabis Operation Permit, as well as the equivalent state license for such commercial cannabis operation as provided for by Section 26050 of the Business & Professions Code, and as amended. The prohibition contained in this section shall include renting, leasing, or otherwise permitting a commercial cannabis operation to occupy or use a location, vehicle, or other mode of transportation.

Sec. 5.50.030 - Definitions.

As used in this chapter, the following words and phrases shall have the following meanings:

- A. “Adult use” (i.e., “recreational” or “non-medical”) refers to activity involving cannabis or cannabis products, which is restricted to adults 21 years of age and older and who do not possess a physician’s recommendation, in contrast to an activity involving medical cannabis or medical cannabis products.
- B. “Applicant” means a person who files an application for a permit under this chapter.

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- C. “Cannabis” means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. ‘Cannabis’ also means the separated resin, whether crude or purified, obtained from cannabis. ‘Cannabis’ does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.
- D. “Cannabis concentrate” means cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate for purposes of this division. A cannabis concentrate is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.
- E. “Cannabis Permit Committee” is composed of the Fire Chief, Police Chief, Finance Director, City Attorney, and/or their designees.
- F. “Cannabis products” means cannabis that has undergone a process whereby the plant material has been transformed into a concentrate, including but not limited to, concentrated cannabis, or an edible or topical product containing cannabis or concentrated cannabis and other ingredients.
- G. “City Attorney” means the City of Morro Bay City Attorney, and includes his/her designee(s).
- H. “City Manager” means the City of Morro Bay City Manager, and includes his/her designee(s).
- I. “Commercial cannabis operation” includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery, or sale (including retail and wholesale) of cannabis and cannabis products; except, as applicable, as set forth in Chapter 9.06 (“Personal Cultivation of Cannabis”) of this Code or as preempted by state law.
- J. “Commercial Cannabis Operation Permit” shall mean a City of Morro Bay permit issued pursuant to the procedures provided for in this chapter and which shall allow the permit holder to operate a specific type of commercial cannabis operation in the City of Morro Bay subject to the requirements of this chapter, state law, and the specific permit.
- K. “Cultivation” means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.
- L. “Day care center” means, as the term is understood by Section 26001(o) of the Business and Profession Code, and as may be amended, any child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and school-age child care centers.

- M. “Delivery” means the commercial transfer of cannabis or cannabis products to a customer, and includes the use of any technology platform owned and controlled by the same person making such use.
- N. “Director” means the City of Morro Bay Community Development Director, and includes his/her designee(s).
- O. “Distribution” means the procurement, sale, and transport of cannabis and cannabis products between entities licensed for and/or engaged in commercial cannabis activities.
- P. “Distributor” means a person engaged in distribution.
- Q. “Edible” means cannabis product that is intended to be used, in whole or in part, for human consumption, including, but not limited to, chewing gum, but excluding products set forth in Division 15 (commencing with Section 32501) of the Food and Agricultural Code. An edible cannabis product is not considered food, as defined by Section 109935 of the Health and Safety Code, or a drug, as defined by Section 109925 of the Health and Safety Code.
- R. “Employee” means any person (whether paid or unpaid) who provides regular labor or regular services for a commercial cannabis operation, including, but not limited to, at the location of a commercial cannabis operation. The term “employee” includes managers and owners as used in this chapter.
- S. “Extraction” means the process of obtaining cannabis concentrates from cannabis plants, including but not limited to through the use of solvents like butane, alcohol or carbon dioxide.
- T. “Finance Director” means the City of Morro Bay Finance Director, and includes his/her designee(s).
- U. “Fire Chief” means the City of Morro Bay Fire Department Chief, and includes his/her designee(s).
- V. “Identification card” has the same definition as provided for in Health and Safety Code section 11362.7(g), and as may be amended, defined as “a document issued by the [State Department of Health Services] that identifies a person authorized to engage in the medical use of cannabis and the person’s designated primary caregiver, if any.”
- W. “Labeling” means any label or other written, printed, or graphic matter upon cannabis or a cannabis product, upon its container or wrapper, or that accompanies any cannabis or cannabis product.
- X. “Location” means any parcel of land, whether vacant or occupied by a building, group of buildings, or accessory buildings, and includes the buildings, structures, yards, open spaces, lot width, and lot area.
- Y. “Lighting” means the act of illuminating as well as the effect achieved by the arrangement of lights.
- Z. “Live scan” means a system for inkless electronic fingerprinting and the automated background check developed by the California Department of Justice (DOJ) which involves digitizing fingerprints and electronically transmitting the fingerprint image data

along with personal descriptor information to computers at the DOJ for completion of a criminal record check; or such other comparable inkless electronic fingerprinting and automated background check process as determined by the City Council.

- AA. “Manager” means an employee responsible for management and/or supervision of a commercial cannabis operation.
- BB. “Manufacture” or “manufacturing” means to compound, blend, extract, infuse, or otherwise make or prepare a cannabis product; includes the activities of a manufacturer.
- CC. “Manufacturer” means a person that conducts the production, preparation, propagation, or compounding of cannabis or cannabis products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages cannabis or cannabis products or labels or relabels its container; includes the activity of manufacturing.
- DD. “Marijuana” has the same definition as provided for “cannabis” in this chapter.
- EE. “Medical” refers to activity involving medical cannabis or medical cannabis products, in contrast to an activity involving adult-use cannabis or adult-use cannabis products.
- FF. “Medical cannabis” or “medical cannabis product” means cannabis or a cannabis product used in compliance with state law for medical purposes, pursuant to the Compassionate Use Act (Health and Safety Code § 11362.5), the Medical Marijuana Program Act (Health and Safety Code §§ 11362.7, *et seq.*), and the Medicinal and Adult-Use Cannabis Regulation and Safety Act (Business and Professions Code §§ 26000, *et seq.*).
- GG. “Merit List” shall refer to the criteria listed in Section 5.50.090(C) of this chapter.
- HH. “Minor” means a person under twenty-one (21) years of age.
- II. “Owner” means the owner of a commercial cannabis operation.
- JJ. “Microbusiness” shall have the same definition as provided for in Section 26070 of the Business and Professions Code, and as may be amended.
- KK. “Nursery” means a person that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of cannabis.
- LL. “Operations Officer(s)” shall refer to the Director, the Fire Chief, the Police Chief, the Finance Director and the City Manager, individually or collectively.
- MM. “Package” means any container or receptacle used for holding cannabis or cannabis products.
- NN. “Packaging” or “packages” means an activity involved with placing cannabis or cannabis products in a package.

- OO. “Park” means public land which has been designated for park or recreational activities, including but not limited to a park, playground, nature trails, swimming pool, athletic field, basketball court, tennis court, pedestrian or bicycle paths, beaches, open space, or similar public land within the city or which is under the control, operation or management of the city recreation and parks department.
- PP. “Permittee” means a person issued a Commercial Cannabis Operation Permit by the City of Morro Bay.
- QQ. “Person” means any individual, firm, co-partnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit.
- RR. “Person with an identification card” has the same definition as provided for in Health and Safety Code section 11362.7(c), and as may be amended, defined as “an individual who is a qualified patient who has applied for and received a valid identification card pursuant to this article.”
- SS. “Physician’s recommendation” means a determination from a physician that a patient’s medical cannabis use is deemed appropriate and is recommended by the physician on the basis of the physician has determined that the patient’s health would benefit from the use of cannabis in the treatment of cancer, anorexia, AIDS, chronic pain, spasticity, glaucoma, arthritis, migraine, or any other illness for which cannabis provides relief, in strict accordance with the Compassionate Use Act of 1996 (Proposition 215), and as understood by Section 11362.5 of the Health and Safety Code.
- TT. “Religious institution” means any church, synagogue, mosque, temple, or building which is used primarily for religious worship, religious education and related religious activities.
- UU. “Police Chief” means the City of Morro Bay Police Chief, and includes his/her designee(s).
- VV. “Police Department” means the City of Morro Bay Police Department.
- WW. “Premises” means a single parcel of property. Where contiguous parcels are under common ownership or control, such contiguous parcels shall be counted as a single “premises.”
- XX. “Primary caregiver” has the same definition as provided for in Section 11362.7(d) of the Health and Safety Code, and as may be amended, including being “the individual, designated by a qualified patient or by a person with an identification card, who has consistently assumed responsibility for the housing, health, or safety of that patient or person” A “primary caregiver” shall also meet the requirements of Health and Safety Code section 11362.7(e), and as may be amended, which provide that a “primary caregiver shall be at least 18 years of age, unless the primary caregiver is the parent of a minor child who is a qualified patient or a person with an identification card or the primary caregiver is a person otherwise entitled to make medical decisions under state law pursuant to Sections 6922, 7002, 7050, or 7120 of the Family Code.”
- YY. “Qualified Patient” has the same definition as provided for in Health and Safety Code section 11362.7(f), and as may be amended, defined as “a person who is entitled to

the protections of Section 11362.5, but who does not have an identification card issued pursuant to this article.”

ZZ. “Retailer” means a person engaged in the retail sale or delivery of cannabis or cannabis products to a customer.

AAA. “School” means, as the term is understood by Section 26054(b) of the Business and Profession Code, and as may be amended, as a place of instruction in kindergarten or any grades 1 through 12.

BBB. “Site” means the premises and actual physical location of a Commercial Cannabis Operation, as well as its accessory structures and parking areas.

CCC. “Testing laboratory” or “testing” refers to a laboratory, facility, or entity that offers or performs tests on cannabis or cannabis products; includes the activity of laboratory testing.

DDD. “Youth center” means, as the term is understood by Section 26001(av) of the Business and Profession Code, and as may be amended, any public or private facility that is primarily used to host recreational or social activities for minors, including, but not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.

Sec. 5.50.040 - Prohibited commercial cannabis operations.

A. Commercial cannabis operations (including non-profit operations) within the City which involve the activities of cultivation, manufacturer, testing, ~~retail (adult use), distributor (adult use)~~, or microbusiness are prohibited, including but not limited to commercial cannabis activities licensed by the state license classifications listed below as provided in Business and Professions Code § 26050:

1. Type 1 = Cultivation; Specialty outdoor; Small.
2. Type 1A = Cultivation; Specialty indoor; Small.
3. Type 1B = Cultivation; Specialty mixed-light; Small.
4. Type 1C = Cultivation; Specialty cottage; Small.
5. Type 2 = Cultivation; Outdoor; Small.
6. Type 2A = Cultivation; Indoor; Small.
7. Type 2B = Cultivation; Mixed-light; Small.
8. Type 3 = Cultivation; Outdoor; Medium.
9. Type 3A = Cultivation; Indoor; Medium.
10. Type 3B = Cultivation; Mixed-light; Medium.
11. Type 4 = Cultivation; Nursery.
12. Type 5 = Cultivation; Outdoor; Large.
13. Type 5A = Cultivation; Indoor; Large
14. Type 5B = Cultivation; Mixed-light; Large.
15. Type 6 = Manufacturer 1.
16. Type 7 = Manufacturer 2.
17. Type 8 = Testing.
- ~~18. Type 10 = Retailer (adult use / non-medical).~~
- ~~19. Type 11 = Distributor (adult use / non-medical).~~

18. Type 12 = Microbusiness.

- B. The prohibition provided by above subsection (A) includes any similar activities authorized under new or revised state licenses, or any other state authorization, to allow any type, category or classification of cannabis commercial activities which involve the activities of cultivation, manufacturer, testing, ~~retail (adult use), distributor (adult use)~~, microbusiness, or similar operations (including non-profit, collective or cooperative operations).

Sec. 5.50.050 - Permitted commercial cannabis operations.

- A. Commercial cannabis operations (including non-profit operations) within the City which involve the activities of retail ~~(medical)~~ or distributor ~~(medical)~~ are allowed subject to issuance and maintenance of a valid and current City Commercial Cannabis Operation Permit, continuing adherence to this entire chapter and all applicable city and state regulations and laws, and issuance and maintenance of a valid and current equivalent state license type listed below, as provided for in Business and Professions Code § 26050:
 - 1. Type 10 = Retailer ~~(medical)~~.
 - 2. Type 11 = Distributor ~~(medical)~~.
- B. The requirements provided by above subsection (A) apply to any similar activities authorized under new or revised state licenses, or any other state authorization, to allow any type, category or classification of cannabis commercial activities which involve the activities of retail ~~(medical)~~, distribution ~~(medical)~~, or similar operations (including non-profit, collective or cooperative operations).

Sec. 5.50.060 - Commercial cannabis operation permit.

- A. Prior to initiating operation as a commercial cannabis operation and as a continuing requisite to conducting operations, the owner of a commercial cannabis operation shall obtain a regulatory permit from the City under the terms and conditions set forth in this chapter.
- B. Issuance of a Commercial Cannabis Operation Permit is governed by a three-step procedure (as provided for in more detail in Sections 5.50.080 and 5.50.090).
 - 1. The first step (as provided for in Section 5.50.080) is a review by the Director to determine whether an applicant meets the minimum qualifications for a Commercial Cannabis Operation Permit, such minimum qualifications being the requirements of this chapter, the Morro Bay City Code, and applicable state law. If the Director makes a positive determination, then the application will be deemed compliant, and eligible for review by the Cannabis Permit Committee as to whether the permit should issue.
 - 2. The second step (as provided for in Section 5.50.090) is a review by the Cannabis Permit Committee of the thoroughness of applicant's adherence to Merit List criteria specified in Section 5.50.090(C). Upon conclusion of this review, the Cannabis Permit Committee shall make a recommendation to the City Manager as to whether or not a permit should be issued. The recommendation shall articulate in writing reasons for the recommendation and refer to Merit List criteria.
 - 3. The third step (as provided for in Section 5.50.90) is review by City Manager of

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Cannabis Permit Committee recommendations, and then a decision on whether a permit will or will not be issued. The reasons for the decision shall be articulated in writing and refer to Merit List criteria specified in Section 5.50.090(C). The decision shall be final and non-appealable.

- C. Commercial Cannabis Operation Permits issued pursuant to this chapter shall automatically expire one year from the date of issuance, unless provided for otherwise.
- D. Conditions necessary for the continuing validity of a Commercial Cannabis Operation Permit include:
 - 1. Strict adherence to each and every requirement of this chapter, as well as any requirements, including administrative regulations, adopted by the City pursuant to the authority of this chapter.
 - 2. Maintaining a current and valid state license under Section 26200 of the Business and Professions Code, and as amended. Revocation, suspension or expiration of the state license shall automatically invalidate the equivalent City Commercial Cannabis Operation Permit.
 - 3. Allowing Operations Officers to conduct reasonable inspections of the location of the commercial cannabis operation at the discretion of the City, including but not limited to inspection of security, inventory, and written records and files pertaining to the commercial cannabis operation, for the purposes of ensuring compliance with local and state law.
 - 4. Maintaining with the City current and valid contact information of the owner(s) and manager(s) of the commercial cannabis operation.
 - 5. Maintaining with the City current and valid contact information of a legal representative of the commercial cannabis operation.
 - 6. Transferable only if transferee successfully completes all of the requirements that a new applicant for a Commercial Cannabis Operation Permit would otherwise need to meet.

Sec. 5.50.070 - Applications for commercial cannabis operation permit.

- A. The owner of a proposed commercial cannabis operation shall file an application with the Director upon a form provided by the City and shall pay a filing fee as established by resolution adopted by the City Council, as may be amended from time to time. Applications will be accepted beginning on July 1, 2018.
- B. An application for a Commercial Cannabis Operation Permit shall include, but not be limited to, the following information:
 - 1. Business.
 - a. Activities. A general description of the proposed operation, including how the proposed operation will operate in compliance with this Code and state law, plans for handling cash and transporting cannabis and cannabis products to and from the premises, and the proposed use of all

areas on the premises, including but not limited to specific activities, storage, lighting and signage.

- b. Security. A security plan detailing measures to the satisfaction of the Director that all applicable security-related requirements under State or local law, including but not limited to the requirements of Section 550.110(B), are and will be met.
- c. Development Agreement. Applicants seeking to enter into a development agreement with the City pursuant to Government Code sections 65864, *et seq.*, are encouraged to propose terms and conditions, including but not limited to applicant benefits, public outreach and education, community service, and payment of fees and other charges as mutually agreed.
- d. Odor Control. An odor control plan detailing odor control measures in accordance with Section 550.110(C), to the satisfaction of the Director.
- e. Ownership. A description of the statutory entity or business form that will serve as the legal structure for the applicant, the ownership structure of the applicant as filed with the California Secretary of State (e.g. limited liability company, joint partnership, S-Corporation) (an applicant that is a foreign corporation shall include in its application the certificate of qualification issued by the Secretary of State of California), and a copy of the entity's formation and organizing documents, including, but not limited to, articles of incorporation, certificate of amendment, statement of information, articles of association, bylaws, partnership agreement, operating agreement, and fictitious business name statement.
- f. Seller's Permit. The seller's permit number issued by the Board of Equalization or evidence that the applicant has applied for a seller's permit from the Board of Equalization, as applicable.
- g. Other Licenses and Permits. Identification of any other licenses or permits for commercial cannabis operations, whether for the City of Morro Bay or for any other licensing or permitting authority:
 - i. held currently by the applicant;
 - ii. pending approval for the applicant; or
 - iii. denied to, revoked from or suspended for the applicant.
- h. Physical. A general description of the proposed operation, including the street address, parcel number, the total square footage of the site, and the characteristics of the surrounding area.
- i. Floor plan. A scaled floor plan for each level of each building that is part of the business site, including the entrances, exits, walls, and operating areas. The floor plan must be professionally prepared by a licensed civil engineer or architect.

- j. Site plan. A scaled site plan of the business site, that will include at a minimum all buildings, structures, driveways, parking lots, landscape areas, and boundaries. The site plan must be professionally prepared by a licensed civil engineer or architect.
- k. Hours of Operation. Proposed hours and days of operation.

2. Individuals.

- a. Managers. The name, address, e-mail and phone number of any person who is managing or responsible for the commercial cannabis operation's activities.
- b. Community Outreach Manager. The name, e-mail and phone number of an employee designated as Community Outreach Manager, who will be responsible for outreach and communication with the surrounding community, including the neighborhood and nearby businesses.
- c. Employees. A list of the names of all current and prospective employees of the commercial cannabis operation, along with any other identifying information requested by the Director.
- d. Consent to Criminal Investigation. Written consent from all employees to fingerprinting and a criminal background investigation by the City, upon a form provided by the City, accompanied with payment of appropriate fees to City to cover the costs of performing such criminal background check. At the discretion of the City and in compliance with State law, the City may use live scan to perform criminal background checks.
- e. Identification. For each employee, a color photocopy of either a valid California Driver's License or equivalent identification approved by the Director.
- f. Land Owner. The name, address, e-mail and phone number of the owner and lessor of the real property upon which the commercial cannabis operation is to be conducted. In the event the applicant is not the legal owner of the property, the application must be accompanied by a notarized acknowledgement from the owner of the property that a commercial cannabis operation will be operated on his/her property.

3. Miscellaneous.

- a. Any additional application requirements specific to the type of Commercial Cannabis Operation Permit being sought, including but not limited to as provided for by this chapter.
- b. Evidence satisfactory to the Director of compliance with all local and state law requirements governing commercial cannabis operations.
- c. Evidence satisfactory to the Director of compliance with all applicable

insurance requirements as provided for by this chapter, local law and state law. Minimum insurance levels shall be determined by the Director after an assessment of the risks posed by the commercial cannabis operation, including provision for meeting the requirements of Section 5.50.080(D)(2).

- d. Authorization for the Director to seek verification of the information contained within the application.
- e. A statement in writing by the applicant that he or she certifies under penalty of perjury that all the information contained in the application is true and correct.
- f. Any such additional and further information as is deemed necessary by the Director to administer this chapter.

Sec. 5.50.080 - Compliance review of commercial cannabis operation permit application.

- A. Upon receipt of a completed application and payment of all applicable fees, the Director shall investigate the information contained in the application to determine whether the applicant meets the minimum qualifications for a Commercial Cannabis Operation Permit. These minimum qualifications are the requirements of this chapter, the Morro Bay City Code, and applicable state law. If the Director makes a positive determination then the application will be deemed compliant and eligible for review as to whether the permit should issue pursuant to the provisions in Section 5.50.090.
- B. If the Director determines that the application is incomplete, the Director shall notify the applicant in writing explaining the reasons thereof within sixty (60) days of receipt of the application. Applicant shall have 30 days to submit a completed application, in accordance with the Director's notification. If the application is resubmitted as incomplete, it shall be deemed abandoned. The applicant may then resubmit a new application for a new review pursuant to the requirements of this section.
- C. Within ninety (90) days of receipt of the completed application, the Director shall complete the investigation, approve, conditionally approve, or deny the application as being in compliance with the requirements of this chapter, and so notify the applicant by United States mail, first class postage prepaid, addressed to the applicant at the address stated in the application.
- D. An applicant shall not be deemed compliant for purposes of review under Section 5.50.090, until and unless an applicant meets all of the following requirements:
 - 1. Provides written authorization to the Operations Officers to conduct reasonable unannounced inspections of the location of the commercial cannabis operation at the discretion of the City, including but not limited to inspection of security, inventory, and written records and files pertaining to the commercial cannabis operation, for the purposes of ensuring compliance with this chapter and all laws of the City and the State of California.
 - 2. Executes an agreement: to indemnify, defend and hold harmless (at the Commercial Cannabis Operation Permit holder's sole expense, the ability to do so demonstrated through proof of sufficient insurance coverage to the satisfaction of the City) the City, its elected officials, employees, agents, officers, and representatives, and each

and all of them individually, from all liability or harm arising from or in connection with all claims, damages, attorney's fees, costs and allegations arising from or in any way related to the operation of the commercial cannabis operation; and, to reimburse the City for any costs and attorney's fees that the City may be required to pay as a result of such action. The City may, at its sole discretion, participate at its own expense in the defense of any such action.

- E. Upon successfully completing the review process, the permit application shall be deemed compliant and eligible for review under Section 5.50.090, unless the Director finds:
 - 1. The applicant has made one or more false or misleading statements or omissions, either on the written application or during the application process; or
 - 2. A proposed location for the commercial cannabis operation is not allowed by state or local law, statute, ordinance, or regulation (including this Code); or
 - 3. The applicant has not satisfied each and every requirement of this chapter and Code; or
 - 4. The applicant is not in compliance with applicable state law, including, but not limited to, applicable requirements and minimum standards of the Adult Use of Marijuana Act of 2016 (AUMA) (Proposition 64), the Medicinal and Adult-Use Cannabis Regulation and Safety Act of 2017 (MAUCRSA) and any applicable State regulations.
- F. Based on the information set forth in the application and the Director's review, the Director may impose, as a condition of being deemed compliant and thereby eligible for review under Section 5.50.090, reasonable terms and conditions on the use of the permit, in addition to those specified in this chapter, to ensure the safe operation of the commercial cannabis operation, and to ensure the health, safety and welfare of the residents and visitors of the City of Morro Bay.
- G. At the Director's sole discretion, the time limits in this Section may be extended upon written notification from the Director to the applicant.

Sec. 5.50.090 - Issuance of commercial cannabis operation permit.

- A. Issuance of a Commercial Cannabis Operation Permit constitutes a revocable privilege and shall not create or establish any vested rights for the development or use of a property. The City may determine that it is in the best interests of the health, safety and welfare of the residents and visitors of the City of Morro Bay that no Commercial Cannabis Operation Permits are to be granted by the City.
- B. Upon determination by the Director that an applicant is compliant with the requirements of this chapter, the Morro Bay City Code, and applicable state law (and thereby eligible for review by the Cannabis Permit Committee to determine whether or not a City of Morro Bay Commercial Cannabis Operation Permit will be issued), the Director shall promptly prepare for the application a written Merit List for provision to the Cannabis Permit Committee.
- C. A Merit List shall detail and rank in writing the thoroughness of an applicant's adherence to the following criteria, as they relate to the maintenance and promotion of the health, safety and welfare of the residents and visitors of the City of Morro Bay:

1. Operation plan for the business, including attention to community concerns about the impact of the business.
 2. Security plan for the business, including details for the non-diversion of cannabis or cannabis products to illegal uses.
 3. Health and safety plan for the business, including enhanced product and operations health and safety.
 4. Impact on the environment.
 5. Neighborhood compatibility.
 6. Employment opportunities for City of Morro Bay residents.
 7. Economic benefits to the City of Morro Bay.
 8. Community benefits to the City of Morro Bay.
 9. Experience of the operators, managers and employees.
 10. Capitalization of the business.
 11. Requirements of this chapter, this Code and applicable State law.
 12. Any additional criteria the Director determines is of benefit to making a determination of the applicant's commitment to the health, safety and welfare of the residents and visitors of the City of Morro Bay.
- D. The Cannabis Permit Committee shall determine in writing, within a reasonable amount of time after receipt from the Director of the Merit List, whether to recommend to the City Manager that the requested Commercial Cannabis Operation Permit shall be issued. The recommendation shall use the criteria contained within Section 5.50.090(C).
1. Factors to be considered shall include the written Merit List, as well as all pertinent evidence timely submitted (at the determination of the Cannabis Permit Committee) by the applicant, the public, and interested parties. No pre-determined weight shall be given to one criterion or another.
 2. Each application shall be considered in its totality with weight given to one criterion over another as determined appropriate by the Cannabis Permit Committee to further the maintenance and promotion of the health, safety and welfare of the residents and visitors of the City of Morro Bay.
 3. Upon conclusion of this review, the Cannabis Permit Committee shall make a recommendation to the City Manager as to whether or not a permit should be issued. The recommendation shall articulate reasons in writing for the recommendation and refer to Merit List criteria.
- E. The City Manager shall make a final determination in writing, within a reasonable amount of time after receipt from the Cannabis Permit Committee of a recommendation, whether the applicant shall be issued a Commercial Cannabis Operation Permit.
1. Factors to be considered shall include the written Merit List, as well as all pertinent evidence timely submitted (at the determination of the City Manager) by the applicant, the public, and interested parties. No pre-determined weight shall be given to one criterion or another.
 2. Each application shall be considered in its totality with weight given to one criterion over another as determined appropriate by the City Manager to further the maintenance and promotion of the health, safety and welfare of the residents and visitors of the City of Morro Bay.

3. Notice of the written determination shall be provided promptly to the applicant upon final determination. The determination shall articulate reasons in writing for the final determination and refer to Merit List criteria. The determination shall be final and not appealable.
- F. The City Manager may impose reasonable terms and conditions on the use of the permit, in addition to those specified in this chapter, to ensure the safe operation of the commercial cannabis operation, and to ensure the health, safety and welfare of the residents and visitors of the City of Morro Bay.
 - G. As determined appropriate by the City, multiple qualified applications for Commercial Cannabis Operation Permits may be considered at the same time, for reasons including but not limited to comparison of applicants for limited permits using the criteria contained within Section 5.50.090(C). The permit process timelines provided by this chapter may be modified by the City to facilitate such review of multiple applications.

Sec 5.50.100 - Renewal of commercial cannabis operation permit.

- A. Issuance of a Commercial Cannabis Operation Permit constitutes a revocable privilege and shall not create or establish any vested rights for the development or use of a property. The City may determine through the procedures provided in this chapter that for reasons of the health, safety and welfare of the residents and visitors of the City of Morro Bay that a Commercial Cannabis Operation Permit will not be renewed.
- B. Commercial Cannabis Operation Permits issued pursuant to this chapter shall automatically expire one year from the date of issuance, unless specifically provided for otherwise by this chapter.
- C. The following procedures shall govern the process for the renewal of a Commercial Cannabis Operation Permit:
 1. A holder of a Commercial Cannabis Operation Permit may apply for the renewal of an existing permit no less than 60 days prior to the permit's expiration date upon a form provided by the City and shall pay a filing fee as established by resolution adopted by the City Council as amended from time to time.
 2. Renewal applications shall comply with all of the requirements in this chapter for applying for a new Commercial Cannabis Operation Permit. At the discretion of the City, renewal applications may consist of updating any changes to an original application or previous renewal application.
 3. The Director will review permit renewal applications and make a determination as to whether the commercial cannabis operation has remained in compliance with all the requirements of this chapter and State law during the prior term of the permit. If the Director makes a contrary determination, the application for a permit renewal shall be denied.
 4. If the Director determines the commercial cannabis operation has remained in compliance with all the requirements of this chapter and state law during the prior term of the permit, the permit renewal application shall then be subject to the requirements of Section 5.50.090 (including the attendant preparation of a Merit List applicable to the prior term's operations), and the Director shall provide to the

Cannabis Permit Committee a written Merit List. The Cannabis Permit Committee shall then recommend to the City Manager in writing whether the permit should be renewed. The City Manager shall review the recommendation and then make a final decision on whether to grant an application for a permit renewal. The decision shall be final and non-appealable.

5. If the holder of a Commercial Cannabis Operation Permit files a renewal application less than 60 days prior to expiration, the holder must provide a written explanation detailing the circumstances surrounding the late filing. The Director may deny the untimely application after review of the explanation. If the Director accepts the application, then the Director may elect to administratively extend the permit beyond the expiration date while the Director completes the renewal permitting process. Untimely applications for renewal which are nevertheless accepted by the Director pursuant to this section are subject to a late penalty.
- D. A Commercial Cannabis Operation Permit is immediately invalid upon expiration if the permit holder has not filed a timely and/or accepted renewal application and remitted all of the required renewal fees. In the event the permit is not renewed prior to expiration, the affected commercial cannabis operation shall cease operation upon the expiration of the permit and is thereafter considered to be unlawful.

Sec. 5.50.110 - General operating standards and restrictions.

A commercial cannabis operation shall operate in conformance with the following minimum standards, and such standards shall be deemed to be part of the conditions on the permit for a commercial cannabis operation to ensure that its operation is in compliance with California law and the Morro Bay Municipal Code, and to mitigate any potential adverse impacts of the commercial cannabis operation on the public health, safety or welfare.

Additional minimum standards may be adopted from time to time either by resolution or ordinance from the City Council, or by the Director (upon authorization by resolution from the City Council).

- A. State Standards. All state requirements and regulations that govern the operation of a commercial cannabis operation, including but not limited to ones related specifically to certain types of commercial cannabis operations, shall apply as minimum requirements and regulations and requirements for commercial cannabis operations within the City of Morro Bay, in addition to the requirements and regulations of this chapter and this Code.
- B. Security.
 1. General. All cannabis, cannabis products and cash present or kept at the premises shall be securely stored against both unauthorized access as well as theft.
 2. Security Cameras.
 - a. Security cameras shall be installed and maintained in good condition, with at least 30 days of digitally recorded documentation in a format approved by the Director and the Police Chief.
 - b. The camera and recording system must be of adequate quality, color rendition, and resolution to allow the identification of any individual present at the site of the commercial cannabis operation.

- c. The cameras shall be in continuous use 24 hours per day, 7 days per week.
 - d. The recording system must be capable of exporting the recorded video in standard MPEG formats to another common medium approved by the Director, such as DVD and/or a USB drive.
 - e. The areas to be covered by the security cameras include, but are not limited to, the storage areas, operation areas, all doors and windows, the parking lot, all exterior sides of the property adjacent to the public rights of way, and any other areas as determined by the Director and Police Chief.
 - f. Remote log-in information will be provided to the Operations Officers to allow them to view live and recorded security camera images remotely at any time.
3. Alarm System. The location of the commercial cannabis operation shall be alarmed with a centrally-monitored fire and burglar alarm system, and monitored by an alarm company properly licensed by the State of California Department of Consumer Affairs Bureau of Security and Investigative Services in accordance with California Business & Professions Code section 7590, *et seq.* and whose agents are properly licensed and registered under applicable law.
 4. Locked Entrances. All entrances into the building housing a commercial cannabis operation shall be locked from the exterior at all times with entry controlled by employees.
 5. Windows. All windows on the building that houses the commercial cannabis operation shall be secured against entry from the outside.
 6. No employee shall refuse, impede, obstruct or interfere with an inspection conducted pursuant to the authorizations provided by this chapter.

C. Odors.

1. A commercial cannabis operation shall have an air treatment system that ensures off-site odors shall not result from its activities.
2. This requirement at a minimum means that the commercial cannabis operation shall be designed to provide sufficient odor absorbing ventilation and exhaust systems so that any odor generated inside the location of the commercial cannabis operation is not detected outside the building, on adjacent properties or public rights-of-way, or within any other unit located within the same building as the commercial cannabis operation, if the use only occupies a portion of a building.

D. Authorizations.

1. The Operations Officers shall have the right to enter all areas of the commercial cannabis operation from time to time unannounced for the purpose of making reasonable inspections to observe and enforce compliance with this chapter and all laws of the City and State of California.

2. Recordings made by security cameras required pursuant to this chapter shall be made available to the Operations Officers upon verbal request; no search warrant or subpoena shall be needed to view the recorded materials.

E. Records.

1. Commercial cannabis operations shall maintain on-site the following records either in paper or electronic form:
 - a. The full name, address, and telephone numbers of the owner and lessee of the property.
 - b. The name, date of birth, address, and telephone number of each employee of the commercial cannabis operation; the date each was hired; and the nature of each employee's participation in the commercial cannabis operation.
 - c. Copies of all required state licenses.
 - d. An inventory record documenting the dates and amounts of cannabis and cannabis products received at the site, the daily amounts of cannabis and cannabis products on the site, and the daily amounts of cannabis and cannabis products leaving the site for any reason, including but not limited to being sold, delivered, or distributed.
 - e. A written accounting of all expenditures, costs, revenues and profits of the commercial cannabis operation, including but not limited to cash and in-kind transactions.
 - f. A copy of all insurance policies related to the operation of the commercial cannabis operation.
 - g. A copy of the commercial cannabis operation's most recent year's financial statement and tax return.
 - h. Proof of a valid and current permit issued by the City in accordance with this chapter, and the equivalent State of California license to operate the commercial cannabis operation. Every commercial cannabis operation shall display at all times during business hours the City permit issued pursuant to the provisions of this chapter, and the equivalent State license, in a conspicuous place so that it may be readily seen by all persons entering the location of the commercial cannabis operation.
2. All records required to be maintained by the commercial cannabis operation must be maintained for no less than three (3) years and are subject to immediate inspection (consistent with requirements pertaining to patient confidentiality pursuant to applicable State and Federal law) upon a lawful written request by an Operation Officer.
3. A commercial cannabis operation shall report any loss, damage, or destruction of these records to the Operation Officers within twenty-four (24) hours of the loss, damage, or destruction.

F. Site Management.

1. Commercial cannabis operations shall not result in a nuisance or adversely affect the health, welfare, or safety of nearby persons by creating dust, glare, heat, noise, noxious gases, odors, smoke, traffic, vibration, or other impacts, or be hazardous due to use or storage of materials, processes, products or waste. The permittee shall promptly and diligently both prevent as well as eliminate conditions on the site of the commercial cannabis operation that constitute a nuisance.
2. The Commercial Cannabis Operation permittee shall maintain the exterior of the site, including any parking lots under the control of the permittee, free of litter, debris, and trash.
3. The Commercial Cannabis Operation permittee shall properly store and dispose of all waste generated on the site, including chemical and organic waste, in accordance with all applicable laws and regulations.
4. Notwithstanding any provisions of this code to the contrary, the Commercial Cannabis Operation permittee shall remove all graffiti from the site and parking lots under the control of the Commercial Cannabis Operation Permittee within 72 hours of its application.

G. State Board of Equalization Seller's Permit Required.

1. Commercial cannabis operations must obtain a Seller's Permit from the State Board of Equalization as applicable.
2. Such permit shall be displayed in a conspicuous place so that it may be readily seen by all persons entering the location of the commercial cannabis operation.

H. Employees.

1. All employees must submit to fingerprinting and criminal background checks by the City.
 - a. No employee convicted within the last ten years of a felony substantially related to the qualifications, functions or duties of an employee of a commercial cannabis operation (such as a felony conviction for distribution of controlled substances, money laundering, racketeering, etc.) shall be employed by a commercial cannabis operation, unless such employee has obtained a certificate of rehabilitation (expungement of felony record) under California law or under a similar federal statute or state law where the expungement was granted.
 - b. At the request of the commercial cannabis operation, the Director and Police Chief shall determine the applicability of this section to a potential employee within a reasonable period of time after a written request has been made to the Director and Police Chief for such determination.
2. All employees must possess a valid government issued (or equivalent) form of identification containing an identifying photograph of the employee, the name of

the employee, the date of birth of the employee, and the residential address of the employee. Color copies of such identification shall be maintained at the location of the commercial cannabis operation. A valid California Driver's license will satisfy this requirement.

I. Cannabis Transfer Between Permitted Operations Only.

A commercial cannabis operation shall not transfer cannabis or cannabis products to or from another commercial cannabis operation, unless both operations are in possession of all required state and local licenses and permits.

J. Commercial Cannabis Operation Signage.

1. Signs on the premises shall not obstruct the entrance or the video surveillance system. The size, location, and design of any signage must conform to the sign provisions in the Morro Bay Municipal Code.
2. Business identification signage shall be limited to that needed for identification only, consisting of a single window sign or wall sign that shall comply with the appropriate sign requirements within the applicable zoning district.

K. Prohibited Personal Activities.

1. Cannabis Use. No person shall smoke, ingest, or otherwise consume cannabis in any form on, or within 20 feet of, the site of the commercial cannabis operation.
2. Alcohol Use. No person shall possess, consume, or store any alcoholic beverage on the site of the commercial cannabis operation.

L. No Minors. No minor shall be an employee of, or participate in, a commercial cannabis operation in any capacity, including but not limited to, as a manager, employee, contractor, adviser, or volunteer.

M. Exterior Lighting. The exterior of the premises upon which the commercial cannabis operation is operated shall be equipped with and, at all times between sunset and sunrise, shall remain illuminated with fixtures of sufficient intensity and number to illuminate every portion of the property with an illumination level of not less than one foot-candle as measured at the ground level, including, but not limited to, landscaped areas, parking lots, driveways, walkways, entry areas, and refuse storage areas.

N. Building Design. A Commercial Cannabis Operation permittee must maintain the design of the buildings on the site in accordance with the plans that are approved by the City pursuant to this chapter and otherwise approved by the City. No permittee shall modify the buildings on the site contrary to the approved plans, without the approval of the Director.

O. Nuisance. The Commercial Cannabis Operation permittee shall take all reasonable steps to discourage and correct conditions that constitute a nuisance in parking areas, sidewalks, alleys and areas surrounding the premises and adjacent properties during business hours if related to the members of the subject commercial cannabis operation.

1. "Reasonable steps" shall include immediately calling the police upon observation of the activity, and requesting that those engaging in activities that constitute a

nuisance or are otherwise illegal to cease those activities, unless personal safety would be threatened in making the request.

2. "Nuisance" includes but is not limited to disturbances of peace, open public consumption of cannabis, alcohol or controlled substances, excessive pedestrian or vehicular traffic, including the formation of any pedestrian lines outside the building, illegal drug activity, harassment of passersby, excessive littering, excessive loitering, illegal parking, excessive loud noises, especially late at night or early in the morning hours, lewd conduct or police detentions and arrests.
- P. Upon and after receiving possession of a Commercial Cannabis Operation Permit as provided for in this chapter, the Commercial Cannabis Operation Permit holder shall:
1. Immediately update the Director in writing upon the change in status of any of the information previously submitted to the City concerning the commercial cannabis operation, including but not limited to when there is any change in the address, email, phone number, or other identifying information, previously provided to the City in compliance with this chapter, for any owner, manager, community outreach manager, property owner, or legal representative of the commercial cannabis operation.
 2. Maintain continuing compliance with criminal background check requirements of this chapter by ensuring that:
 - a. upon the hiring, association or retention of an employee by the commercial cannabis operation, the requirements of Section 5.50.070(B)(2)(d) are immediately met for such employee by provision of appropriate documentation to the Director; and
 - b. the Director and Police Chief are immediately informed in writing of any felony conviction as described in Section 5.50.110(H)(1)(a) for any current employee.
 3. Maintain continuing compliance with all applicable insurance requirements, including, but not limited to, those imposed by City and this chapter.

Q. Exemption. The regulations contained in this chapter shall not apply to a commercial cannabis operation engaged in the following uses, as long as such use complies strictly with applicable law, including this Code, regulating such use and the location of such use, including, but not limited to, Sections 11362.5, *et seq.* of the Health and Safety Code: a clinic licensed pursuant to Chapter 1 of Division 2 of the Health and Safety Code; a health care facility licensed pursuant to Chapter 2 of Division 2 of the Health and Safety Code; a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 of Division 2 of the Health and Safety Code; a residential care facility for the elderly licensed pursuant to Chapter 3.2 of Division 2 of the Health and Safety Code; and, a residential hospice or a home health agency licensed pursuant to Chapter 8 of Division 2 of the Health and Safety Code.

Sec. 5.50.120 - Retail ~~(medical)~~ operating standards and restrictions.

A commercial cannabis operation engaged in retail ~~(medical)~~ shall operate in conformance with both the General Operating Standards and Restrictions provided for in Section 5.50.110, as well

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as the following minimum standards, and such standards shall be deemed to be part of the conditions of the permit for a retail ~~(medical)~~-commercial cannabis operation to ensure that its operation is in compliance with California law and the Morro Bay Municipal Code, and to mitigate any potential adverse impacts of the commercial cannabis operation on the public health, safety or welfare.

Additional minimum standards may be adopted from time to time either by resolution or ordinance from the City Council, or by the Director (upon authorization by resolution from the City Council).

- A. City Permit and State License. No person shall engage in retail ~~(medical)~~-without both a current and valid City Commercial Cannabis Operation Permit issued for retail ~~(medical)~~ as well as a current and valid equivalent state license as provided for under Section 26200 of the Business and Professions Code, and as may be amended.
- B. State Standards. All state requirements and regulations that govern retail ~~(medical)~~ operations, including but not limited to the regulations promulgated by the California Bureau of Cannabis Control within the Department of Consumer Affairs, and as may be amended, shall apply as minimum requirements and regulations and requirements for retail ~~(medical)~~-commercial cannabis operations within the City of Morro Bay, in addition to the requirements and regulations of this chapter and this Code.
- C. Location Restrictions.
 - 1. No retail ~~(medical)~~-operation shall locate or operate in any zone of the City of Morro Bay, other than in the central business (C-1) district, the general commercial (C-2) district, or the light industrial (M-1) district.
 - 2. No retail ~~(medical)~~-operation shall locate within six hundred (600) feet of a school, day care center, or youth center. The distance shall be measured as the horizontal distance measured in a straight line from the property line of one site to the property line of another site.
 - 3. No retail ~~(medical)~~-operation shall locate within one hundred (100) feet of a park. The distance shall be measured as the horizontal distance measured in a straight line from the property line of one site to the property line of another site.
 - 4. No retail ~~(medical)~~-operation shall locate within one hundred (100) feet from another retail ~~(medical)~~-operation. The distance shall be measured as the horizontal distance measured in a straight line from the property line of one site to the property line of another site.
- D. Number of Permits. No more than two permits shall be active and valid in the City at any one time. In the event less than two permits are active and valid in the City, in its sole discretion the City may accept permit applications pursuant to the provisions of this chapter.
- E. Renewal of Permits. Subject to the requirements of Section 5.50.100, the City in its sole discretion may elect to extend the term, of one of the two permits initially issued (or thereafter, to achieve staggered review of permit renewal applications), so that each year thereafter the City shall only review one request for a permit renewal.
- F. Customers. Retail ~~(medical)~~-operations shall only sell, dispense, or provide medical

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cannabis or *medical* cannabis products to a qualified patient with a written physician's recommendation, a person with an identification card, or a primary caregiver with written documentation attesting to lawful status as a primary caregiver; *and, retail operations shall only sell, dispense, or provide adult-use cannabis or adult-use cannabis products to individuals 21 years of age or older.*

- G. Opaque Packaging. All cannabis or cannabis products sold to a customer shall be prohibited from leaving the site unless placed in opaque packaging which conceals the nature of the product from human vision.
- H. Dispensing and Storage Areas. Entrance to the dispensing area and any storage areas shall be locked at all times, and under the control of employees.
- I. Edibles.
1. All edible cannabis products available for sale must be clearly labeled as *medical* cannabis.
 2. No edible cannabis products shall be available for sale which are appealing to children or easily confused with commercially sold candy or foods that do not contain cannabis.
 3. All edible cannabis products shall be provided to customers with sufficient information to enable the informed consumption of the product, including the potential effects of the cannabis product and directions as to how to consume the cannabis product, as necessary.
 4. All edibles cannabis products for sale shall be marked with a universal symbol, as determined by the State Department of Public Health through regulation, pursuant to Section 26130(c)(7) of the Business and Professions Code.
- J. Interior Lighting. The premises within which the commercial cannabis operation is operated shall be equipped with and, at all times during which is open to the public, shall remain illuminated with overhead lighting fixtures of sufficient intensity to illuminate every place to which members of the public or portions thereof are permitted access with an illumination of not less than two foot-candles as measured at the floor level.
- K. Signs. A permittee shall display conspicuously in the lobby of the site the following signs, so that each sign may be readily seen by persons entering the site, and each sign must be at least 8 inches by 10 inches in size:
1. "Minors are prohibited from entering this site unless they are a qualified patient or a primary caregiver, and they are in the presence of their parent or legal guardian."
 2. "Smoking, ingesting, or consuming cannabis on or within 20 feet of this site is prohibited."
- L. No Recommendations On-site. Retail (~~medical~~) operations shall not have a physician or any person licensed to recommend medical cannabis for medical use, at the location of the commercial cannabis operation, to provide a recommendation or physician's recommendation, for the use of medical cannabis.

- M. Sanitation. The permittee shall establish and implement written procedures that maintain the highest industry standards of sanitation and cleanliness for the operation so as to ensure cannabis and cannabis products sold to the public are free of harmful contaminants.
- N. Training. The permittee shall establish and implement written procedures that provide for the highest industry standards of training for employees.
- O. Prohibited Activities. No cannabis cultivation, testing or manufacturing shall occur at the location of the retail ~~(medical)~~ operation.
- P. No Alcohol. Retail ~~(medical)~~ operations shall not hold or maintain a license from the State Department of Alcoholic Beverage Control to sell alcoholic beverages, or operate a business that sells alcoholic beverages.
- Q. No Lounge or Cafe. Retail ~~(medical)~~ operations shall not operate as a lounge, cafe or restaurant serving food or drinks for consumption on-site. There shall be no seating area, tables, couches, or chairs for the gathering or congregating of members.
- R. Age Restriction. Minors are prohibited from entering the location of the retail ~~(medical)~~ operation unless they are a qualified patient or a primary caregiver, and they are in the presence of their parent or legal guardian.
- S. Public Information. The permittee shall make available to customers a list of the rules and regulations governing medical and adult-use cannabis use and consumption within the City and recommendations on sensible medical and adult-use cannabis etiquette.

Sec. 5.50.130 - Wholesale distribution ~~(medical)~~ operating standards and restrictions.

A commercial cannabis operation engaged in distribution shall operate in conformance with both the General Operating Standards and Restrictions for all Commercial Cannabis Operations provided for in Section 5.50.110, as well as with the following minimum standards, and such standards shall be deemed to be part of the conditions of the permit for a distribution commercial cannabis operation to ensure that its operation is in compliance with California law and the Morro Bay Municipal Code, and to mitigate any potential adverse impacts of the commercial cannabis operation on the public health, safety or welfare.

Additional minimum standards may be adopted from time to time either by resolution or ordinance from the City Council, or by the Director (upon authorization by resolution from the City Council).

- A. City Permit and State License. No person shall engage in distribution without both a current and valid City Commercial Cannabis Operation Permit issued for distribution as well as a current and valid equivalent state license as provided for under Section 26200 of the Business and Professions Code, and as may be amended.
- B. State Standards. All state requirements and regulations that govern distribution operations, including but not limited to the regulations promulgated by the California Bureau of Cannabis Control within the Department of Consumer Affairs, and as may be amended, shall apply as minimum requirements and regulations and requirements for distribution commercial cannabis operations within the City of Morro Bay, in addition the requirements and regulations of this chapter and this Code.
- C. Location Restrictions.

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1. No distribution operation shall locate or operate in any zone of the City of Morro Bay, other than in the central business (C-1) district, the general commercial (C-2) district, or the light industrial (M-1) district.
2. No distribution operation shall locate within six hundred (600) feet of a school, day care center, or youth center. The distance shall be measured as the horizontal distance measured in a straight line from the property line of one site to the property line of another site.
3. No distribution operation shall locate within one hundred (100) feet of a park. The distance shall be measured as the horizontal distance measured in a straight line from the property line of one site to the property line of another site.

D. Distribution Restrictions.

1. Distribution operations shall distribute cannabis and cannabis products only between licensed cannabis commercial operations.
2. Distribution operations shall not conduct retail sales of cannabis or cannabis products.
3. Distribution operations shall not distribute any cannabis or cannabis products to retail operations unless such cannabis or cannabis products has been properly tested and approved for retail sale pursuant to State law.
4. Upon demand by any Operation Officer a distributor shall make immediately available copies of any required shipping manifests as understood by Section 26070(f) of the Business and Professions Code.

E. Site Requirements. The site shall comply with the following requirements:

1. Visibility. Neither cannabis nor cannabis products shall be visible from the public right-of-way, the unsecured areas surrounding the buildings on the site, or the site's main entrance and lobby.
2. Main Entrance and Lobby. The site shall have a building with a main entrance that is clearly visible from the public street or sidewalk. The main entrance shall be maintained clear of barriers, landscaping, and other obstructions. Inside of the main entrance, there shall be a lobby to receive persons into the site and to verify whether they are allowed in the distribution commercial cannabis operation areas. Members of the general public shall not be allowed in the distribution commercial cannabis operation areas except for reasons of lawful business.
3. Secure Product. All cannabis and cannabis products at the site shall be kept in a secured manner at all times.
4. Transport Area. Each building with a storage area shall have an area designed for the secure transfer of cannabis from vehicles to the storage area.
5. Storage Area. Each building shall have adequate storage space for cannabis. The storage areas shall be separated from the main entrance and lobby, and shall be

secured by a lock accessible only to employees of the permittee.

- F. Sanitation. The permittee shall establish and implement written procedures that maintain the highest industry standards of sanitation and cleanliness for the operation so as to ensure the distribution of cannabis and cannabis products free of harmful contaminants.
- G. Training. The permittee shall establish and implement written procedures that provide for the highest industry standards of training for employees engaged in distribution operations.
- H. Signs. A permittee shall display conspicuously in the lobby of the site the following signs, so that each sign may be readily seen by persons entering the site, and each sign must be at least 8 inches by 10 inches in size:
 - 1. "This site is not open to the public."
 - 2. "Retail sales of any goods and services is prohibited"
 - 3. "Minors are prohibited from entering this site."
 - 4. "Smoking, ingesting, or consuming cannabis on or within 20 feet of this site is prohibited."
- I. Prohibited Activities.
 - 1. No cannabis cultivation, manufacturing or testing shall occur at the site.
 - 2. No retail sales of cannabis or cannabis products shall occur at the site.
- J. Restricted Access.
 - 1. The site shall be closed to the general public.
 - 2. Minors are prohibited from entering the location of the site.

Sec. 5.50.140 - Delivery ~~(medical)~~ operating standards and restrictions.

- A. Deliveries Allowed.
 - 1. ~~Medical~~ Cannabis deliveries are allowed in the City subject to the requirements of this chapter and compliance with applicable state law.
 - 2. ~~Adult use (recreational) cannabis deliveries in the City are prohibited.~~
- B. Licenses and Permits. Deliveries of cannabis and cannabis products shall only occur within the City by a commercial cannabis operation properly licensed or permitted to engage in cannabis deliveries by both the State of California as well as the originating jurisdiction of the delivery.
- C. Documentation Required for Deliveries.
 - 1. During deliveries the person making the actual delivery shall maintain at all times on his or her person a physical copy of the delivery request being fulfilled, a

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government-issued identification of the delivery person with a photograph, a copy of the State license which authorizes the delivery activity, and any other license or permit required by the originating jurisdiction to engage in the delivery of cannabis or cannabis products

2. Upon request made by any Operations Officer or law enforcement officer the person shall make these documents immediately available for review.
- D. Business License. Commercial cannabis operations that conduct deliveries of cannabis or cannabis products to customers located in the City, regardless of the originating jurisdiction of the delivery, are required to have a valid and current City business license to engage in such commercial activity.

Sec. 5.50.150 - Administration.

Further rules, regulations, procedures and standards for the administration and implementation of this chapter may be adopted from time to time either by resolution or ordinance from the City Council, by the Director (~~upon authorization by resolution from the City Council~~), or as further provided by this chapter.

Sec. 5.50.160 - Fees.

An application fee set by resolution of the City Council shall be required for formal processing of every application made under this chapter. The City Council is authorized to pass resolutions to recover any and all fees and costs incurred by the administration and implementation of this chapter through an appropriate fee recovery mechanism to be imposed upon commercial cannabis operations.

Sec. 5.50.170 - Suspension and revocation.

- A. The Director is authorized to suspend and/or revoke a Commercial Cannabis Operation Permit issued pursuant to this chapter upon the determination through written findings of a failure to comply with any provision of this chapter, any permit condition, or any agreement or covenant as required pursuant to this chapter.
- B. The Director may suspend or revoke a Commercial Cannabis Operation Permit if any of the following occur, and the suspension or revocation shall be final:
 1. The Director determines that the commercial cannabis operation has failed to comply with any aspect of this chapter, any permit condition, or any agreement or covenant as required pursuant to this chapter; or
 2. The equivalent State license has been suspended or revoked by the State of California; or
 3. Operations cease for more than 180 calendar days (including during any change of ownership, if applicable); or
 4. Ownership is changed without securing a new Commercial Cannabis Operation Permit; or
 5. The commercial cannabis operation fails to maintain required security camera

recordings; or

6. The commercial cannabis operation fails to allow inspection of the security recordings, the activity logs, the records, or of the site by Operations Officers pursuant to this chapter.
- C. Conditions (if any) of suspension or revocation are at the discretion of the Director and may include, but are not limited to, a prohibition on all owners, operators, managers and employees of the suspended or revoked commercial cannabis operation from operating within the City for a period of time set forth in writing and/or a requirement (when operations may resume, if at all, pursuant to the Director's determination) for the holder of the suspended or revoked permit to resubmit an application for a Commercial Cannabis Operation Permit pursuant to the requirements of this chapter.

Sec. 5.50.180 - Violations and penalties; public nuisance.

- A. Any violation of the provisions of this chapter is punishable as a misdemeanor or an infraction, at the discretion of the city prosecutor, pursuant to Chapter 1.16 of the Morro Bay City Code, except for as preempted by state law; and, any violation of the provisions of this chapter is subject to administrative citation, at the discretion of the City, pursuant to Chapter 1.03 of the Morro Bay City Code.
- B. Public nuisance abatement.
1. Any commercial cannabis operation that is conducted in violation of any provision of this chapter is hereby declared to constitute a public nuisance and, as such, may be abated or enjoined from further operation, in accordance with the procedures set forth in Chapter 8.14 of the Morro Bay City Code.
 2. All costs to abate such public nuisance, including attorneys' fees and court costs, shall be paid by the person causing the nuisance, including the commercial cannabis operation permittee and the property owner where the nuisance is occurring.
- C. The remedies described in this section are not mutually exclusive. Pursuit of any one remedy shall not preclude city from availing itself of any or all available administrative, civil, or criminal remedies, at law or equity.
- D. Any violation of the provisions of this chapter shall constitute a separate offense for each and every day during which such violation is committed or continued.

Sec. 5.50.190 - Service of notices.

Any notice required by this chapter is deemed issued and served upon the earliest date that either: the notice is deposited in the United States mail, postage pre-paid, addressed to the most recent mailing address provided to the City pursuant to the requirements of this chapter; or, the date upon which personal service of the notice is provided to a responsible party.

Sec. 5.50.200 - Prohibitions.

- A. Any commercial cannabis operation in violation of The Adult Use of Marijuana Act, The Medicinal and Adult-Use of Cannabis Regulation and Safety Act, this chapter, or any other applicable State law is expressly prohibited.

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SECTION 6. CERTIFICATION. The City Clerk shall certify to the adoption of this ordinance, and shall cause the same to be posted and codified in the manner required by law.

INTRODUCED at a regular meeting of the City Council held on the 26 day of May 2020, by motion of Council Member Davis and seconded by Council Member McPherson.

PASSED AND ADOPTED on the ____ day of _____, 2020, by the following vote:

AYES:
NOES:
ABSENT:

JOHN HEADDING, Mayor

ATTEST:

DANA SWANSON, City Clerk

APPROVED AS TO FORM:

CHRIS F. NEUMEYER, City Attorney

STATE OF CALIFORNIA)
COUNTY OF SAN LUIS OBISPO)
CITY OF MORRO BAY)

I, Dana Swanson, CITY CLERK OF THE CITY OF MORRO BAY, DO HEREBY CERTIFY that the foregoing Ordinance Number 633 was duly adopted by the City Council of the City of Morro Bay at a regular meeting of said Council on the ____ day of _____, 2020, and that it was so adopted by the following vote:

AYES:
NOES:
ABSENT:

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the City of Morro Bay, California, this ____ day of _____, _____.

DANA SWANSON, City Clerk



AGENDA NO: A-5

MEETING DATE: June 9, 2020

Staff Report

TO: Honorable Mayor and City Council **DATE:** May 27, 2020

FROM: Scot Graham, Community Development Director
Nancy Hubbard, Contract Planner

SUBJECT: Authorization to provide a total of \$500,000 of financial assistance to the HASLO affordable housing project to be located at 405 Atascadero Road. The proposed financial assistance will be in the form of \$150,000 loan from the Affordable Housing In-Lieu Fund and \$350,000 deferred permit fee loan.

RECOMMENDATION

Staff recommends the City Council adopt Resolution No. 46-20 authorizing a loan in the amount of \$150,000 from the Affordable Housing In-Lieu Funds and a deferred permit fee loan in the amount of \$350,000 to assist with the funding required for the Housing Authority of the City of San Luis Obispo (HASLO) affordable rental housing development located at 405 Atascadero Road.

ALTERNATIVES

1. Council may choose not to award Affordable Housing In-Lieu Funds or approve the deferred fee loan request for the project.
2. Council may choose to award different amounts of In-Lieu Funds or for the deferred fee loan total.

FISCAL IMPACT

The City's Affordable Housing In-Lieu account balance is approximately \$222,000. Award of money from that fund, in the form of a loan, will lower the balance of Affordable Housing In-Lieu Funds with no payment due for 55 years. The deferred permit loan will result in a delay in receipt for fees that would typically have been due and payable in the year the project is issued a building permit. Any repayment of the deferred fees may not occur until after the deed restriction period has lapsed (55 years). Loan terms are proposed to include 3% simple interest with no payment due for 55-years.

BACKGROUND

The HASLO project proposed for 405 Atascadero Road will include 35 apartments all reserved for tenants who are at or below 80% of the Area Median Income (AMI). The project will be a deed restricted affordable housing project for a minimum term of 55 years. Project funding is proposed to include Federal Low-Income Housing Tax Credits (LIHTC) as well as other grants

Prepared By: ___NH___

Dept Review: ___sg___

City Manager Review: ___SC___

City Attorney Review: ___CFN___

and tax credits as available and necessary to fund the project.

DISCUSSION

The HASLO project at 405 Atascadero will provide much needed 100% low income housing that will make a substantial impact towards achieving the City of Morro Bay housing goals. The site is appropriate for the use and the project is well designed and will be a welcome addition to one of the gateways to the city. The project, which will include one, two- and three-bedroom apartments, will provide much needed affordable housing that will provide a greater opportunity for small and large families of low income to live and work in Morro Bay.

The estimated permit and impact fees to the City of Morro Bay for this project are approximately \$650,000, not including an estimated \$100,000 in School impact fees which are payable to San Luis Coastal Unified School District (SLCUSD) and are not available for deferral. The deferred permit loan will include deferral of building permit, plan check and development impact fees.

Financial assistance, such as fee deferral loans and Housing In-Lieu fund loans are critical to a project's success in the highly competitive funding round for 9% low income housing tax credits. This upcoming 9% tax credit round (applications are due July 1, 2020) is unique in that there are approximately \$100 million of annual additional "disaster zone" credits available (almost \$1 billion of total tax credits) to certain California Counties who were affected by the last few years of critical wildfires; especially Butte and Sonoma Counties. Many of the proposed projects located in those counties would have been in direct competition with this HASLO project's application since Morro Bay is currently designated for LIHTC "rural set aside"; however, for this tax credit round, those other projects will compete for the disaster set aside first, providing a higher likelihood of success for the HASLO Morro Bay project to be approved for a tax credit award. Additionally, this HASLO project is located in a "high resource" opportunity area that allows this project to benefit from competitive "tiebreaker advantage" in the application process. The 9% LIHTC funding rounds are highly competitive, and this project has several advantages this year that may not exist in future LIHTC funding rounds.

CONCLUSION

The City of Morro Bay has not had a new 100% affordable housing project added to the housing stock since the 2015 Morro Del Mar Senior Housing project that included 21 affordable housing apartments for seniors. Morro Del Mar received approximately \$600,000 in city financial assistance which aided in the project being successful in its tax credit application. Prior to the Morro Del Mar project, the City has not had a 100% affordable project since 1996 (Oceanside Gardens) and has not had any project this large since 1989 (Ocean View Manor Apartments). Projects that provide 100% low income rental units require multiple funding sources to be successful. The proposed HASLO affordable housing project will be a great addition to the community, and it needs loan assistance from the City of Morro Bay to be successful. Staff recommends approval of the HASLO funding assistance request.

Attachments:

1. Resolution No. 46-20
2. May 22, 2020 Request Letter from HASLO

RESOLUTION NO. 46-20

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
AUTHORIZING A \$150,000 LOAN OF CITY AFFORDABLE HOUSING
IN-LIEU FUNDS AND A \$350,000 DEFERRED FEE LOAN TO PROVIDE FINANCIAL
ASSISTANCE TO 405 ATASCADERO, AN AFFORDABLE APARTMENT PROJECT
PROVIDING LOW INCOME HOUSING UNDER THE LOW INCOME HOUSING TAX
CREDIT PROGRAM**

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

WHEREAS, the proposed affordable apartments, sponsored by Housing Authority of San Luis Obispo (HASLO) located at 405 Atascadero Road in the City of Morro Bay, is proposed as a 35-unit affordable rental development; and

WHEREAS HASLO expects to apply for an allocation of funding in the July 1, 2020 funding round for Federal and State Low-Income Housing Tax Credit Program, which is a funding program for affordable housing; and

WHEREAS, HASLO made a request to the City on May 22, 2020, for a loan in the amount of \$150,000 from the Affordable Housing In-Lieu Funds and a \$350,000 deferred permit fee loan to assist with financing the proposed project; and

WHEREAS the City identified affordable housing for families as a goal in the adopted 2014 – 2019 Housing Element as well as in the draft 2020-2028 Housing Element, which will be adopted before the end of the year 2020; and

WHEREAS, Per the Inclusionary Housing Program in the 2014 – 2019 Adopted Housing Element the intent of the Housing In Lieu fund is to assist in the construction of housing for rent or sale to very low, low and moderate income families; and

WHEREAS, the City Council has duly considered all evidence, including the testimony of the applicant, interested parties, and the evaluation and recommendations by staff, presented at its meeting on June 9, 2020.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Morro Bay order, grants, and authorizes, as follows:

1. A funding allocation of \$150,000 from the City's Affordable Housing In-Lieu fund be granted in the form of a long term loan, and a deferred permit fee loan in the amount of \$350,000 be approved, for total funding assistance to HASLO in the amount of \$500,000.

2. The City Council of the City of Morro Bay authorizes the City Manager or his designee to execute the required documents necessary for the federal Low-Income Housing Tax Credits (LIHTC) funding application, including the agreement between the City and HASLO to memorialize the subject loans.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on this 9th day of June 2020 on the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

JOHN HEADDING, Mayor

ATTEST

DANA SWANSON, City Clerk

City of Morro Bay Affordable Housing Proposal & Funding Request *405 Atascadero Rd.*

May 21, 2020





Ms. Nancy Hubbard
Contract Planner
City of Morro Bay
955 Shasta Ave
Morro Bay, CA 93442

Dear Nancy,

The Housing Authority of San Luis Obispo (HASLO) in conjunction with its development partner, Jim Rendler, respectfully submit this affordable housing development proposal and subordinate loan funding request for a new 35 unit affordable rental housing community at 405 Atascadero Rd. Morro Bay, CA 93442. HASLO and Jim Rendler are extremely skilled in affordable housing development and have completed multiple affordable housing projects in the County of San Luis Obispo. This project would feature 55 year+ affordability restrictions for all units, less one onsite manager unit, for individuals and families at or below 80% Area Median Income (AMI) with an average income level of 60% AMI or below. Our intended initial financing plan includes 9% Low Income Housing Tax Credits (LIHTC) which would feature restrictions for all units (less one manager unit) at 30-60% AMI and 55 year initial affordability periods.

HASLO is a community organization based in San Luis Obispo that is committed to improving the communities of San Luis Obispo County by providing quality affordable housing and resident services. Our clients include families, seniors, veterans and the disabled. Our staff is committed to excellence in both program design and service delivery in order to ensure positive community focused outcomes.

HASLO requests the following financial support from the City to help assist with bringing this project to fruition:

1. A \$150,000 Loan from the City of Morro Bay Affordable Housing In-lieu Account.
2. A \$350,000 long term development impact fee loan

The proposed terms of this \$500,000 total loan request are proposed as follows:

1. Subordinate Loan
2. 55 year term
3. 3% Simple Interest
4. Balloon Payment due in 55 years
5. Affordability restrictions as required per California Tax Credit Allocation Committee (TCAC) requirements.

6. Standard Insurance and Indemnity Clauses
7. Compliance with Local, State and Federal Laws
8. A non-discrimination and non-segregation clause

HASLO is committed to using best efforts to use local companies in the development and construction of the project.

We appreciate your time and consideration of our proposal to develop much needed affordable housing in Morro Bay.

Sincerely,



Scott Smith
Executive Director



Jim Rendler
Development Partner



AGENDA NO: A-6

MEETING DATE: June 9, 2020

Staff Report

TO: Honorable Mayor and City Council

DATE: June 4, 2020

FROM: Scott Collins, City Manager

SUBJECT: 2019 and 2020 City Goals and Action Items Status Update

RECOMMENDATION

Receive status update from the City Manager regarding the 2019 and 2020 City Council Goals and action items.

ALTERNATIVES

None.

FISCAL IMPACT

None.

BACKGROUND

The City goals and related action items for calendar years 2019 and 2020 were formally adopted by City Council in May 2019 following community outreach (online survey, two community forums and regular Council meetings to review and formally adopt the goals/action items). The City adopted four major goals that reflect the concerns and desires of the community, and are as follows:

- 1) Achieve Economic and Fiscal Sustainability
- 2) Improve Infrastructure and Public Spaces
- 3) Complete Updates to the City's Significant Land Use Plans and Address Affordable Housing Issues
- 4) Improve Communication and Engagement with the Community

Each of the goals have several corresponding action items which, if implemented, would help bring the Council goals into reality. In establishing the 2019 and 2020 Goals, City Council was particularly interested in establishing an achievable work plan and stated the Council Members' desire to receive regular updates as to the status of the action items. The attached spreadsheet serves as a template to review progress toward each of the Council goals and action items. For each action item, there are columns for proposed return dates to Council for further consideration/action and status updates. Council approved a total of 26 action items for 2019 and 2020. City Council Members also expressed support for a commitment to not adding new goals/action items after the goals have been adopted, without first removing or delaying an already approved goal/action item (policy adopted through recent revisions to the City Council policy handbook).

City staff committed to providing quarterly updates to City Council regarding progress on the goals and action items. This report serves as the second update to Council on the 2019 – 2020 goals.

Prepared By: SC

City Manager Review: _____ City Attorney Review: CFN

Update on 2019 and 2020 Goals and Action Items

Since the last update provided to Council in January 2020, City progress on completing action items has slowed as a result of the City shifting the entire organization's focus to addressing the public health and economic impacts related to the COVID-19 pandemic. The City continues to monitor and respond to the pandemic and has taken comprehensive actions to assist the local business community and begin the process of City financial recovery. Those efforts will continue for some time and will impede in some respects the City's ability to achieve its stated goals. Despite that, City staff will do its best to make progress on action items. The attached spreadsheet demonstrates completed action items (highlighted in green), items with significant progress completed (yellow highlighted items), and other items that require more work and will be addressed in 2020 or beyond (no highlight).

The following 2019 - 2020 action items have been completed:

- *"Bring forward a comprehensive set of revenue enhancement options for City Council consideration."* City Council reviewed a set of options and directed staff in August 2019 to move forward with opinion research and outreach to the community on a potential revenue enhancement measure. A community survey was conducted in October/November 2019 and the results are posted to the City website.
- *"In support of achieving economic development goals and limiting City costs in that pursuit, contract with an outside agency to fulfill economic development Ombudsmen duties on behalf of the City."* City Council approved a contract with the Chamber of Commerce to provide these services to the City in FY2019/20 through the annual budget process.
- *"Review opportunity to include vacation rentals and recreational vehicle parks into Tourism Business Improvement District (TBID)."* City Council reviewed options in August 2019 and directed staff to move forward with bringing vacation rentals into the TBID by early 2020.
- *"Revise the partnership policy, and related policies, in conjunction with the fee study update."* City Council approved a revised partnership policy agreement in late 2019.
- *"Review option to revise cannabis ordinance to allow for adult-use (recreational) cannabis retailing in Morro Bay."* City Council approved first reading of an ordinance revision, that would allow existing permitted cannabis retailers to retail adult-use cannabis. Second reading is scheduled for June 9, 2020.
- *"Complete a detailed review of the CalPERS pension liability, other post-employment benefits and health liability and determine specific actions to minimize financial impact to the City."* City Council provided direction to staff for a refined analysis on PERS liability paydown for certain tiers. Council then approved actions to pay down liabilities for tier-two employees in early 2020.
- *"Include local labor on major City capital improvement projects (CIP), with the WRF being the initial project."* City Council directed staff to include local hire provisions into the conveyance and injection wells systems construction contracts. In May 2020, Council approved language for bid documents related to local labor for those project components.

Significant progress has been made on the following 2019 - 2020 action items:

- *"Revise the short-term vacation rental policy"* – The City Manager appointed a community committee to review policy options. They will make recommendations to the Planning Commission and City Council in Summer 2020.
- *"Complete and implement the fee study and cost allocation plan."* City Council approved the new fee structure in late 2019, with a few remaining fees that require their review

(development impact fees, harbor fees). Those remaining fees will be brought forward to Council in Fall 2020.

- *“Establish Waterfront Lease Site policies and implementation plan.”* The ad hoc committee completed its work and staff presented draft policies to Council in May 2020. Council provided further direction and will review the final policies on June 23, 2020.
- *“WRF Implementation, which includes completing design of the facility, pipeline conveyance and injection system, permitting the project, securing financing for entire project and beginning construction.”* The City received a Coastal Development Permit for the project, received approval from the Environmental Protection Agency for a WIFIA line of credit, purchased property for the WRF facility, completed 90% design for the facility and pipeline conveyance system, and broke ground in March 2020 for the WRF facility. Council will review construction award documents for the conveyance system in Summer 2020, and State Revolving Fund loan/grant agreements in Fall/Winter 2020.
- *“Implement approved Capital Improvement Projects, including OneWater Projects.”* City Council approved contracts for design work on three OneWater projects in early 2020. Design work has been initiated.
- *“Complete the General Plan/Local Coastal Plan rewrite.”* Staff is working closely with the Coastal Commission staff to finalize their review of the GP/LCP and is preparing documents for environmental review. Staff will bring this back to the Planning Commission in Summer/Fall 2020. Following Planning Commission review, City Council will review.
- *“Complete the zoning code update.”* Staff is working closely with the Coastal Commission staff to complete their review of the GP/LCP. Staff will bring this back to the Planning Commission in Summer/Fall 2020. Following Planning Commission review, City Council will review.
- *“Work with San Luis Obispo County and cities therein on a regional partnership and solutions to housing issues.”* The City joined the Regional Compact with the County and other cities in the County. City staff will present updates on housing related issues to City Council throughout the year. Staff is working to complete the Housing Element prior to the end of calendar year 2020 and is coordinating those activities with the County as well.

Many other action items have had some work completed and staff continues to work diligently on completion of them. The following is a quick snapshot of those items.

- Market Street Plaza redevelopment.
- Continued work with federal agencies and elected representatives on offshore wind development.
- Review and make improvements to the development review permit process.
- Outreach on opportunity sites in Morro Bay.
- Assist in development of a business incubator/co-working space in Morro Bay.
- Parking management plan.
- Pursue grants for Boatyard feasibility study.
- Bring hi-speed internet to Morro Bay.
- Pursue grant funding for an emergency warming shelter in Morro Bay.
- Coordination with non-profits and community groups.

Goals Process Overview

The City Council goals and action items, as outlined in the strategic planning framework policy, are reviewed and approved by Council every two years (following a general election). Council will

review the existing goals and action items, engage the community in that review process, and then have the opportunity to revise, add, or rewrite the goals and action items in early 2021. Until that time, staff will continue to provide quarterly updates to Council on the 2019/2020 goals and action items.

ATTACHMENT

1. 2019 - 2020 City Council Goals and Objectives Spreadsheet

City Council Goals and Action Items for 2019 and 2020

These are the City Council Goals and priority action items for 2019 and 2020, constituting the main work plan for the City.

Goal #1: Achieve Financial Sustainability and Economic Sustainability					
Item #	Action Items	Departments Involved	Lead Department	Anticipated Council Date/Completion	Current Status
1)	Complete and implement the fee study and cost allocation plan.	All	Finance	City Council approved the new fee schedule in late 2019, with a few remaining fees left for Council review in Fall 2020.	Rate increases for majority of fees have gone into effect, as of January 1, 2020. Other fees being phased in over several years. Staff reviewing development impact fees.
2)	Review option to revise cannabis ordinance to allow for adult-use (recreational) cannabis retailing in Morro Bay.	City Manager, Police, Fire and Finance	Planning, City Attorney	City Council considering second reading of ordinance to allow adult-use cannabis on June 9, 2020.	Building permit process for cannabis retailers nearly complete.
3)	Redevelop the Market Street Plaza lot for visitor serving accommodations, with significant community benefit to include public improvements to the Centennial Plaza.	City Attorney, Finance	Planning, City Manager	City Council will review proposals if they are submitted.	Some interest in developing the property, but no progress to report at this time.
4)	Review and make improvements, where feasible, to the planning permit process.	City Manager, Public Works, Fire, Harbor	Chamber, Planning	City Council to receive updates on progress, and may consider policy changes depending upon recommendations that come forward.	No work done on this to date. Next step is to convene working group to review current efforts and issues. Intend to initiate review in Summer/Fall 2020 in partnership with Morro Bay Chamber.
5)	Bring forward a comprehensive set of revenue enhancement options for City Council consideration.	All	City Manager, Finance	Council reviewing options through the FY 2020/21 Budget process.	City Council directed staff to pursue community opinion research in August, and established a Council sub-committee. Community survey completed in November 2020. Results posted to City website. More community outreach anticipated throughout 2020.
6)	Conduct outreach on the current opportunity sites within Morro Bay, including, but not limited to the decommissioned power plant.	Planning, City Manager, Harbor, Tourism	Chamber	Staff will provide updates to City Council.	On-going effort by the City and Chamber.
7)	In support of achieving economic development goals and limiting City costs in that pursuit, contract with an outside agency to fulfill economic development Ombudsmen duties on behalf of the City.	Planning, Tourism, Harbor	City Manager	City Council to receive quarterly updates from the Chamber.	City Council approved contract with Chamber to provide this service to the City.
8)	Continue to pursue locating a new aquarium in the water front area, in partnership with Cal Poly and Central Coast Aquarium.	City Manager, Planning, Tourism	Harbor	No updates planned at this time.	Project is on hold as Central Coast Aquarium restructures following closure of their Avila Beach Aquarium due to the COVID-19 pandemic.
9)	Establish Waterfront Lease site policies and implementation plan.	Harbor, Planning, City Manager, Finance	Harbor	City Council to review final policy and provide direction on June 23, 2020.	Ad hoc committee completed work on lease management policy updates continues, and staff presented to Council in a study session in May 2020.
10)	Continue to pursue offshore windfarm development, with a short-term focus on ensuring the Federal Government approves a windfarm lease site near Morro Bay.	City Manager, Planning, City Attorney	Harbor	Staff will provide updates to City Council.	City Council approved Community Benefits Agreement with Castle Wind in 2018. Staff and Council sub-committee working with State and Federal representatives.
11)	Review opportunity to include vacation rentals and recreational vehicle parks into Tourism Business Improvement District (TBID).	City Manager	Tourism	No further Council action required.	Council approved bringing VRs into the TBID. Goes into effect in mid-January 2020.

City Council Goals and Action Items for 2019 and 2020

12)	Facilitate coordination and development of a business incubator/co-working space in Morro Bay.	City Manager, Planning	Ombudsmen	Staff will provide updates to City Council.	Chamber and staff will review opportunities in 2020 for business incubation/co-worker space.
13)	Complete a detailed review of the CalPERS pension liability, other post employment benefits and health liability and determine specific actions to minimize financial impact to the City.	Finance	City Manager	City Council approved actions in early 2020.	Council reviewed detailed report in August 2019 and directed staff to bring back refined analysis for liability paydown options. Council reviewed and approved actions in early 2020.

Goal #2: Improve Public Infrastructure

Item #	Action Items	Departments Involved	Lead Department	Anticipated Council date/Completion	Current Status
1)	WRF Implementation, which includes completing design of the facility, pipeline conveyance and injection system, permitting the project, securing financing for entire project and beginning construction.	Public Works, Planning, City Attorney	WRF Program Manager, City Manager	Next steps for Council: Conveyance construction project award and loan agreement with SRF (Summer and Fall/Winter of 2020, respectively).	WIFIA line of credit approved, 90% design on WRF Facility and pipeline conveyance complete, nearing finalization of WIFIA loan, purchased property for WRF facility, and continuing working with State staff on the SRF Loan/Grant. Ground broke in March 2020.
2)	Include local labor on major City capital improvement projects (CIP), with the WRF being the initial project.	City Attorney, Public Works, Finance	WRF Program Manager, City Manager	City Council approved language to add to bidding documents, at their May 26, 2020 meeting.	City Council directed staff to include local hire provisions in contracts for conveyance and injection well system components of the WRF project.
3)	Complete and bring to Council a Parking Management Plan to address parking issues in the downtown and water front areas.	City Manager, Finance, Harbor, Planning, Public Works	City Manager	City Council to review options and provide initial direction in 2020.	Staff speaking with several parking vendors about study options, and Coastal Commission about permitting process.
4)	Harbor Advisory Board to pursue grants for an RFP for marine services facility (boatyard) feasibility study and bring forward information to City Council for next steps.	City Manager	Harbor	City Council to review options sometime in 2020/2021.	Staff reviewing options for feasibility study (no responses to RFP in 2018), and looking at funding opportunities.
5)	Pursue a public-private partnership to increase business and residential access to hi-speed internet in Morro Bay.	All	City Manager	City Council to review options in 2020/2021.	Staff reviewing options.
6)	Implement approved Capital Improvement Projects, including OneWater Projects.	Public Works, City Manager	Harbor	City Council to review construction bids in 2021, following completion of design work.	City Council approved contracts for design work on 3 OneWater projects in early 2020. Design work initiated.

Goal #3: Improve Communication and Community Engagement

Item #	Action Items	Departments Involved	Lead Department	Anticipated Council date/Completion	Current Status
1)	Work to develop stronger coordination, and processes, with community groups in support of advancing mutually beneficial initiatives and goals.	All	City Manager	Staff to provide updates to City Council. Will bring new partnership agreements for Council review in 2020/2021.	Will be an on-going effort. Next step includes outreach to volunteer groups in Morro Bay.
2)	Revise the partnership policy, and related policies, in conjunction with the fee study update.	Finance	City Manager, Recreation, Tourism	Staff will bring new partnership agreements to Council for review in 2020/2021.	Council approved a revised Partnership Policy in late 2019.

City Council Goals and Action Items for 2019 and 2020

Goal #4: Complete Updates to the City Major Land Use Plans and Address Affordable Housing Issues					
Item #	Action Items	Departments Involved	Lead Department	Anticipated Council date/Completion	Current Status
1)	Complete the General Plan/Local Coastal Plan rewrite.	City Manager	Planning	Staff likely to bring draft plans to Planning Commission Summer/Fall 2020. City Council would review following Planning Commission review.	Staff is preparing documents for the environmental review and completing revisions of the draft GP/LCP.
2)	Complete the Zoning Code update.	City Manager, Public Works	Planning	Staff likely to bring draft plans to Planning Commission Summer/Fall 2020. City Council would review following Planning Commission review.	Coastal Commission staff is reviewing an administrative draft of the document.
3)	Revise the vacation rental policy.	City Manager, Finance, Public Works, City Attorney	Planning	Council to review policy recommendations by Summer 2020.	City Manager appointed a community committee to review policy options and make recommendations to the Planning Commission and City Council. City Attorney currently drafting ordinance for Planning Commission review.
4)	Work with San Luis Obispo County and cities therein on a regional partnership and solutions to housing issues.	Planning, Public Works, Finance	City Manager	Council approved Regional Housing Compact. Staff will provide updates to City Council in Summer/Fall 2020.	Staff coordinating with County of SLO staff on housing and infrastructure planning. Staff also initiated update to Housing Element, which provides another opportunity to coordinate regionally.
5)	Pursue grant funding to develop an emergency warming shelter in Morro Bay.	Public Works, Recreation, Finance	City Manager	Staff will provide an update to City Council on the new funding opportunity once information is made available by the County.	City did not receive State funding (HEAP Grant). Coordinating with County on a new funding opportunity.

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AGENDA NO: A-7

MEETING DATE: June 9, 2020

Staff Report

TO: Honorable Mayor and City Council

DATE: June 5, 2020

FROM: Eric Endersby, Harbor Director

SUBJECT: Adoption of Resolution No. 50-20 Conditionally Authorizing the Mayor to Execute Documents Necessary for a New Loan and Accepting a Deed of Trust Related Thereto for Lease Site 89/89W (Boatyard, LLC, 845 Embarcadero)

RECOMMENDATION

Staff recommend the City Council adopt Resolution No. 50-20 authorizing the Mayor to execute documents necessary for a new loan and accepting a deed of trust related thereto regarding the leasehold interest at Lease Site 89/89W, with documents subject to approval of the City Attorney.

ALTERNATIVES

Do not approve Resolution No. 50-20.

FISCAL IMPACT

There is no fiscal impact to this action.

BACKGROUND

In 2006 a loan and deed of trust with Wells Fargo Bank to Boatyard, LLC for Lease Site 89/89W was approved by the City Council. This is a refinance of that loan with Pacific Premier Bank.

DISCUSSION

Boatyard, LLC is requesting City Council approval of a Deed of Trust (loan) with Pacific Premier Bank against the leasehold interest in the amount of approximately \$1,000,000, which will enable, among other things, a better cash flow situation for Boatyard LLC in the current COVID-19 pandemic.

Boatyard, LLC is a tenant in good standing, and the lease agreement for Lease Site 89/89W stipulates that such funding approval will not be unreasonably withheld by the City. In addition, the lease agreement stipulates that such lending have a loan-to-value ration of no more than 75%, and all proceeds be used for leasehold improvements and/or to refinance existing lending on the Lease Site. This lending complies with these stipulations.

CONCLUSION

Staff recommends the City Council adopt Resolution No. 50-20 authorizing the Mayor to execute all necessary documents for the loan and deed of trust requested by Boatyard, LLC, as-presented.

ATTACHMENT

1. Resolution No. 50-20

Prepared By: EE

Dept Review: EE

City Manager Review: _____

City Attorney Review: _____

RESOLUTION NO. 50-20

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
CONDITIONALLY AUTHORIZING THE MAYOR TO EXECUTE DOCUMENTS
NECESSARY FOR REFINANCING AN EXISTING LOAN AND ACCEPTING A DEED
OF TRUST RELATED THERETO WITH BOATYARD, LLC AT LEASE SITE 89/89W,
LOCATED AT 845 EMBARCADERO ROAD, MORRO BAY**

**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 City Tidelands leases and properties; and

WHEREAS, since 2005, Boatyard, LLC has been the lessee of Lease Site 89/89W, located at 845 Embarcadero Road and is a tenant in good standing; and

WHEREAS, Boatyard, LLC's is requesting approval of loan documents and a deed of trust to secure the refinancing of an existing loan for the Lease Site using the lease agreement and improvements as security; and

WHEREAS, lease site lending can only be used to purchase a lease site, to refinance existing lending on the lease site and/or for leasehold improvements.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, the Mayor is hereby directed to execute, as necessary, any and all documents, as approved by the City Attorney, necessary to consummate the loan and deed of trust desired by Boatyard, LLC.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 9th day of June, 2020 on the following vote:

AYES:
NOES:
ABSENT:

John Heading, Mayor

ATTEST:

Dana Swanson, City Clerk



AGENDA NO: B-1
MEETING DATE: June 9, 2020

Staff Report

TO: Honorable Mayor and City Council DATE: May 26, 2020

FROM: Scot Graham, Community Development Director

SUBJECT: Introduction and First Reading of Ordinance 634; Amendments to Morro Bay Municipal Code for Sidewalk Vending Permit Requirements

RECOMMENDATION

Council introduce for first reading by number and title only, with further reading waived, Ordinance No. 634, Amending Title 5 of the Morro Bay Municipal code, adding Chapter 5.60 - Sidewalk Vendors, and amending Chapters 5.08.150(A)(1), 5.40.020 and 10.40.120 to regulate sidewalk vendors within the City of Morro Bay.

BACKGROUND/DISCUSSION

Senate Bill 946, filed with the Secretary of State on September 17, 2018 and effective on January 1, 2019 places limits on the ability of cities to regulate sidewalk vendors. Local authorities may establish requirements regulating the time, place, and manner of sidewalk vending, as specified, if the requirements are directly related to objective health, safety, or welfare concerns. The existing provisions in the Morro Bay Municipal Code regulating sidewalk vendors are out of date and need to be revised in order to comply with SB 946. The City of Morro Bay is proposing an amendment to the Morro Bay Municipal Code to add Chapter 5.60 - Sidewalk Vendors and amend Sections 5.08.150(A)(1), 5.40.020 and 10.40.120 to bring the Municipal Code into compliance with Senate Bill 946 and establish regulations on sidewalk vending that will protect the health and safety of those who live in and visit Morro Bay and ensure that they can enjoy outdoor public spaces, while also creating economic opportunities for vendors.

Working with the City Attorney's Office, Staff has prepared an ordinance addressing sidewalk vending in the City and establishing new procedures and regulations to allow vendors on sidewalks and public walkways and parks and other public places consistent with the mandates of SB 946. The ordinance contains findings that detail the objective health, safety or welfare concerns that support the regulations.

The ordinance also contains regulations for both stationary sidewalk vendors and roaming sidewalk vendors. Roaming sidewalk vendors are defined as "a sidewalk vendor who moves from place to place and stops only to complete a

Prepared By: NH Dept Review: SG
City Manager Review: SC City Attorney Review: CFN

transaction.” A stationary sidewalk vendor is defined as “a sidewalk vendor who operates from a fixed location.”

Given the unique character of Morro Bay, the Ordinance includes Permit requirements that regulate the following: time of operation, operational requirements for vending carts, signage, trash receptacles, limitations on the type of merchandise for sale, how vendors are to interact with the public, fire safety, limitations on location, penalties for violation, general liability insurance requirements, and City indemnification requirement. A summary of the proposed sidewalk vending ordinance is provided below.

- Prohibits sidewalk vendors on City streets, on sidewalks less than ten feet in width (does not apply to roaming vendors), beaches, scenic paths, State owned property without State authorization, within 100 feet of a police or fire station, within 15 feet of a fire hydrant, within 15 feet of a transit stop, adjacent to any loading zone, within 100 feet of a farmers market, or within 100 feet of a City permitted special event
- Limited opportunities for sidewalk vending is provided on, or adjacent to, the Embarcadero, Harborwalk, Coleman Drive, and Rock parking lot
- Requires all sidewalk vendors to obtain a City-issued Sidewalk Vendor Permit, City issued business tax certificate, California seller's permit (for tax purposes), and a County Health Department permit (if required)
- Includes restrictions pertaining to proximity to entrances and exits to buildings, and emergency vehicle access ways, and establishes distances between vendors
- Requires vendors to operate only on paved sidewalks/walkways and to maintain at least 4 feet of unobstructed sidewalk/walkway
- Requires vendors to display their sidewalk vendor permit
- Requires vendors to keep vending area clean and litter-free
- Prohibits vendors from connecting to any public utilities
- Prohibits vendors from selling any merchandise or food not listed on the vending permit application
- Requires proof of general liability insurance in the amount of \$100,000 per occurrence and \$200,000 aggregate naming City as additional insured
- Indemnification requirement holding the City, its employees, officers and elected officials harmless.

The Ordinance also includes restrictions specific to City Beaches, Trails, Parks and State-Owned property (see Tables below).

<i>Location</i>	<i>Requirements</i>
Morro Strand Campground	Prohibited
Morro Bay State Park Campground	State Authorization Required
Morro Bay Golf Course	Prohibited

Morro Bay State Park	Prohibited
Embarcadero Road Harborwalk (South of Pacific Street)	Limited Opportunity Area
Embarcadero Road Harborwalk (between Pacific and Beach Street)	Limited Opportunity Area
Embarcadero Road Harborwalk (between Beach Street and Pedestrian Bridge)	Limited Opportunity Area
Coleman Drive (from Embarcadero to Morro Rock Parking Lot)	Limited Opportunity Area
North Point Natural Area	Prohibited
Morro Bay Dog Beach	Prohibited
Public Beaches from Morro Rock to North Point Natural Area (including beach parking lots)	Prohibited
Eagle Rock	Prohibited
Public Launch Ramp	Prohibited
Black Hill Trail	Prohibited
Morro Bay State Park Boardwalk/Harbor	State Authorization Required
Morro Bay Estuary	Prohibited
South Bay Blvd Mountain Bike Trails & Parking Lots (Cerro Cabrillo/Park Ridge Rock)	Prohibited

<i>Park</i>	<i>Sidewalk Vendors Allowed (S=Stationary/ R= Roaming)</i>
Anchor Memorial	0 (S or R)
Bayshore Bluffs	2 (S); Roaming Allowed
Centennial Parkway	1 (S); Roaming Allowed
City Park	2 (S); Roaming Allowed
Cloisters Community Park	2 (S); Roaming Allowed
Coleman	2 (S); Roaming Allowed
Del Mar	2 (S); Roaming Allowed
Lila Keiser Park	2 (S); Roaming Allowed

Mariner Memorial	1 (S); Roaming Allowed
Monty Young	2 (S); Roaming Allowed
North Point	1 (S); Roaming Allowed
Tidelands	4 (S); Roaming Allowed
Franklin Riley	2 (S); Roaming Allowed
Morro Rock Parking Lot	4 (S); Roaming Allowed

Section 17.30.030(T) of the Municipal Code currently includes regulations applicable to sidewalk vendors, but these regulations do not comply with current state law. Section 17.30.030(T) is not being repealed at this time as that requires amending the City's Zoning Code (Title 17). However, the proposed ordinance states that the provisions in the proposed Chapter 5.60 (Sidewalk Vendors) will supersede any conflicting provisions in Section 17.30.030(T) of the Municipal Code.

PENALTIES

The Ordinance includes penalties for vending without a vendor permit or for operating a sidewalk vending business in violation of Chapter 5.60 of the Municipal Code. Fines range from \$100 to \$500 for violation of this chapter of the Municipal Code or from \$250 to \$1,000 for vending without a sidewalk vendor permit.

NEW FEE

Staff will be bringing forward an amendment to the Master Fee Schedule, at the meeting of June 23, 2020, to add a \$325 fee for the sidewalk vendor permit.

ENVIRONMENTAL DETERMINATION

The Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, sections: 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); 15060(c)(3) (the activity is not a project as defined in Section 15378); and 15061(b)(3) (the activity is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment). The proposed ordinance maintains the status quo and prevents directly related changes in the environment. Because there is no possibility that this ordinance may have a significant adverse effect on the environment, the adoption of this ordinance is exempt from CEQA.

PUBLIC NOTICE

Notice of this item was published in the San Luis Obispo Tribune newspaper on May 15, 2020 as a 1/8-page notice meeting the legal requirements for the project.

CONCLUSION

In response to SB 946 requirements, Staff recommends introduction and first reading, by number and title only, with further reading waived, of Ordinance No. 634, Amending Title 5 of the Morro Bay Municipal code, adding Chapter 5.60 - Sidewalk Vendors and

amending Chapters 5.08.150(A)(1), 5.40.020 and 10.40.120 to regulate sidewalk vendors within the City of Morro Bay.

ATTACHMENT

1. Ordinance No. 634

ORDINANCE NO. 634

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
CREATING A PROGRAM TO REGULATE AND PERMIT SIDEWALK VENDING
PURSUANT TO CALIFORNIA SENATE BILL 946**

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

WHEREAS, the City of Morro Bay is a unique community that takes pride in its community character; and

WHEREAS, on September 17, 2018, California Governor Edmund Gerald Brown signed Senate Bill ("SB") 946 into law, which regulates sidewalk vendors throughout the state including within the City of Morro Bay; and

WHEREAS, SB 946 took effect January 1, 2019, and limits the authority of the City to regulate sidewalk vendors, except as provided under California Government Code Sections 51038 and 51039; and

WHEREAS, the existing provisions in the Morro Bay Municipal Code regulating sidewalk vendors are out of date and need to be revised in order to comply with SB 946; and

WHEREAS, the City Council adopts this ordinance under the authority of SB 946 and the City Council finds the regulations and requirements provided in this ordinance are directly related to the City's objective of protecting the health, safety and welfare of its residents, businesses, and visitors; and

WHEREAS, the City Council finds the regulations in this ordinance, including, but not limited to those regulations governing minimum sidewalk widths, cart sizes, distance requirements, and food and merchandise storage are necessary to ensure compliance with the federal Americans with Disabilities Act of 1990 and other disability access standards; and

WHEREAS, the City Council finds this ordinance is necessary to ensure the public's use and enjoyment of natural resources and recreational opportunities; and

WHEREAS, the City Council finds this ordinance is necessary to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic

and natural character of City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORRO BAY DOES FIND AS FOLLOWS:

SECTION 1. Recitals. The City Council of the City of Morro Bay does hereby find that the above referenced recitals are true and correct and material to the adoption of this Ordinance.

SECTION 2. Finding Regarding Limitations on Sidewalk Vending. The City of Morro Bay has unique characteristics that require limitations on sidewalk vending activities for safety, health and accessibility. The limitations and related findings are as follows:

- A. **Sidewalks under 10 feet in width:** The majority of the sidewalks and pathways in the City are narrow, between five (5) feet and ten (10) feet in width and stationary sidewalk vending in these areas would unreasonably interfere with the flow of pedestrians and disrupt access for persons with disabilities in compliance with the American with Disabilities Act (ADA).
- B. **Areas with high levels of pedestrian traffic:** The City's commercial districts along the Waterfront are extremely popular tourist destinations with unusually high pedestrian and vehicular traffic volumes along sidewalks. The sidewalks in these areas are generally under ten (10) feet in width. As such, in order for the City to protect the public from injury and prevent congestion, a limit on the number of sidewalks vending permits issued by the City for commercial districts along the Waterfront is necessary and locations will be approved on a case by case basis.
- C. **Residential areas:** The City's residential districts are generally older developed areas, with narrow streets, many with steep slopes and have a constrained amount of on-street parking. The residential districts generally do not have sidewalks or have narrow sidewalks that cannot safely accommodate pedestrian traffic and a stationary sidewalk vendor. Stationary sidewalk vendors are not allowed in residential districts to protect the health, safety, and welfare of residents who live in residential districts.
- D. **Public Parks:** Morro Bay has numerous public parks, and in order to promote public health, safety and welfare, and to prevent an undue concentration of commercial activity that unreasonably interferes with the scenic and natural character of these parks, the City will review requests for sidewalk vending locations on a case by case basis.

- E. **Police and Fire Stations:** The Police Department and Fire Department facilities contain critical infrastructure and restrictions around the facilities are necessary to ensure the health, safety and welfare of the public. Consequently, no sidewalk vending is permitted within 100 feet of these facilities.
- F. **Public Beaches:** No sidewalk vending is allowed on the public beaches. This restriction is necessary to protect this resource. However, stationary and roaming sidewalk vending locations may be permitted at the entrance to public beaches or within public areas near or adjacent to beach parking lots.
- G. **Pedestrian/Bicycle trails/pathways:** The non-vehicular trails for pedestrians and bicycles are narrow with high pedestrian/bicyclist traffic volumes. Restrictions on sidewalk vending along the path are necessary to protect the public from injury given the popularity of these tourist destinations.
- H. **State Park Owned/Managed Property:** State Parks and other areas owned by the State of California will require a special review and authorization from the state prior to allowing any sidewalk vending permits in those areas.
- I. **State of California (Caltrans) Right of Way:** State Highway 1, State Highway 41 and the related public right of way areas are within the State of California (Caltrans) jurisdiction and will require authorization from the State prior to consideration of any sidewalk vending permit applications for these locations.

SECTION 3. Section 5.08.150(A)(1) of the Morro Bay Municipal Code is hereby amended as follows with the rest of Section 5.08.150 remaining unchanged (added text in **bold underline**):

1. "Vendor" means and includes every person not having a fixed place of business in the city, and not an agent of a principal having a fixed place of business in the city, who travels from place to place, or has a stand upon any doorway of any building or unenclosed or vacant private lot or parcel of land, **or any sidewalk vendor as defined in Chapter 5.60,** who sells or offers for sale and retail any goods in his/her possession.

SECTION 4. The definition of "Vendor" and "solicitor" in section 5.40.020 of the Morro Bay Municipal Code is hereby amended as follows with the rest of Section 5.40.020 remaining unchanged (added text in **bold underline**; deleted text in **~~bold strikethrough~~**):

"Vendor" and "sSolicitor" means and includes every person requesting an immediate donation of money and/or who solicits as defined in Section

5.08.150 of this code and is specifically engaged in solicitation by going from house to house, place to place, or along city streets and on public right-of-way.

SECTION 5. Chapter 5.60 of the Morro Bay Municipal Code, entitled “Sidewalk Vendors,” attached hereto as Exhibit A, is hereby added to the Morro Bay Municipal Code. The provisions in Chapter 5.60 supersede any conflicting provisions in Section 17.30.030(T) of the Morro Bay Municipal Code.

SECTION 6. Section 10.40.120(C) is hereby added to the Morro Bay Municipal Code and shall read as follows (new text in **bold underline**):

C. This section does not apply to sidewalk vendors, as defined in Section 5.60.010. Sidewalk vendors shall comply with the provisions of Chapter 5.60.

SECTION 7. CEQA Findings. The Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, sections: 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); 15060(c)(3) (the activity is not a project as defined in Section 15378); and 15061(b)(3) (the activity is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment). The proposed ordinance maintains the status quo and prevents directly related changes in the environment. Because there is no possibility that this ordinance may have a significant adverse effect on the environment, the adoption of this ordinance is exempt from CEQA.

SECTION 8. Severability. If any section, subsection, phrase, or clause of this ordinance or any part thereof is for any reason held to be unconstitutional or otherwise unenforceable, such decision shall not affect the validity of the remaining portions of this ordinance or any part thereof. The City Council hereby declares that it would have passed this ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared unconstitutional or otherwise unenforceable.

SECTION 9. Effective Date. This Ordinance shall take effect 30 days after its adoption.

SECTION 10. Certification. The City Clerk shall certify as to the passage and adoption of this Ordinance and shall cause the same to be posted as the designated locations in the City of Morro Bay.

INTRODUCED at a regular meeting of the City Council held on the 9th day of June, 2020, by motion of _____ and seconded by _____.

PASSED AND ADOPTED on the _____ day of _____ 2020, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

JOHN HEADDING, MAYOR

ATTEST:

DANA SWANSON, City Clerk

APPROVED AS TO FORM:

CHRIS F. NEUMEYER, City Attorney

STATE OF CALIFORNIA)
COUNTY OF SAN LUIS OBISPO)
CITY OF MORRO BAY)

I, Dana Swanson, CITY CLERK FOR THE CITY OF MORRO BAY, HEREBY CERTIFY the foregoing Ordinance Number 634 was duly adopted by the City Council of the City Council of the City Morro Bay at a regularly meeting of said Council on the _____ day of _____, 2020 and that it was so adopted on by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the City of Morro Bay, California, this _____ day of _____, 2020.

DANA SWANSON, City Clerk

Exhibit A

Chapter 5.60 SIDEWALK VENDORS

5.60.010 – Definitions.

The following definitions apply to this chapter:

- A. "Beach" means any public oceanfront, or bay front beach within the City.
- B. "Cart" means a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other non-motorized conveyance.
- C. "Certified farmers' market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that chapter.
- D. "Food" means any item provided in Health and Safety Code Section 113781, or any successor section.
- E. "Harassment" means any form of unauthorized or unpermitted touching, verbal abuse, blockage of pathways or interference with pedestrian traffic.
- F. "Limited Opportunity Area" means an identified area in which a specific location request will need special review by Public Works, Police and Fire prior to permit approval or disapproval.
- G. "Park" means the parks listed in the Open Space and Conservation Element of the General Plan and identified in Table 5.60-2.
- H. "Residential district" means any area zoned exclusively as residential in Title 17 of the Municipal Code or any other area with exclusively residential uses.
- I. "Roaming sidewalk vendor" means a sidewalk vendor who moves from place to place and stops only to complete a transaction.
- J. "Scenic pathway" means a non-vehicular trail or pathway for pedestrian, bicycle or equestrian use.
- K. "Sidewalk vendor" means a person who sells food or merchandise from a cart or from one's person, upon a public sidewalk or other pedestrian path. Sidewalk vendors include roaming sidewalk vendors and stationary sidewalk vendors.
- L. "Special event" means a City permitted event including, but not limited to, festivals, art

shows, and/or cultural events.

- M. "Stationary sidewalk vendor" means a sidewalk vendor who operates from a fixed location.
- N. "Swap meet" means a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that article.

5.60.020 – Applicability.

The requirements of this chapter shall not apply to the following persons:

- A. Persons delivering goods, wares, merchandise, or food upon order of, or by agreement with, a customer from a store or other fixed place of business or distribution.
- B. Solicitors, as defined in Section 5.08.150.
- C. Persons selling goods, wares, merchandise, or food from a motorized vehicle, including a food truck.

5.60.030 – Business tax certificate and vender permit required.

- A. No person shall operate as a sidewalk vendor without first obtaining, and at all times maintaining, a valid City business tax certificate in accordance with Chapter 5.04 of this code, and complying with all requirements of the business license, unless such person qualifies for an exemption under Chapter 5.04 of this code.
- B. No person shall operate as a sidewalk vendor without first obtaining, and all times maintaining, a sidewalk vendor permit in accordance with the requirements of this chapter and complying with all requirements of the permit.
- C. A sidewalk vendor permit is valid for one year unless revoked or suspended prior to expiration. An application to renew a vendor permit under this chapter shall be made not later than 90 days before the expiration of the current permit.
- D. Sidewalk vendor permits are only applicable to the persons named on the permit application and are not transferable.
- E. A separate business tax certificate and sidewalk vendor permit is required for each cart.

5.60.040 – Requirements for permit application.

An application for a sidewalk vendor permit shall be filed with the community development department and shall include all the following, to the extent applicable:

- A. The name, address, and telephone number of the applicant and each person who will operate the cart.
- B. A photo identification of the applicant and each person who will operate the cart.
- C. If the sidewalk vendor is an agent of an individual, company, partnership, or corporation, the name and business address of the principal.
- D. A description of the cart, including the dimensions (height, width and length) of the cart, a graphic showing any signage to be used and the placement on the cart, identification of any power supply or heating element used by the cart, and a photograph of the cart.
- E. A complete list of the food or merchandise to be sold.
- F. The locations in the City where the sidewalk vendor intends to operate.
- G. The days and hours during which the sidewalk vendor intends to operate.
- H. A plan for the collection and disposal of trash and recyclables generated by the vending operation.
- I. The sidewalk vendor's California seller's permit number (California Department of Tax and Fee Administration sales tax number).
- J. A City business tax certificate.
- K. A copy of any license or permit required from any other state or local agency that is required by law, including, but not limited to, a copy of any required permit from the county health department, if required.
- L. If the sidewalk vendor intends to operate in the state's right of way, evidence of state authorization for such activities.
- M. Proof of a policy of commercial general liability insurance in an amount not less than \$100,000 per occurrence and \$200,000 in the aggregate, issued by an insurance company licensed to do business in California and naming the City of Morro Bay, and its elected officials, officers, and employees, as additional insureds. Such policy shall not terminate or be canceled during the duration of the sidewalk vending permit without 30 days advance written notice to the City of Morro Bay.
- N. An agreement by the sidewalk vendor to defend, indemnify, release and hold harmless the City, its elected officials, officers and employees from and against any and all

claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to the permit or the vendor's sidewalk vending activities.

- O. A certification by the applicant that, to his or her knowledge and belief, the information contained in the application is true.
- P. Payment of a permit fee as established by City Council resolution.

5.60.050 – Application review; appeal.

- A. Within thirty (30) calendar days of receiving an application, the community development department will respond to the applicant with approval, or a list of items required to complete the permit review. Once the application is deemed complete, the community development director will approve or disapprove the application within thirty (30) days. Issuance of sidewalk vending permits does not require public notification. Following administrative approval, a sidewalk vending permit, with appropriate conditions, will be issued.
- B. The community development director's decision to issue or revoke a permit may be appealed by filing a notice of appeal with the city clerk within ten calendar days after the director's decision is issued. The director's decision shall be suspended during the pendency of an appeal. The appeal shall be heard by the city manager and his or her decision shall be final.

5.60.060 – Identification numbers; confidentiality.

Notwithstanding any other requirement in this code, an applicant for a business tax certificate or sidewalk vendor permit shall not be required to submit a social security number for the issuance of such certificate or permit. In lieu of an otherwise required social security number, the City shall accept a California driver's license or identification number, an individual taxpayer identification number, or a municipal identification number. Identification numbers submitted under this section shall not be made available to the public for inspection, shall be treated as confidential, and shall not be disclosed except as required to administer the license or permit program or to comply with a state law or state or federal court order.

5.60.070 – Operational standards.

- A. Display of and compliance with permit.
 - 1. Each cart used by a sidewalk vendor must always display or have available a valid sidewalk vending permit.

2. All sidewalk vendors shall comply with the terms and conditions of the vending permit.

B. Time restrictions. Sidewalk vending is prohibited after 9:00 pm and before 8:00 am in residential districts.

C. Carts.

1. In order to prevent obstructions of the public right-of-way, the total area footprint of the cart, including the cart itself and any accompanying display, signage, or related items, shall not exceed a length of five (5) feet, a width of three (3) feet, and a height, including roof or awning, of six (6) feet.
2. In order to prevent obstructions of the public right-of-way, no sidewalk vendor may set up or allow the use of an additional structure, including a table, crate, carton, umbrellas, rack, sandwich-board or other free standing signage to increase the selling or display capacity of the cart unless such items are explicitly requested in the permit application and approved by the City. Trash receptacles can be separate from the cart and not included in the cart size restrictions.
3. Carts must be equipped with their own power and water supplies, if needed. Sidewalk vendors shall not use a power source or water source owned by the City or another person without such owner's consent.
4. In order to prevent damage to public property and prevent obstructions of the public right-of-way, no cart may be chained or fastened to any pole, sign, tree, or other object in the public right-of-way.
5. In order to preserve the safety of the public, and prevent misuse of carts, no cart may be left unattended at any time.
6. In order to preserve the safety of the public, to prevent misuse of carts, and to prevent obstructions of the public right-of-way, no cart may be stored, parked, or left overnight on any public street or right-of-way, or in any public park.

D. Signage.

1. In order to prevent obstructions of the public right-of-way, all signage related to the vending operation shall be affixed to the cart, shall not protrude beyond the physical limits of the cart and shall not exceed three (3) square feet.
2. In order to preserve the safety of vehicular travelers and pedestrians, and to preserve public peace and welfare, no cart may be outfitted with any equipment, signage, or mechanism that endangers or detracts from the health, safety, or welfare of the public by causing an excessive distraction to motorists or interfering with nearby residences, business, or pedestrians, including but not limited to, sound amplification, flashing lights, smoke, steam, bubbles, gas-

powered generators, animation, or excessive fumes. Sidewalk vendors shall also comply with the noise regulations in Chapter 9.28 of this code.

E. Trash and cleanliness.

1. In order to preserve sanitary conditions in all public rights-of-way, all sidewalk vendors shall provide a trash receptacle for customers and must ensure proper disposal of customer trash. The trash receptacle must be large enough to accommodate customer trash without resort to existing trash receptacles located on any block for use by the general public. A sidewalk vendor may not dispose of customer trash in existing (public or private) trash receptacles on sidewalks.
2. In order to preserve sanitary conditions in all public rights-of-way, all sidewalk vendors shall maintain a clean and trash-free area within a 10-foot radius around the vendor's cart during hours of operation and shall ensure that such area is always clean and trash-free.
3. Sidewalk vendors shall immediately clean up any food, grease or other fluid or item related to the vending operation that is discharged on public property. Failure to comply will result in the City taking appropriate action to clean the discharge at the vendor's expense and will result in the suspension of the vending permit until the vendor reimburses the City for the cleanup costs.

F. Sales and merchandise.

1. Vendors shall not sell any food or merchandise that was not listed in the vending permit application.
2. Vendors may not rent merchandise to customers.
3. Vendors shall not sell alcohol, cannabis products, adult oriented material, or vaping or tobacco products or paraphernalia.

G. Interactions with the public.

1. In order to preserve the safety of vehicular travelers, no sidewalk vendor may solicit business from or conduct business with persons in motor vehicles on a public street.
2. In order to ensure the public's enjoyment of natural resources and recreational opportunities, vendors shall not approach members of the public to sell food or merchandise in a park.
3. Vendors shall not block or impede the path of any member of the public, or block or impede the entrance to any building, park, beach, or other area.
4. All persons operating a cart shall stay within ten (10) feet of the cart while the business is operating.

5. Vendors shall not harass any member of the public.
6. Sidewalk vendors shall not approach the entrance of any residence or business with the purpose of soliciting business.

H. Fire safety.

1. Sidewalk vendors shall not cook with, or otherwise use, an open flame without specific approval by the fire department.
 2. In order to protect health and safety, tanks containing propane or natural gas, large batteries, and any other container holding a combustible or flammable material shall be contained within a non-visible portion of the cart to prevent access by the public.
- I. Operations after dark. In order to preserve the safety of vehicular travelers and pedestrians, any cart operated before sunrise or after sunset, or in location with insufficient lighting, shall be equipped with enough lighting or reflectors to alert pedestrians and vehicular travelers to the presence of the cart.
- J. Inspection. Upon request, sidewalk vendors shall allow City personnel to inspect their cart for compliance with this chapter.

5.60.080 – Location and time restrictions.

- A. Prohibited locations. Sidewalk vending is prohibited in the following locations and as shown in Table 5.60-1:
1. Any area other than a public sidewalk or other approved area within a public right of way.
 2. On any sidewalk that is less than ten (10) feet wide (does not apply to roaming sidewalk vending).
 3. Beaches.
 4. Scenic pathways.
 5. State-owned property in the City, without state authorization.
 6. Within 100 feet of a police station or fire station.
 7. Within 15 feet of a fire hydrant or 15 feet of a transit stop.
 8. Within 15 feet of the outer edge of a driveway or driveway apron or any location that obstructs visibility for vehicles entering or exiting from a driveway.
 9. Adjacent to any marked loading zone or bus zone.

10. Within five (5) feet of a curb return.
11. Within any residential district (does not apply to roaming sidewalk vending).
12. Any location that impedes the flow of pedestrian traffic by reducing the clear space to less than four (4) feet or impedes access to or the use of abutting property, including, but not limited to, residences and places of business.
13. Within 100 feet in any direction of the nearest vendor or concessionaire participating in a certified farmers' market or swap meet during the operating hours of the certified farmers' market or swap meet.
14. Within 100 feet of a City-permitted special event, including but not limited to, parades, concerts, and movie filming, unless vendor has received a permit to vend as part of the event. For moving events, vending shall be prohibited within 100 feet of any portion of the approved event route. For stationary events, vending shall be prohibited within 100 feet of the parcel boundary for the location of the event.

Table 5.60-1

Sidewalk Vending Restrictions on Beaches, Trails, and State-Owned Land

<i>Location</i>	<i>Requirements</i>
Morro Strand Campground	Prohibited
Morro Bay State Park Campground	State Authorization Required
Morro Bay Golf Course	Prohibited
Morro Bay State Park	Prohibited
Embarcadero Road Harborwalk (South of Pacific Street)	Limited Opportunity Area
Embarcadero Road Harborwalk (between Pacific and Beach Street)	Limited Opportunity Area
Embarcadero Road Harborwalk (between Beach Street and Pedestrian Bridge)	Limited Opportunity Area
Coleman Drive (from Embarcadero to Morro Rock Parking Lot)	Limited Opportunity Area
North Point Natural Area	Prohibited
Morro Bay Dog Beach	Prohibited
Public Beaches from Morro Rock to North Point Natural Area (including	Prohibited

beach parking lots)	
Eagle Rock	Prohibited
Public Launch Ramp	Prohibited
Black Hill Trail	Prohibited
Morro Bay State Park Boardwalk/Harbor	State Authorization Required
Morro Bay Estuary	Prohibited
South Bay Blvd Mountain Bike Trails & Parking Lots (Cerro Cabrillo/Park Ridge Rock)	Prohibited

B. Limited Opportunity Areas. The City of Morro Bay has unique characteristics that require limitations on sidewalk vending activities for safety, health and accessibility. The City’s community development director is authorized to establish additional restrictions on sidewalk vending in Limited Opportunity Areas, provided such restrictions shall comply with state law and shall be reasonably necessary to protect and promote safety, health and accessibility. Such limitations may include, but are not limited to, the number of sidewalk vending permits issued and hours of operation. Applicants will be notified of the limitations or special restrictions applicable to Limited Opportunity Areas upon request and upon review of the sidewalk vending permit application.

C. Parks. The amount and type of sidewalk vendors allowed in City parks is limited as shown in Table 5.60-2.

Table 5.60-2

Vending Restrictions in Parks

<i>Park</i>	<i>Sidewalk Vendors Allowed (S=Stationary/ R= Roaming)</i>
Anchor Memorial	0 (S or R)
Bayshore Bluffs	2 (S); Roaming Allowed
Centennial Parkway	1 (S); Roaming Allowed
City Park	2 (S); Roaming Allowed
Cloisters Community Park	2 (S); Roaming Allowed
Coleman	2 (S); Roaming Allowed
Del Mar	2 (S); Roaming Allowed

Lila Keiser Park	2 (S); Roaming Allowed
Mariner Memorial	1 (S); Roaming Allowed
Monty Young	2 (S); Roaming Allowed
North Point	1 (S); Roaming Allowed
Tidelands	4 (S); Roaming Allowed
Franklin Riley	2 (S); Roaming Allowed
Morro Rock Parking Lot	4 (S); Roaming Allowed

5.60.090 – Penalties.

A. Except as provided in subsections B, G, and H, a violation of this chapter may only be punished by the following:

1. An administrative fine not exceeding one hundred dollars (\$100) for a first violation.
2. An administrative fine not exceeding two hundred dollars (\$200) for a second violation within one year of the first violation.
3. An administrative fine not exceeding five hundred dollars (\$500) for each additional violation within one year of the first violation.
4. Rescission of the sidewalk vendor’s permit for the term of that permit upon the fourth violation or subsequent violations.

B. Vending without a sidewalk vendor permit may be punished by the following:

1. An administrative fine not exceeding two hundred fifty dollars (\$250) for a first violation.
2. An administrative fine not exceeding five hundred dollars (\$500) for a second violation within one year of the first violation.
3. An administrative fine not exceeding one thousand dollars (\$1,000) for each additional violation within one year of the first violation.

C. Upon proof of a valid vendor permit, an administrative fine imposed under Section 5.60.090(B) shall be reduced to the respective administrative fine set forth in Section 5.60.090(A).

D. Notwithstanding any other provision of this code, neither a violation of the sidewalk vending program nor a failure to pay an administrative fine imposed by Section 5.60.090(A) or (B) shall be punishable as an infraction or misdemeanor.

- E. Any person who receives an administrative fine under Section 5.60.090(A) or (B) shall have the right to request an ability-to-pay determination.
1. The City shall give any such person written notice of his or her right to request an ability-to-pay determination as well as instructions and other materials for requesting an ability-to-pay determination at the time that the administrative fine citation is issued.
 2. A right-to-pay determination may be requested at any time following the issuance of the administrative fine citation until the fine is paid, including when payment of the fine is delinquent or has been referred to a collection program.
 3. Upon receipt of a request for an ability-to-pay determination, the city manager or his or her designee shall determine whether such person meets the criteria described in subdivision (a) or (b) of Section 68632 of the Government Code. The determination of the city manager or his or her designee shall be final.
 4. If the person meets the criteria described in subdivision (a) or (b) of Section 68632 of the Government Code, the City shall reduce the fine to twenty percent (20%) of the amount of the fine originally imposed.
- F. The city manager may, in his or her discretion, allow a person who receives an administrative fine under Section 5.60.090(A) or (B) to complete community service in lieu of paying the total administrative fine, may waive the administrative fine, or may offer an alternative disposition.
- G. Violations of the requirement to obtain a business tax certificate pursuant to Section 5.60.030(A) may be punished in accordance with the provisions of Chapter 5.04.
- H. Nothing in the chapter shall be construed to limit the City's ability to enforce laws of general applicability against sidewalk vendors, or to take any other enforcement actions against sidewalk vendors that are allowed by state or federal law or this code.



AGENDA NO: C-1

MEETING DATE: June 9, 2020

Staff Report

TO: Honorable Mayor and City Council

DATE: May 12, 2020

FROM: Scott Collins, City Manager

SUBJECT: Consideration of the Morro Bay Tourism Business Improvement District (TBID) Annual Report and Continuation of the TBID Assessment for Fiscal Year (FY) 2020/21; and Adoption of Resolution No. 47-20 Declaring the Intent to Continue the Program and Levy Assessments for the Fiscal Year 2020/21 and Scheduling a Public Hearing to Levy the Assessments

RECOMMENDATION

Council to approve the Fiscal Year 2020/21 TBID Annual Report for expenditure of funds to be derived from the annual assessment and adopt Resolution No. 47-20 declaring the intent to continue the program and levy the 3% TBID assessments for FY2020/21 and schedule a public hearing to levy the assessments.

ALTERNATIVES

Revise the draft Annual Report as appropriate.

FISCAL IMPACT

It is estimated that a 3% TBID annual assessment for FY 2020/21 will generate \$550,000. Given the uncertainty surrounding the COVID-19 pandemic and how long the re-opening and recovery phases will last, the City has developed three budgetary scenarios: an optimistic scenario, moderate scenario and worst-case scenario. The TBID annual assessment of \$550,000 aligns with the City's moderate scenario for COVID-19 impacts with a projected 30% loss in Transient Occupancy Tax for FY 2020/21. Revenue impacts were developed using an analysis of historical recession period data. While not a perfect reflection of the current economic environment, it is the most relevant data point from which to base assumptions.

It is important to note that the FY 2020/21 Budget will be fluid, with additional in-depth monthly reviews and check-ins to determine if revenues are aligned with budgeted estimates, trending low or trending higher than anticipated.

The FY 2020/21 Tourism budget includes no direct General Fund support for Tourism, as the City addresses a General Fund deficit of up to a 30% or more heading into next year.

BACKGROUND/DISCUSSION

The TBID was established in 2009 by the City Council with Ordinance No. 546. The purpose of the TBID, as described in the Morro Bay Municipal Code Chapter 3.60.030, is to help promote tourism in the district, with tourism being the most significant economic driver in the community. The same chapter lists specific authorized uses as follows:

Prepared By: <u> JL/SC </u>	Dept Review: <u> </u>
City Manager Review: <u> SC </u>	City Attorney Review: <u> CFN </u>

- A. The general promotion of tourism within the district is to include costs as specified in the business plan to be adopted annually;
- B. The marketing of conference, group, and film business that benefits local tourism and the local hotel industry in the district; and
- C. The marketing of the district to the travel industry in order to benefit local tourism and the local hotel industry in the district.

Note that the definition of “hotel” pursuant to MBMC Section 3.60.020 includes motels, vacation rentals, and bed and breakfasts. This report and its attachments when referencing “hotel” generally also refer to motels, vacation rentals, and bed and breakfasts.

Annual Report and Annual Assessment Requirements

Section 3.60.060 of the Morro Bay Municipal Code (MBMC) further states all of the assessments imposed pursuant to MBMC chapter 3.60 shall be reviewed by the Morro Bay City Council annually, based upon the annual report prepared by the advisory board appointed pursuant to that chapter and California Streets and Highways Code section 36533. California Streets and Highways Code section 36533, provided as Exhibit A to the Attachment 1, requires the report include information addressing the following six items:

- (1) Any proposed changes in the boundaries of the parking and business improvement area or in any benefit zones within the area.
- (2) The improvements and activities to be provided for that fiscal year.
- (3) An estimate of the cost of providing the improvements and the activities for that fiscal year.
- (4) The method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of assessment to be levied against his or her business for that fiscal year. (It is important to note that short-term vacation rentals were added into the TBID assessment beginning mid-year FY 2019/20 and are proposed to remain part of the TBID in FY 2020/21).
- (5) The amount of any surplus or deficit revenues to be carried over from a previous fiscal year.
- (6) The amount of any contributions to be made from sources other than assessments levied pursuant to this part.

The annual report for the assessment for FY202021, which is required by the Parking and Business Improvement Area Law of 1989 (California Streets and Highways Code section 36500 *et seq.*), can be found at Exhibit A to at Attachment 1.

That is the first step in the annual reaffirmation of the TBID and reauthorization of the 3% assessments, as required by California Streets and Highways Code section 36533. The City Council will review the TBID Advisory Board’s submission of the Annual Report at the June 9th City Council meeting. Upon approval of the annual report, the City Council will follow the hearing process as outlined in Section 36535 of the Parking and Business Improvement Area Law of 1989. The public hearing is tentatively set for the City Council meeting on June 23, 2020. At the June 23, 2020, public hearing, the City Council will hear and consider protests, if any are provided.

TBID FY 2020/21 Proposed Budget

The TBID annual report also references the proposed budget; providing that budgetary information

is required by State law (California Streets and Highways Code, section 36533). The FY 2020/21 Tourism budget has significant changes from the previous year due to the financial fallout from the COVID-19 pandemic. The City anticipates losing significant TOT and TBID assessment revenues, with several years to recover to pre-COVID-19 levels. In addition, the City cannot market at this time, as leisure travel is not allowed in the state of California, per the Governor's active Shelter at Home Order. With the aforementioned in mind, expenditures have been reduced in most line items.

The FY 2020/21 budget includes a significant decrease to salary and benefits, as the City is eliminating funding for the full-time Tourism Manager position and one of the part-time positions. At this time, Tourism staffing moving forward in FY2020/21 will include one part-time position. The City will work with tourism stakeholders, TBID Advisory Board, and City Council to discuss how best to move forward regarding organizational structure and staffing in the early part of FY 2020/21. The budget also includes a significant decrease in contractual services and digital media spend (Mental Marketing) compared to FY 2019/20.

Other notable budget items include a \$25,827 expense, resulting from a 2% administrative charge for administrative support, as well as for IT related support and expenses. The City does not charge direct overhead support for the City Manager, Finance staff, Human Resources staff or general event support. The 2% administrative charge is based on assessments received and helps to offset this support.

Staff projects approximately \$165,700 of FY 2020/21 assessment revenue will not be assigned at this time. Staff recommends these funds be held back and reassigned sometime in FY 2020/21 when we have a better handle on the pandemic, and understand when marketing will be allowed, and obtain consensus, if possible, from the City, TBID Advisory Board and local and regional lodging stakeholders on when and how best to use those funds for marketing purposes.

TBID Advisory Board Review:

The TBID Advisory Board reviewed the draft annual report and considered the assessment and proposed budget for FY 2020/21 at the May 5, 2020 and May 28, 2020 Special Board meetings. By majority, at the May 28 meeting, the TBID Board recommended City Council approve the annual report for expenditure of funds derived from the annual assessment and the City Council continue the 3% TBID Assessment in FY 2020/21. The Board discussed their desire for the City Manager to maintain flexibility with staffing and other expenses should the economy recover more quickly than expected and marketing is no longer prohibited. The City Manager intends to form a stakeholder group soon to develop recommendations regarding the organization, structure and direction of Tourism moving forward out of the pandemic.

CONCLUSION

The MBTBID assessment is a crucial revenue stream that allows the City to promote and market Morro Bay to tourists. MBMC Chapter 3.60, in accordance with the Parking and Business Improvement Area Law of 1989, outlines the creation of the TBID, the assessment, the assessment review and approval process and the way the funds can be used.

The use of funds is designed to enhance tourism in the community, which should increase overall Transient Occupancy Tax revenues and directly benefit the community's hotels, which will see an increase in overnight stays. The COVID-19 pandemic has significantly impacted the local lodging industry and the TBID sole revenue source. Much uncertainty remains regarding when California tourist destinations will be allowed to market their destinations for leisure travel. With reduced revenues and prohibitions on marketing in the near term, staff recommends a flexible approach to

the TBID budget in FY 2020/21. Staff will work with local and regional stakeholders to develop recommendations on how best to move forward.

ATTACHMENTS

1. Resolution No. 47-20 Declaring Intent to Continue TBID for FY 20/21
2. Exhibit A to Resolution 47-20 Annual Report for FY 20/21 and CA Streets and Highway Code Section 36520-36537
3. FY 20/21 Budget

RESOLUTION NO. 47-20

**RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MORRO BAY, CALIFORNIA,
DECLARING THE INTENTION TO CONTINUE THE PROGRAM AND LEVY
ASSESSMENTS FOR THE 2020/21 FISCAL YEAR FOR THE
MORRO BAY TOURISM BUSINESS IMPROVEMENT DISTRICT (MBTBID);
AND SETTING A DATE FOR A PUBLIC HEARING TO RECEIVE
PROTESTS TO THAT ASSESSMENT**

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

WHEREAS, the Parking and Business Improvement Area Law of 1989, section 36500 *et seq.*, of the California Streets and Highway Code, authorizes cities to establish and review business improvement areas for the purpose of promoting tourism; and

WHEREAS, on April 13, 2009, City Council held a public hearing for the introduction and first reading of Ordinance 546 amending the Morro Bay Municipal Code (MBMC) to add a new Chapter 3.60 to establish the Morro Bay Tourism Business Improvement District ("MBTBID"), and adopted Ordinance 546 at its April 27, 2009 meeting, which set the MBTBID assessments at 3% from June 1, 2009 to May 31, 2010, and 2% from June 1, 2010 and thereafter; and

WHEREAS, on June 1, 2010, the MBTBID assessments returned to the 2% level, as established by Ordinance 546; and

WHEREAS, on September 13, 2010, the City Council held a public hearing and first reading of Ordinance 562 to amend MBMC section 3.60.050, changing the assessment percentage to 3%, and adopted Ordinance 562 at its September 27, 2010, meeting; and

WHEREAS, on December 10, 2019, the City Council adopted Ordinance No. 626 modifying the MBTBID to add vacation rentals businesses (as that term is defined in Chapter 5.47 (Short-Term Vacation Rental Permit) of the Morro Bay Municipal Code) to the MBTBID at the existing assessment rate of 3% levied on hotels; and

WHEREAS, on May 28, 2020, at a duly noticed public meeting, the MBTBID advisory board, formed pursuant to MBMC, section 3.60.100, recommended the renewal of the MBTBID for Fiscal Year (FY) 2020-21 to continue its activities, and the City Council has approved that renewal for the past eight years; and

WHEREAS, all other findings of Ordinances 546, 562 and 626 remain unchanged; and

WHEREAS, on June 9, 2020, City Council conducted a public meeting where staff presented the annual assessment report, which provides a full and detailed description of the activities to be provided during the FY 2020/21, as provided in the Annual Report and proposed budget for that Fiscal Year, which are attached to this Resolution as Exhibit A and available for review in the City Clerk's office; and

WHEREAS, the budget generally describes the funded activities to be marketed, which attract and extend overnight stays in Morro Bay hotels and vacation rentals, and are consistent with the authorized uses for the assessment revenue set forth in MBMC, section 3.60.030; and

WHEREAS, it is the intention of the City Council to levy and collect 3% assessments from the hoteliers and vacation rental businesses within the TBID for the FY 2020/21; and

WHEREAS, at the public meeting held on June 9, 2020, City Council additionally set the public hearing, for the intent to levy the MBTBID assessment for Fiscal Year 2020/21, to be held via teleconference in accordance pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020 in accordance with the California Streets and Highway Code, sections 36534 and 36535 as referenced in Exhibit A.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Morro Bay as follows:

1. The above recitations are true and correct, and incorporated herein by reference.
2. The City Council approves the attached Annual Assessment Report and declares its intention to renew the Morro Bay Tourism Business Improvement District for the 2020/21 Fiscal Year, and to levy and collect 3% assessments from hoteliers and vacation rental businesses calculated in the manner set forth in MBMC, section 3.60.050.
3. The City Council sets the date of the public hearing to adopt a Resolution to reaffirm the MBTBID, and levy and collect the 3% assessments from hoteliers and vacation rental businesses as Tuesday, June 23, 2020. Before or at this public hearing written protests to the continuation of the MBTBID and the levy of the assessment may be made, consistent with the requirements of Streets & Highways Code, sections 36524 and 36525 and MBMC, section 3.60.060.

PASSED AND ADOPTED by the City Council of the City of Morro Bay, at a regular meeting thereof held on the 9th day of June 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

JOHN HEADDING, Mayor

DANA SWANSON, City Clerk

Morro Bay Business Improvement District Annual Report for FY 2020-21

Presented to the Morro Bay City Council by the Morro Bay Tourism
Business Improvement District Advisory Board

The City of Morro Bay's Tourism Business Improvement District at its regularly scheduled meeting on May 28, 2020, completed its review of the Annual Report as required by Section 3.60.060 of the Morro Bay Municipal Code (MBMC).

Regarding the requirements for the Annual Report, as stated in Section 36533 of the California Streets and Highways Code:

1. The Morro Bay Tourism Business Improvement District (MTBID) Advisory Board did not propose any changes in the Boundaries of the TBID, which were established in MBMC Section 3.60.040 to be the boundaries of the City of Morro Bay.
2. The improvements and activities to be provided for in Fiscal Year FY 2020/21 are those services and activities permitted under Section 3.60.030 of the Morro Bay Municipal Code, which include:
 - A. The general promotion of tourism within the district to include costs as specified in the business plan to be adopted annually; and
 - B. Implementation of the strategic plan; and
 - C. Marketing of Foreign Independent Travelers (FIT), conference, group, and film business that benefits local tourism and the local hotel industry in the district; and
 - D. The marketing of the district to the travel industry in order to benefit local tourism and the local hotel industry in the district

GOALS & OBJECTIVES for FY 2020/21

1. Increase overall occupancy & hotel/motel revenues, especially during midweek and shoulder season through our new destination assets such as the website and implementation of the strategic plan and new branding.
2. Midweek – be more aggressive through digital media to increase stays plus grow mid-week stays through FIT and group longer stays.
3. Extend the number of average hotel/motel room nights beyond the current level of 1.8.
4. Help incrementally increase the hotel/motel Average Daily Rate (ADR) through the promotion and elevation of the destination.

5. Bring exposure to Morro Bay as a viable domestic and international destination for individuals and groups which will increase longer stays.
 6. Assist with the development and growth of athletic competitions and events that attract overnight guest and that fit in our strategic plan model.
 7. Create opportunities to positively impact sales tax businesses & drive economic development in the City of Morro Bay such as new or upgrade of hotel stock, grow the quality of events to entice a higher level of visitor.
 8. Positively impact transient occupancy tax (TOT) for the City of Morro Bay.
3. An estimate of the cost of providing the improvements and the activities for that fiscal year (as described below with the FY 2020/21 Proposed Budget).

FY 2020-21 Proposed Budget - Attached

Sources: The FY 2020/21 projected actual sources include total sources of \$550,000, all from TBID assessment revenues.

Uses: The FY 2020/21 projected actual expenditures are \$384,307, netting a \$165,693 change to the fund balance.

The attached budget shows FY 2020/21 revised budget, projected actuals, and the variance of the projected actuals compared to the revised budget.

4. No change in the TBID method or basis of levying the assessment was proposed for FY 2020/21. More specifically, the Morro Bay TBID Advisory Board approved a motion to recommend that the 3% Assessment for any hotel, motel, vacation rental, or bed and breakfast establishment in the City of Morro Bay be continued in FY 2020/21.
5. The TBID budget for FY 2019/20 is projected to include \$ -0- surplus left over for carryover into FY 2020/21.
6. The amount of any contributions to be made from sources other than assessments levied is zero for FY2020/21.

California Streets and Highway Code Section 36520-36537

36520. A parking and business improvement area may be established as provided in this chapter.

36521. The city council may establish an area on its own initiative.

36521.5. A county may not form an area within the territorial jurisdiction of a city without the consent of the city council of that city. A city may not form an area within the unincorporated territory of a county, without the consent of the board of supervisors of that county. A city may not form an area within the territorial jurisdiction of another city without the consent of the city council of the other city.

36522. Proceedings to establish a parking and business improvement area shall be instituted by the adoption by the city council of a resolution of intention to establish the area. The resolution of intention shall do all of the following:

(a) State that a parking and business improvement area is proposed to be established pursuant to this chapter and describe the boundaries of the territory proposed to be included in the area and the boundaries of each separate benefit zone to be established within the area. The boundaries of the area may be described by reference to a map on file in the office of the clerk, showing the proposed area.

(b) State the name of the proposed area.

(c) State the type or types of improvements and activities proposed to be funded by the levy of assessments on businesses in the area. The resolution of intention shall specify any improvements to be acquired.

(d) State that, except where funds are otherwise available, an assessment will be levied annually to pay for all improvements and activities within the area.

(e) State the proposed method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his or her business.

(f) State whether new businesses will be exempt from the levy of the assessment, pursuant to Section 36531.

(g) Fix a time and place for a public hearing on the establishment of the parking and business improvement area and the levy of assessments, which shall be consistent with the requirements of Section 54954.6 of the Government Code.

(h) State that at the hearing the testimony of all interested persons for or against the establishment of the area, the extent of the area, or the furnishing of specified types of improvements or activities will be heard.

(i) Describe, in summary, the effect of protests made by business owners against the establishment of the area, the extent of the area, and the furnishing of a specified type of improvement or activity, as provided in Section 36524.

36523. Notice of a public hearing held under Section 36524, 36541, 36542, or 36550 shall be given by both of the following:

(a) Publishing the resolution of intention in a newspaper of general circulation in the city once, for at least seven days before the public hearing.

(b) Mailing of a complete copy of the resolution of intention by first-class mail to each business owner in the area within seven days of the city council's adoption of the resolution of intention.

(c) Notwithstanding subdivision (b), in the case of an area established primarily to promote tourism, a copy of the resolution of intention shall be mailed by first-class mail within seven days of the city council's adoption of the resolution of intention, to the owner of each business in the area which will be subject to assessment.

36523.5. Notwithstanding Section 36523, prior to adopting any new or increased assessment, the city council shall give notice pursuant to Section 54954.6 of the Government Code in lieu of publishing notice pursuant to subdivision (a) of Section 36523.

36524. (a) At the public hearing, the city council shall hear and consider all protests against the establishment of the area, the extent of the area, or the furnishing of specified types of improvements or activities within the area. A protest may be made orally or in writing by any interested person. Any protest pertaining to the regularity or sufficiency of the proceedings shall be in writing and shall clearly set forth the irregularity or defect to which the objection is made.

(b) Every written protest shall be filed with the clerk at or before the time fixed for the public hearing. The city council may waive any irregularity in the form or content of any written protest and at the public hearing may correct minor defects in the proceedings. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing.

(c) Each written protest shall contain a description of the business in which the person subscribing the protest is interested sufficient to identify the business and, if a person subscribing is not shown on the official records of the city as the owner of the business, the protest shall contain or be accompanied by written evidence that the person subscribing is the owner of the business. A written protest which does not comply with this section shall not be counted in determining a majority protest.

36525. (a) If written protests are received from the owners of businesses in the proposed area which will pay 50 percent or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than that 50 percent, no further proceedings to create the

specified parking and business improvement area or to levy the proposed assessment, as contained in the resolution of intention, shall be taken for a period of one year from the date of the finding of a majority protest by the city council.

(b) If the majority protest is only against the furnishing of a specified type or types of improvement or activity within the area, those types of improvements or activities shall be eliminated.

36526. (a) At the conclusion of the public hearing to establish the area, the city council may adopt, revise, change, reduce, or modify the proposed assessment or the type or types of improvements and activities to be funded with the revenues from the assessments.

(b) At the public hearing, the city council may only make changes in, to, or from, the boundaries of the proposed parking and business improvement area that will exclude territory which will not benefit from the proposed improvements or activities. However, proposed assessments may only be revised by reducing any or all of them.

(c) The city council shall not change the boundaries of the area to include any territory that will not, in its judgment, benefit by the improvement or activity. Any addition of territory to the proposed boundaries of the area may be made only upon notice to the owners of the businesses proposed to be added to the area, as provided in Section 36523, and upon a public hearing on the addition of territory, as provided in Section 36524.

36527. If the city council, following the public hearing, decides to establish the proposed parking and business improvement area, it shall adopt an ordinance to that effect. The ordinance shall contain all of the following:

(a) The number, date of adoption, and title of the resolution of intention.

(b) The time and place where the public hearing was held concerning the establishment of the area.

(c) A determination regarding any protests received at the public hearing.

(d) The description of the boundaries of the area and of each separate benefit zone established within the area.

(e) A statement that a parking and business improvement area has been established and the name of the area.

(f) A statement that the businesses in the area established by the ordinance shall be subject to any amendments to this part.

(g) The description of the method and basis of levying the assessments, with a breakdown by classification of businesses if a classification is used.

(h) A statement that the improvements and activities to be provided in the area will be funded by the levy of the assessments. The revenue from the levy of assessments within an area shall not be used to provide improvements or activities outside the area or for any purpose other than the purposes specified in the resolution of intention, as modified by the city council at the hearing concerning establishment of the area.

(i) A finding that the businesses and the property within the business and improvement area will be benefited by the improvements and activities funded by the assessments proposed to be levied. In the case of an area formed to promote tourism, only businesses that benefit from tourist visits may be assessed.

(j) The time and manner of collecting the assessments.

36528. The city council may establish one or more separate benefit zones within the area based upon the degree of benefit derived from the improvements or activities to be provided within the benefit zone and may impose a different assessment within each benefit zone.

36529. All provisions of this part applicable to the establishment, modification, or disestablishment of a parking and business improvement area apply to the establishment, modification, or disestablishment of benefit zones. The city council shall, to establish, modify, or disestablish a benefit zone, follow the procedure to establish, modify, or disestablish a parking and business improvement area.

36530. The city council shall appoint an advisory board which shall make a recommendation to the city council on the expenditure of revenues derived from the levy of assessments pursuant to this part, on the classification of businesses, as applicable, and on the method and basis of levying the assessments. The city council may designate existing advisory boards or commissions to serve as the advisory board for the area or may create a new advisory board for that purpose. The city council may limit membership of the advisory board to persons paying the assessments under this part. The city council may appoint the advisory board prior to adoption of the resolution of intention to create the area, so that the advisory board may recommend the provisions of the resolution of intention.

36531. The city council may exempt a business recently established in the area from the levy of the assessments, for a period not to exceed one year from the date the business commenced operating in the area. The city council shall state its determination to so exempt new businesses in the resolution of intention to establish the area and shall reaffirm its determination annually in the resolution of intention required to be adopted pursuant to Section 36534.

36532. The collection of the assessments levied pursuant to this part shall be made at the time and in the manner set forth by the city council in the ordinance establishing the area.

36533. (a) The advisory board shall cause to be prepared a report for each fiscal year for which assessments are to be levied and collected to pay the costs of the improvements and activities

described in the report. The report may propose changes, including, but not limited to, the boundaries of the parking and business improvement area or any benefit zones within the area, the basis and method of levying the assessments, and any changes in the classification of businesses, if a classification is used.

(b) The report shall be filed with the clerk and shall refer to the parking and business improvement area by name, specify the fiscal year to which the report applies, and, with respect to that fiscal year, shall contain all of the following:

(1) Any proposed changes in the boundaries of the parking and business improvement area or in any benefit zones within the area.

(2) The improvements and activities to be provided for that fiscal year.

(3) An estimate of the cost of providing the improvements and the activities for that fiscal year.

(4) The method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his or her business for that fiscal year.

(5) The amount of any surplus or deficit revenues to be carried over from a previous fiscal year.

(6) The amount of any contributions to be made from sources other than assessments levied pursuant to this part.

(c) The city council may approve the report as filed by the advisory board or may modify any particular contained in the report and approve it as modified. The city council shall not approve a change in the basis and method of levying assessments that would impair an authorized or executed contract to be paid from the revenues derived from the levy of assessments.

36534. (a) After the approval of the report, the city council shall adopt a resolution of intention to levy an annual assessment for that fiscal year. The resolution of intention shall do all of the following:

(1) Declare the intention of the city council to change the boundaries of the parking and business improvement area, or in any benefit zone within the area, if the report filed pursuant to Section 36533 proposes a change.

(2) Declare the intention of the city council to levy and collect assessments within the parking and business improvement area for the fiscal year stated in the resolution.

(3) Generally describe the proposed improvements and activities authorized by the ordinance enacted pursuant to Section 36527 and any substantial changes proposed to be made to the improvements and activities.

(4) Refer to the parking and business improvement area by name and indicate the location of the area.

(5) Refer to the report on file with the clerk for a full and detailed description of the improvements and activities to be provided for that fiscal year, the boundaries of the area and any benefit zones within the area, and the proposed assessments to be levied upon the businesses within the area for that fiscal year.

(6) Fix a time and place for a public hearing to be held by the city council on the levy of the proposed assessment for that fiscal year. The public hearing shall be held not less than 10 days after the adoption of the resolution of intention.

(7) State that at the public hearing written and oral protests may be made. The form and manner of protests shall comply with Sections 36524 and 36525.

(b) The clerk shall give notice of the public hearing by causing the resolution of intention to be published once in a newspaper of general circulation in the city not less than seven days before the public hearing.

36535. (a) The city council shall hold the public hearing at the time and in the place specified in the resolution of intention. The public hearing shall be conducted as provided in Sections 36524 and 36525. The city council may continue the public hearing from time to time.

(b) During the course or upon the conclusion of the public hearing, the city council may order changes in any of the matters provided in the report, including changes in the proposed assessments, the proposed improvements and activities to be funded with the revenues derived from the levy of the assessments, and the proposed boundaries of the area and any benefit zones within the area. The city council shall not change the boundaries to include any territory that will not, in its judgment, benefit by the improvement or activity.

(c) At the conclusion of the public hearing, the city council may adopt a resolution confirming the report as originally filed or as changed by it. The adoption of the resolution shall constitute the levy of an assessment for the fiscal year referred to in the report.

(d) Notwithstanding subdivision (c), if the primary purpose of the area is promotion of tourism, the city council may adopt a resolution confirming the report as submitted by the advisory board, or may adopt a resolution continuing the program and assessments as levied in the then current year without change, and that resolution shall constitute the levy of an assessment for the fiscal year referred to in the report. As an alternative, the city council may modify the report and adopt a resolution confirming the report as modified, but in that case the city council may adopt the resolution only after providing notice of the proposed changes as specified in Section 36523 and only after conducting a public hearing on the resolution as provided in Sections 36524 and 36525.

36536. The assessments levied on businesses pursuant to this part shall be levied on the basis of the estimated benefit to the businesses and property within the parking and business improvement area.

The city council may classify businesses for purposes of determining the benefit to a business of the improvements and activities provided pursuant to this part.

36537. The validity of an assessment levied under this part shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the resolution levying the assessment is adopted pursuant to Section 36535. Any appeal from a final judgment in an action or proceeding shall be perfected within 30 days after the entry of judgment.

G/L Account Number	Account Description	2018 Actual Amount	2019 Actual Amount	2020 Actual Amount as of 3/3/20	2020 Amended Budget	2021 Level 1
Fund: 007 - MBT-BID						
REVENUES						
Department: 3170 - Promotion & Advertising						
<i>350-Rev Cursvc - Revenues From Current Services</i>						
007-3170 3400	Advertising - Guides and Magazines	4,293.5000	4,894.1300	949.6200	0.0000	0.0000
<i>Account Classification Total: 350-Rev Cursvc - Revenues From Current Services</i>		\$4,293.50	\$4,894.13	\$949.62	\$0.00	\$0.00
<i>390-Misc Rev - Miscellaneous Revenues</i>						
007-3170 3990	Other Misc Revenues	0.0000	32,388.0000	0.0000	0.0000	0.0000
<i>Account Classification Total: 390-Misc Rev - Miscellaneous Revenues</i>		\$0.00	\$32,388.00	\$0.00	\$0.00	\$0.00
Department Total: 3170 - Promotion & Advertising		\$4,293.50	\$37,282.13	\$949.62	\$0.00	\$0.00
Department: 3510 - Accounting & Treasury						
<i>300-Rev Taxes - Revenues From Taxes</i>						
007-3510 3064	Transient Occupancy Tax	802,877.2500	829,289.2200	489,298.0900	823,644.0000	550,000.0000
<i>Account Classification Total: 300-Rev Taxes - Revenues From Taxes</i>		\$802,877.25	\$829,289.22	\$489,298.09	\$823,644.00	\$550,000.00
Department Total: 3510 - Accounting & Treasury		\$802,877.25	\$829,289.22	\$489,298.09	\$823,644.00	\$550,000.00
Department: 7710 - Interfund Transactions						
<i>100-Interfund - Interfund Transfers</i>						
007-7710 3801	Transfers In	125,428.0000	145,837.0000	60,000.0000	60,000.0000	0.0000
<i>Account Classification Total: 100-Interfund - Interfund Transfers</i>		\$125,428.00	\$145,837.00	\$60,000.00	\$60,000.00	\$0.00
<i>380-Interfund - Interfund Revenue Transfers</i>						
007-7710 3802	Intrafund Revenue Transfers	0.0000	65,000.0000	0.0000	0.0000	0.0000
<i>Account Classification Total: 380-Interfund - Interfund Revenue Transfers</i>		\$0.00	\$65,000.00	\$0.00	\$0.00	\$0.00
Department Total: 7710 - Interfund Transactions		\$125,428.00	\$210,837.00	\$60,000.00	\$60,000.00	\$0.00
REVENUES Total		\$932,598.75	\$1,077,408.35	\$550,247.71	\$883,644.00	\$550,000.00
EXPENSES						
Department: 1111 - Undistributed/Non-Dept.						
<i>110-Other - Other Expense</i>						
007-1111 8710	Loss on Investment	590.0000	0.0000	0.0000	0.0000	0.0000
<i>Account Classification Total: 110-Other - Other Expense</i>		\$590.00	\$0.00	\$0.00	\$0.00	\$0.00
Department Total: 1111 - Undistributed/Non-Dept.		\$590.00	\$0.00	\$0.00	\$0.00	\$0.00
Department: 3170 - Promotion & Advertising						
<i>10-Personnel - Personnel Services</i>						
007-3170 4110	Regular Pay	85,268.9000	91,740.8600	60,070.3400	95,451.0000	0.0000
007-3170 4310	Part-Time Pay	50,270.5700	49,730.6000	40,468.5000	69,136.0000	22,880.0000
007-3170 4599	Other Pay	0.0000	2,040.4800	2,098.0800	1,500.0000	0.0000
007-3170 4910	Employer Paid Benefits	37,955.8800	30,136.1000	20,926.0800	27,414.0000	1,299.5100
007-3170 4911	Pension Normal Cost	0.0000	6,054.4900	4,310.5900	6,667.0000	0.0000
007-3170 4912	PERS Unfunded Accrued Liability	0.0000	14,600.4900	17,725.2500	18,919.0000	0.0000
007-3170 4913	Other Post Employment Benefit (OPEB) Expense	0.0000	1,163.7100	0.0000	0.0000	0.0000
<i>Account Classification Total: 10-Personnel - Personnel Services</i>		\$173,495.35	\$195,466.73	\$145,598.84	\$219,087.00	\$24,179.51
<i>60-Supplies - Supplies</i>						
007-3170 5110	Fuel Oil & Lubricants	0.0000	0.0000	22.3700	0.0000	0.0000
007-3170 5201	Other Expense	1,255.8800	0.0000	0.0000	0.0000	0.0000
007-3170 5301	General Office Supplies	3,974.1000	4,628.9400	2,923.5600	0.0000	1,000.0000
007-3170 5302	Copying Supplies	0.0000	0.0000	0.0000	3,000.0000	2,000.0000
007-3170 5305	Forms Printing	0.0000	244.4900	429.9700	500.0000	200.0000
<i>Account Classification Total: 60-Supplies - Supplies</i>		\$5,229.98	\$4,873.43	\$3,375.90	\$3,500.00	\$3,200.00
<i>70-Services - Services</i>						
007-3170 6105	Consulting Services	18,130.1900	12,500.1000	13,308.5000	11,600.0000	14,000.0000
007-3170 6106	Contractual Services	193,013.5900	282,426.7200	109,808.5700	165,000.0000	0.0000
007-3170 6107	Promotion & Advertising	229,265.0500	50.0000	17,399.4700	12,000.0000	0.0000
007-3170 6108	Marketing Consulting	15,870.4800	43,250.5100	0.0000	0.0000	0.0000
007-3170 6113	Print Ads - So. Region	0.0000	0.0000	0.0000	4,500.0000	0.0000
007-3170 6114	Community Event Support	85,547.5800	105,806.1800	46,756.2400	50,000.0000	8,000.0000
007-3170 6116	Print Ads - Other Regions	3,650.0000	0.0000	0.0000	0.0000	0.0000

G/L Account Number	Account Description	2018 Actual Amount	2019 Actual Amount	2020 Actual Amount as of 3/3/20	2020 Amended Budget	2021 Level 1
007-3170 6118	Promotion - Media	81,982.4000	13,137.3200	580.0100	8,000.0000	1,000.0000
007-3170 6119	Promotion - Other	17,603.1300	14,868.1800	12,922.8200	13,000.0000	0.0000
007-3170 6120	Trade Shows - Space Rent	6,654.4000	5,369.7300	0.0000	7,600.0000	0.0000
007-3170 6121	Trade Shows - Trans.	3,203.0000	0.0000	0.0000	500.0000	0.0000
007-3170 6124	Advertising Sponsorships	30,827.0000	21,157.5000	0.0000	13,000.0000	27,200.0000
007-3170 6125	Professional Development	0.0000	0.0000	0.0000	500.0000	0.0000
007-3170 6127	Digital Media	0.0000	281,712.2800	190,535.5200	272,000.0000	214,000.0000
007-3170 6128	Out of Home Media	0.0000	9,800.0000	3,659.3000	6,600.0000	6,600.0000
007-3170 6129	Digital Services	340.9800	24,694.7500	28,594.2700	45,000.0000	58,000.0000
007-3170 6130	Digital Assets	49.0000	2,406.9700	1,958.0000	0.0000	1,000.0000
007-3170 6132	Promotion - Visiting Journalist	2,349.4500	19,118.1000	11,513.9200	10,000.0000	0.0000
007-3170 6199	Other Professional Services	14,799.0000	6.4900	0.0000	500.0000	0.0000
007-3170 6201	Telephone	89.7100	1,435.1400	958.8900	0.0000	0.0000
007-3170 6220	Postage	3,867.6400	630.1400	1,189.2600	700.0000	100.0000
007-3170 6300	Utilities	1,747.9100	0.0000	0.0000	0.0000	0.0000
007-3170 6308	Internet/Cable TV	0.0000	890.9300	0.0000	2,000.0000	0.0000
007-3170 6451	Workers Comp Insurance	0.0000	0.0000	0.0000	1,200.0000	0.0000
007-3170 6461	Unemployment Insurance	0.0000	0.0000	0.0000	900.0000	0.0000
007-3170 6510	Meetings & Conferences	2,870.4300	3,663.2100	2,332.5400	2,000.0000	0.0000
007-3170 6511	Mileage Reimbursement	19.5500	0.0000	0.0000	500.0000	0.0000
007-3170 6513	Meals & Lodging	3,722.9500	1,995.8000	0.0000	4,500.0000	0.0000
007-3170 6514	Travel Expense	1,232.7300	1,629.0500	98.0200	2,000.0000	0.0000
007-3170 6519	Association Membership	2,226.6700	1,195.0000	1,195.0000	1,500.0000	1,200.0000
<i>Account Classification Total: 70-Services - Services</i>		\$719,062.84	\$847,744.10	\$442,810.33	\$635,100.00	\$331,100.00
Department Total: 3170 - Promotion & Advertising		\$897,788.17	\$1,048,084.26	\$591,785.07	\$857,687.00	\$358,479.51
Department: 7710 - Interfund Transactions						
<i>100-Interfund - Interfund Transfers</i>						
007-7710 8501	Transfers Out	19,482.5400	20,204.5300	18,215.1500	31,394.0000	25,827.0000
<i>Account Classification Total: 100-Interfund - Interfund Transfers</i>		\$19,482.54	\$20,204.53	\$18,215.15	\$31,394.00	\$25,827.00
Department Total: 7710 - Interfund Transactions		\$19,482.54	\$20,204.53	\$18,215.15	\$31,394.00	\$25,827.00
EXPENSES Total		\$917,860.71	\$1,068,288.79	\$610,000.22	\$889,081.00	\$384,306.51
Fund REVENUE Total: 007 - MBT-BID		\$932,598.75	\$1,077,408.35	\$550,247.71	\$883,644.00	\$550,000.00
Fund EXPENSE Total: 007 - MBT-BID		\$917,860.71	\$1,068,288.79	\$610,000.22	\$889,081.00	\$384,306.51
Fund Total: 007 - MBT-BID		\$14,738.04	\$9,119.56	(\$59,752.51)	(\$5,437.00)	\$165,693.49

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AGENDA NO: C- 2

MEETING DATE: June 9, 2020

Staff Report

TO: Honorable Mayor and City Council **DATE:** June 2, 2020

FROM: Scot Graham, Community Development Director

SUBJECT: Adoption of Resolution 48-20 approving Temporary Outdoor Dining/Sales Program and Expansion of the City’s Blanket Encroachment Permit Program. Use of City Right of Way and Other Private Outdoor Space to Facilitate Social Distancing and Support Covid-19 Economic Recovery

RECOMMENDATION

1. Receive staff presentation on proposed temporary programs to support use of City right of way to facilitate social distancing and re-opening of restaurants and other local businesses and provide feedback and direction regarding plan implementation; and
2. Adopt Resolution 48-20 authorizing expansion of the Blanket Encroachment Permit Program and approving the Temporary Use Permit (“TUP”) program for outdoor dining/sales on private property.

ALTERNATIVES

1. Council may choose not to implement the program
2. Council may choose to add, delete, or revise program requirements
3. Council may choose not to waive fee associated with either permit

FISCAL IMPACT

If the TUP fee were temporarily waived the City would not receive the \$292 fee established in the FY 20/21 fee schedule. The City does not currently charge a fee for the existing Blanket Encroachment Permit Program established by Resolution No. 76-98 for the downtown. Overall, the cost to the City would be based on the staff time spent processing and issuing permits.

BACKGROUND/DISCUSSION

The Covid-19 pandemic has had a dramatic impact on both public health as well unprecedented economic impact to our local economy. Restaurants, hotels and retail establishments have been hit particularly hard creating a significant and urgent need for economic recovery. The City in conjunction with the Morro Bay Chamber of Commerce have reached out to businesses to inquire about the types of assistance they need. Identified through numerous online outreach meetings, there is a desire by our business community to make more and better use of public space (right of way/sidewalks) and other open and available areas on private property for seating and possibly for sale of merchandise. Social distancing requirements for restaurants is difficult to implement and can result in a reduction in

Prepared By: ___SG___

Dept Review: _____

City Manager Review: ___SC___

City Attorney Review: ___CFN___

as much as half their available seating. Expansion of seating and sales opportunities to outside areas can assist in replacing some of the lost seating and can have the added benefit of increasing and enhancing the vibrancy and vitality of our commercial districts. Many Cities are considering similar programs to stimulate economic improvement including the City of San Luis Obispo who approved their Open SLO program authorizing temporary use of City right of way for seating and outdoor retail opportunities on May 22, 2020. The Open SLO staff report can be found at the following link:

<http://opengov.slocity.org/WebLink/DocView.aspx?id=117155&dbid=0&repo=CityClerk>

The City of Morro Bay currently has both a Blanket Encroachment Permit program for use of the public right of way for seating and a Temporary Use Permit process that allows for establishment of outdoor seating and sales areas on private property.

Blanket Encroachment Permit

The blanket encroachment permit process was established for the downtown area in July of 1998, through Resolution No. 76-98 (See Attachment 2) and allows placement of planters, plants, benches, tables, and chairs on the sidewalk and in the Public Right of Way. The program applies only to the downtown commercial district and staff recommends extending it to all four commercial districts in town.

Current program parameters include:

- Prohibition of placement of merchandise or temporary signs on public sidewalks or within the right of way.
- Submittal of a plot plan that shows a dimensioned building frontage, dimensioned sidewalk, locates all doors, driveways, windows, utility poles, tree well, planters and other existing improvements
- Indemnification of city related to any issues that may arise out of issuance of the permit
- Maintenance of a 48 inch wide, unobstructed aisle
- Chairs, table, planters and merchandise to be placed such that building entrances are not blocked. Placement may be adjacent to building front or near the curb
- Nothing placed to interfere with or block access to parked vehicles
- All furniture and planters are required to be maintained in a safe manner
- Limits number of tables to 2 and requires table and chairs to be removed at the close of business and stored inside

Changes to the program:

Staff recommends the following changes to the program:

- Extend program to all four commercial districts
- Merchandise sales be included in the program
- Eliminate the two table limitation and allow staff to make the determination
- Eliminate the requirement to move the tables inside at the end of the day
- Current program does not include a fee. Staff recommends the program continue free of charge

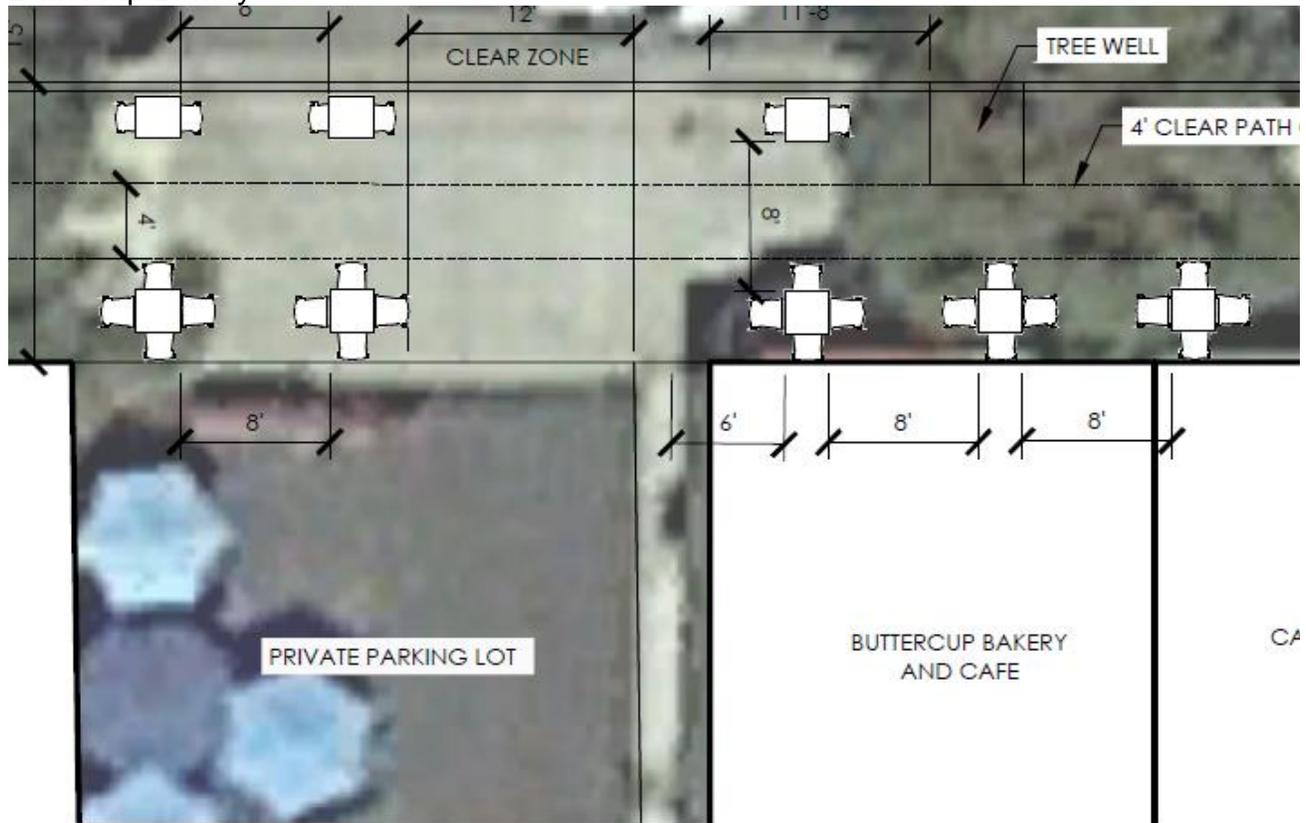
- Tables, chairs, and other seating to be placed to maintain six feet of social distancing

The revised Blanket Encroachment Permit program is attached to Resolution 48-20 as Exhibit A.

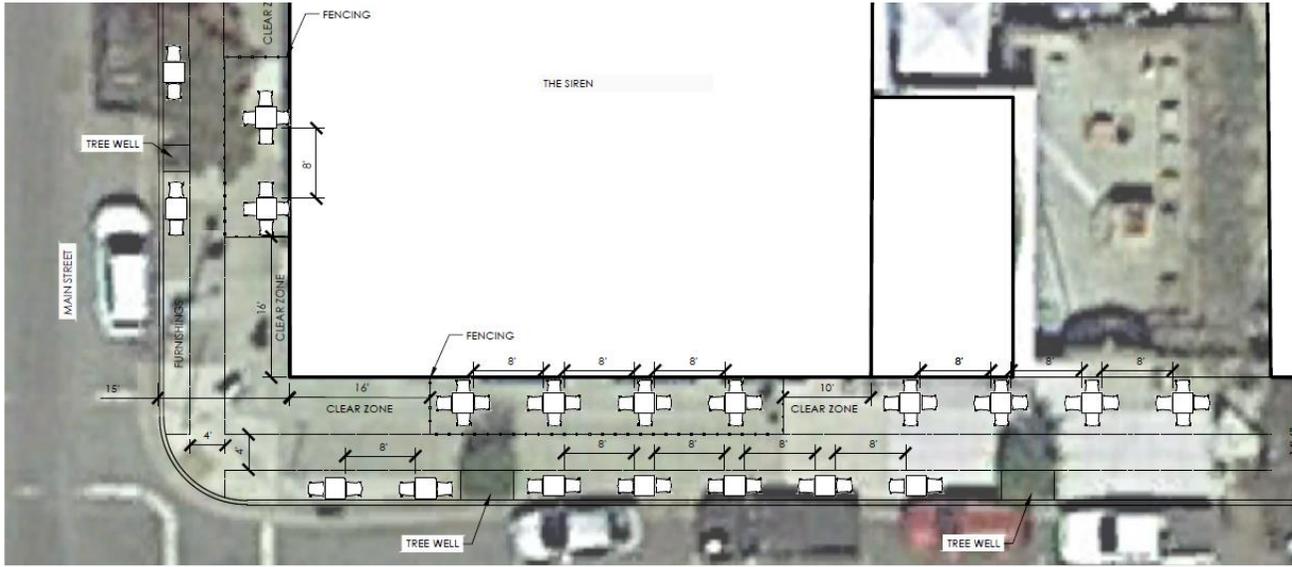
Plan Examples

RRM has offered their assistance, free of charge, to our business community for development of the plans. Both Butter Cup Bakery and the Siren have connected with RRM to develop sidewalk seating layouts resulting in in the following plans:

Buttercup Bakery



The Siren



If Council approves Resolution 48-20, both Buttercup Bakery and the Siren would be able to immediately proceed through the permitting process.

ABC Permit

There is the potential that Alcoholic Beverage Control (ABC) could issue expanded ABC permits to individual businesses, that already have an ABC license, to cover these outdoor seating areas. This type of program exists in many communities including on State Street in Santa Barbara. The City of San Luis Obispo, through the above referenced "Open SLO" program is also looking at this opportunity.

Temporary Use Permit

The City's TUP process is found in section 17.30.050 of the Municipal code and allows the Community Development Director to issue a TUP for outdoor dining and retail sales areas. Staff envisions using the TUP process to allow business expansion into their private outdoor areas consistent with the following:

- Use of outdoor area on private property for seating and sale of merchandise, waiving associated off street parking requirements
- Use of up to 50% of existing private parking lots for outdoor seating or expanded retail, again waiving associated off street parking requirements
- Permits would run for 6 months with the ability for the Community Development Director to extend the TUP for an additional 6 months
- Waive the \$292 administrative TUP fee for six months

The Temporary Use Permit does require the posting of a 10-day public notice prior to issuance of the permit. Mailing notice are not required. The TUP program is attached to Resolution 48-20 as Exhibit B.

CONCLUSION

The economic impact from Covid-19 is unprecedented and the City needs to work quickly and decisively to support our business community in economic recovery. One step that can be quickly implemented to spur economic activity and enliven our streetscapes is to encourage outdoor dining and retail opportunities. These programs make use of existing processes the City already has and makes them more user friendly and easier to implement by temporarily removing fees and parking requirements. Staff recommends Council adopt Resolution No. 48-20 establishing the Covid-19 economic recovery reenvisioned Blanket Encroachment Permit program and Temporary Use Permit program.

Attachments:

1. Resolution No. 48-20
2. Resolution No. 76-98

RESOLUTION NO. 48-20

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
APPROVING EXPANSION OF THE CITY'S BLANKET
ENCROACHMENT PERMIT PROGRAM FOR USE OF PUBLIC RIGHT
OF WAY AND APPROVING THE TEMPORARY USE PERMIT
PROGRAM FOR OUTDOOR DININGS AND SALES ON PRIVATE
PROPERTY TO FACILITATE ECONOMIC RECOVERY IN SUPPORT
OF LOCAL BUSINESSES RELATED TO COVID-19 ECONOMIC
IMPACTS**

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

WHEREAS, The president of the United States has declared a State of National Emergency; the Governor of the State of California has proclaimed a State of Emergency for the State of California and issued Executive Orders regarding measures to mitigate the spread of COVID-19 within the State of California; the San Luis Obispo Public Health Director has proclaimed a public health emergency; and

WHEREAS, on March 19, 2020 the San Luis Obispo County Emergency Services Director issued a Local Emergency Order and Regulation No. 4 providing for mandatory shelter at home regulations: and

WHEREAS, on March 19, 2020, the Governor issued Executive Order N-33-20, including the Order of the State Public Health Officer mandating all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors; and

WHEREAS, on March 14, 2020 the Morro Bay Director of Emergency Services (i.e., the City Manager) proclaimed a declaration of the existence of a local emergency within the City of Morro Bay due to threat posed to the City from COVID-19, and

WHEREAS, on March 19, 2020, the Morro Bay City Council proclaimed and affirmed the existence of a local emergency, and confirmed and ratified the proclamation of the Director of the existence of a local emergency in response to COVID-19, and

WHEREAS, on May 2, 2020, the Governor issued Executive Order N-60-20, directing all residents of California to continue to obey State public health directives; and

WHEREAS, the pandemic COVID-19 continues to present an imminent threat to public health worldwide and in the U.S., and

WHEREAS, the pandemic and necessary federal, state, and local public health orders requiring social distancing to prevent spread of COVID-19 have had and will

continue to have devastating economic impacts on the local community, including residents, businesses, employees and City operations; and

WHEREAS, the City has instituted its fiscal emergency plan in order to mitigate against economic impacts of emergency response costs and significant revenue reductions and has made drastic reduction to current and projected city cost through limits on hiring, layoff of both temporary and full time employees, and freeze on travel and reductions in purchasing; and

WHEREAS, due to the sever economic impacts of COVID-19 and its economic impacts on the community and the City organization, the Council deems is necessary to implement temporary measures waiving parking requirements for implementation of the Temporary Use Permit program to support social distancing requirements, related to rapidly transitional business re-opening status, and economic viability of businesses in adhering to opening and social distancing requirements; and

WHEREAS, the below measures are intended to provide economic relief to businesses that are experiencing economic uncertainty while complying with State and County Orders. Accordingly, the City will facilitate programs, which will include the development and implementation of a plan to use the right- of-way, sidewalks and streets to help maintain social distancing during the first few phases (stages) of reopening consistent with the State' s Resilience Roadmap and continued economic support of businesses for uses such as walking space, outdoor dining, and pick- up/delivery areas. The program would provide for residents to receive the health and wellness benefits of being outdoors and support businesses with enough space to safely physically distance; and

WHEREAS, the programs are established for the purpose of supporting and facilitating the recovery of business and economic activity in the City by expanding the spaces available for the safe conduct of such activities for City businesses and their customers and patrons to create more physical distance for pedestrians and business patrons to maintain physical distancing; and nothing herein is intended to nor shall be deemed to create open gathering places or public forums unrelated to the intended business support and recovery purpose; and

WHEREAS, time is of the essence to quickly implement a program to allow for safe physical distancing consistent with the State' s Resilience Roadmap and County Guidelines in order to address both public health and economic impacts of COVID- 19, as residents have been primarily indoors since the initiation of the State and County Orders, this will be a dynamic temporary program, receiving input from the City Council, and shall be subject to administrative modification by the City, as authorized herein, as necessary in response to emerging issues or concerns of public, health, safety or convenience.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, as follows:

Section 1. All recitals set forth above, and all recitals included in support of Federal, State, and County actions referenced herein, are adopted as though fully set forth herein as findings in support of this Resolution and after considering all such findings and current local circumstances the Council hereby declares the continuing existence of a local emergency related to the continued threat of COVID-19 as it relates to the public health and economic impacts.

Section 2. City of Morro Bay Blanket Encroachment Permit Program.

In order to support re-opening of restaurants and other businesses in accordance with State Executive Order N-60-20, the City Council hereby directs and authorizes the Public Works Director and Community Development Director to implement the revised and expanded Blanket Encroachment Permit program as identified in Exhibit A of the Resolution.

Section 3. City of Morro Bay Temporary Use Permit Program for Outdoor Dining and Retail Sales.

In order to support economic recovery for re-opening of restaurants and other businesses in accordance with State Executive Order N-60-20, the City Council hereby directs and authorizes the Community Development Director to implement a Temporary Use Permit (TUP) program for establishment of temporary outdoor sales and dining areas on private property within the City of Morro Bay. The TUP program will be administered consistent with the TUP program requirements attached as Exhibit B to this Resolution.

Section 4. California Environmental Quality Act (CEQA) Finding

As a result of the COVID-19 public health emergency, the City of Morro Bay proposes a temporary program to use the right-of-way, sidewalks and streets to help maintain social distancing during the first few phases (stages) of reopening consistent with the State's Resilience Roadmap and provide for residents to receive the health and wellness benefits of being outdoors and support businesses with enough space to safely physically distance. The proposed project is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) as followed:

A. The project is statutorily exempt under State CEQA Guidelines Section 15269 (Emergency Projects), because the temporary program includes specific actions that would allow for safe physical distancing consistent with the State's Resilience Roadmap and County and State Guidelines in order to mitigate the COVID-19 public health emergency.

B. The project is categorically exempt under State CEQA Guidelines Section 15301 (Existing Facilities) because the actions identified in the program are limited to the permitting, use, and minor alteration of existing public facilities, including existing streets, and sidewalks, and other public space, which would not result in the creation of permanent improvements, and the temporary use of existing private property without installation of permanent improvements. The programs would result in a negligible expansion of existing commercial uses and a negligible

expansion of the public’s use of City right of way, as the uses included in the programs would not vary from the current uses of commercial businesses, residential areas, or public access within the City’ s right- of-way.

Section 5. Continuing Enforcement of Conditions or Activities Posing a Threat to Public Health, Safety or Welfare; Continued Enforcement of Building Permit Requirements and Encroachments into the Public Right of way. Nothing herein is intended to, or shall be deemed to, relieve any person from the obligation to obtain, or prohibit the exercise of code enforcement for failure to obtain, any permits that would otherwise be required under state law, Morro Bay Municipal Code, or building and safety codes. Furthermore, nothing herein is intended to, or shall ,allow the erection or placement of any permanent or temporary structure or improvement, on public or private property in violation or any state or federal accessibility law, including American With Disabilities Act, or prohibit or suspend code enforcement action deemed necessary by the Community Development Director, the Public Works Director or any authorized enforcement official of the City, to remedy or abate: any dangerous condition or activity; any activity presenting an imminent threat of harm to the health, safety or welfare of the community; any violation of state of federal accessibility law; or, any unauthorized activity on private property or in the public right of way.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 9th day of June 2020 by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

JOHN HEADDING, Mayor

ATTEST

DANA SWANSON, City Clerk

EXHIBIT A

GUIDELINES FOR BLANKET ENCROACHMENT PERMIT ISSUANCE FOR LIMITED USE OF THE PUBLIC RIGHT OF WAY AND SIDEWALKS WITHIN THE CITY'S FOUR COMMERCIAL DISTRICTS

Permitted Items

The following items are allowed on public rights-of-way subject to the requirements herein:

1. Tables and chairs
2. Benches
3. Planters
4. Retail sales Items

Fee

There is no fee associated with the Blanket Encroachment Permit Process

Site Plan and Indemnification Required Prior to Placement of Items

1. A site plan shall be prepared prior to locating any items on public sidewalks or within a public right of way, or other public space. The plan shall be submitted to the Public Works Department for review and approval. The site plan shall include the following:
 - a. Dimensions of the building frontage
 - b. Locate and dimension all items to be placed as part of the permit
 - c. The location of all existing frontage improvement, including any existing planters, utility poles, planter areas, bike racks, fire hydrants, benches, trash receptacles and existing chairs and tables located along the building frontage of the applicants business and adjacent businesses.
 - d. Location of all doorways, and driveways
2. The applicant shall enter into an agreement with the City to indemnify, defend and hold harmless the City of Morro Bay, and its officers, agents and employees. The applicant shall also be required to obtain liability insurance, naming the City as additional insured in the following amounts: \$1,000,000 per occurrence and \$2,000,000 in aggregate. The form of this agreement shall, as reasonably determined by the City, meet the City's need to provide for full indemnification to the City for the authorized activity.

General Location Criteria (applies to all permits)

1. Minimum 4-foot wide, unobstructed aisle shall be maintained along sidewalks at all times.
2. Nothing shall be placed that will block access to or interfere with entering and existing any business.

3. Nothing shall be placed that will interfere with parked vehicles or access to parked vehicles

Planter Location Criteria

1. Planters may be placed either against the front of the building or at, or near the curb

Tables and Chairs

1. May be placed only adjacent to the building or along the right of way edge
2. Placement of tables and chairs may extend beyond the width of the building frontage for the applicant business with written authorization of the adjoining business/property owner.
3. Permitted items placed in the right of way shall be clearly visible to pedestrians at all times including after dark. If permitted items are difficult to see after dark they shall be removed at or before dusk each night.
4. Shall be placed to provide a minimum of 6 feet of separation to maintain social distancing for as long as the required by State, County, or City Order related to COVID-19.

Retail Sale Items

1. May be placed only adjacent to the building
2. Permitted retail merchandise placed in the right of way shall be clearly visible to pedestrians and shall be removed from the right of way at the close of business each day.

Benches

1. May be placed against the building frontage, adjacent to tree wells or at or near the curb and may not exceed eight feet in length
2. If multiple benches are placed they must be a minimum of six feet apart from other benches and other tables and chairs

General Use Criteria

1. Businesses placing benches, tables and/or chairs may designate them for customer use only.
2. Permitted items remaining in the right of way after dark shall be readily visible to pedestrians.

General Maintenance Criteria

1. Any permitted item placed in the public right of way shall be maintained for appearance and safety.
2. The owner, or other responsible party in charge of the business shall ensure prompt removal of all debris, refuse or trash.

3. Planters shall be maintained with live plants at all times. Dead or dying plants shall be removed and replaced as necessary to maintain an attractive appearance.
4. Furniture to be used by the general public shall be maintained for safety at all times.

Exhibit B

Temporary Use Permit Program for Establishment of Outdoor Sales and Dining on Private Property

General Requirement

The TUP program will be administered consistent with the following requirements:

1. All permits issued under this program shall comply with Section 17.30.050 of the Morro Bay Municipal Code (Temporary Use Permits).
2. To encourage temporary use of private outdoor spaces for dining or retail sales all associated off street parking requirements shall be temporarily waived for the effective period of the permit.
3. Applicant shall be authorized to utilize up to 50% of existing parking lot space for outdoor seating and sales, with all associated parking requirements waived for the effective period of the permit.
4. TUP's shall be valid for an initial period of 6-months with the ability for the Community Development Director to extend the TUP for an additional 6-months upon application by the applicant
5. The \$292 administrative TUP fee is waived for the TUP program

Site Plan Requirements

Site Plan (may be hand-drawn or a satellite image with information overlaid)

1. Clear dimensioned site plan showing north arrow and scale
2. Label all street names and abutting streets on site plan
3. Specified Public Areas for the temporary use, such as patios, entryways, sidewalks, parking lots, etc.

Locations and dimensions of all:

1. Outdoor dining tables that comply with 6-foot social distancing requirements,
2. Sales areas,
3. Pedestrian walkways (maintaining a minimum of 4' of sidewalk access),
4. Vehicle entry and exit paths, etc.
5. Distance from existing structures
6. ADA parking areas or access paths cannot be blocked by temporary outdoor seating

Other Required Information

1. Written narrative of business operation and proposed concept for social distancing
2. Plan for collection and disposal of all trash and recycling generated from business operations. Disposal shall not be in public trash or public recycle facilities.

3. Proposed signage, including size of each sign, proposed location, and method of attachment or display.
4. City of Morro Bay business license.
5. The applicant shall enter into an agreement with the City to indemnify, defend and hold harmless the City of Morro Bay, and its officers, agents and employees.

Attachment 2

Exhibit A

Resolution No. 76-98

**GUIDELINES FOR
BLANKET ENCROACHMENT PERMIT
AND
MASTER USE PERMIT
FOR LIMITED USE OF PUBLIC SIDEWALKS OR RIGHT-OF-WAYS
IN THE AREA DESIGNATED "OLD TOWN"**

July 27, 1998

Permitted Items

The following items only are allowed on public rights-of-way:

1. Planters for live plants only.
2. Benches.
3. Tables and Chairs: allowed only with businesses where food and/or beverage service is the primary use EXCLUDING businesses that serve alcohol as the primary commodity (i.e., bars and liquor stores).

Nonpermitted Items

This permit does NOT authorize the placement of any merchandise, or signs other than City approved business identification banners, on public sidewalks or within a public right-of-way.

Plot Plan and Indemnification Required Prior to Locating Items

1. Prior to locating any items on a public sidewalk or within a public right-of-way, a plot plan shall be submitted to the Public Works Department for approval. The plot plan shall indicate the following:
 - a. The dimension of the building frontage.
 - b. The location and dimensions of the items to be placed.
 - c. The location of all doorways, driveways and any public utility poles or fire hydrants.
 - d. The location and dimension of any existing planters, benches, trash receptacles, bicycle racks or other tables and chairs located along the building frontage of the proposed business and the adjacent businesses.
2. Prior to locating any item(s) as allowed by this permit, a document shall be provide in a form acceptable to the City assuming liability, and indemnifying the City and its officers and officials, employees and volunteers from and against all claims, damages, losses and expenses including attorney's fees that may arise out of the issuance of this permit.

Overall Location Criteria

1. A minimum 48 inch wide, unobstructed aisle shall be maintained at all times.
2. Nothing shall be placed that will block access to, or interfere with, entering or exiting any business.
3. Nothing shall be placed that will interfere with parked vehicles or access to the doors of parked vehicles.

Location Criteria for Specific Item Allowed

Planters: May be placed against the front of the building or at, or near, the curb.

Benches: Benches may be placed against the front of buildings, adjacent to tree wells, or at, or near, the curb and may not exceed eight (8) feet in length.
No more than two (2) benches are allowed per business.
If placed along the same line, the benches must be at least six (6) feet apart.

Tables & Chairs: (Are permitted only at a business location serving food and/or beverages as a primary use.)
May be placed only along the business edge of the public sidewalk or right-of-way.
No more than two (2) table are allowed per business.
Each allowed table shall be no more than 48 inches in diameter if round, oval or square, or 60 inches in length if rectangular.
A minimum of 36 inches shall be maintained between tables, if more than one is placed.

General Use Criteria

1. Benches shall be for use of the general public.
2. Businesses placing tables and chairs may designate such for customer use only.
3. Permitted items left in the public right-of-way after dark shall be readily visible to pedestrians.
4. If so directed by an employee of the City, to protect the health, safety and welfare of the public, or for failure to adhere to the requirements of this permit, any item deemed to be a hazard shall be moved or removed.

General Maintenance Criteria

1. Any permitted item placed in the public right-of-way shall be maintained for appearance and safety.
2. The owner, or other responsible party in charge, of the business shall ensure prompt removal of all debris, refuse or trash.
3. At the close of business each day, all tables and chairs shall be removed and stored inside.
4. Planters shall be maintained with live plants at all times. Dead or dying plants shall be removed and replaced as necessary to maintain an attractive appearance.
5. Furniture to be used by the general public shall be maintained for safety at all times.



AGENDA NO: C-3

MEETING DATE: June 9, 2020

Staff Report

TO: Honorable Mayor and City Council

DATE: June 1, 2020

FROM: Chris F. Neumeyer, City Attorney

SUBJECT: Discuss and Consider Local Government Action in Regards to the Use of Face Coverings During the COVID-19 Pandemic, including adoption of Resolution No. 49-20 Recommending the Use of Face Coverings in Certain Circumstances

RECOMMENDATION

Staff recommends Council discuss possible local government action in regards to the use of face coverings during the COVID-19 pandemic, and then after discussion review options which include:

- A. Consider directing staff to bring back a face covering ordinance for introduction (more details from Council would be needed); and/or
- B. Consider adoption of Resolution No. 49-20 recommending the use of face coverings in certain circumstances; and/or
- C. Consider directing staff to proceed with provision to the public of face coverings and/or recommendations on making face coverings (more details from Council would be needed).

FISCAL IMPACT

Adoption of a face covering ordinance or a face covering resolution is not anticipated to have a direct fiscal impact on the City. Directing staff to proceed with provision to the public of face coverings, or recommendations on making face coverings, would have a fiscal impact on the City dependent on the details of the program. Potentially costs to the City for providing face coverings to the public could be reimbursed in whole or in part by recipients.

BACKGROUND

In December 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19) was first identified in Wuhan City, Hubei Province, China. COVID-19 is a respiratory disease that may result in serious illness or death and is easily transmissible from person to person.

As of June 2, 2020, the federal Centers for Disease Control and Prevention (“CDC”) has reported in the United States there are over 1.8 million COVID-19 cases and over 105,000 deaths.

The California Governor on March 4, 2020 proclaimed a State of Emergency to exist in California due to the COVID-19 pandemic. The President of the United States on March 13, 2020 declared the

Prepared By: <u>CFN</u>	Dept Review: _____
City Manager Review: <u>SC</u>	City Attorney Review: <u>CFN</u>

outbreak of COVID-19 in the United States constituted a national emergency.

On March 13, 2020, the San Luis Obispo County Emergency Services Director issued a Proclamation of Local Emergency due to the spread of COVID-19 in the County of San Luis Obispo.

On March 14, 2020, the Morro Bay City Manager proclaimed a declaration of the existence of a local emergency within the City of Morro Bay due to the threat posed to the City from COVID-19, and that declaration was subsequently ratified by the City Council on March 19, 2020.

On May 14, 2020, a special City Council meeting was held to discuss and consider possible local actions to mitigate community impact from the continuing COVID-19 pandemic. The discussion included the wearing of face coverings and whether the Council should consider a face covering ordinance or other local action. The Council decided to not move forward with a subsequent introduction of a face covering ordinance.

On May 26, 2020, the City Council at a regular meeting requested staff bring back a report for further discussion on the use of face coverings during the COVID-19 pandemic.

DISCUSSION

1. Centers for Disease Control and Prevention

According to the federal Centers for Disease Control and Prevention (“CDC”), the “CDC continues to study the spread and effects of the novel coronavirus across the United States. We now know from recent studies that a significant portion of individuals with coronavirus lack symptoms (“asymptomatic”) and that even those who eventually develop symptoms (“pre-symptomatic”) can transmit the virus to others before showing symptoms.

This means that the virus can spread between people interacting in close proximity - for example, speaking, coughing, or sneezing - even if those people are not exhibiting symptoms. In light of this new evidence, CDC recommends wearing cloth face coverings in public settings where other social distancing measures are difficult to maintain (e.g., grocery stores and pharmacies) especially in areas of significant community-based transmission.

It is critical to emphasize that maintaining 6-foot social distancing remains important to slowing the spread of the virus. CDC is additionally advising the use of simple cloth face coverings to slow the spread of the virus and help people who may have the virus and do not know it from transmitting it to others. Cloth face coverings fashioned from household items or made at home from common materials at low cost can be used as an additional, voluntary public health measure.” (Attachment 1, “Recommendation Regarding the Use of Cloth Face Coverings, Especially in Areas of Significant Community-Based Transmission,” *Centers for Disease Control and Prevention*, April 3, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html>.)

2. State of California

On April 1, 2020, the California Department of Public Health issued public health recommendations providing guidance on the use of face coverings in regards to COVID-19. (Attachment 2, “Face Coverings Guidance,” *State Public Health Officer Dr. Sonia Y. Angell*, April 1, 2020, <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Face-Coverings-Guidance.aspx>.)

That guidance included: “There may be a benefit to reducing asymptomatic transmission and reinforcing physical distancing from the use of face coverings. However, face coverings may increase risk if users reduce their use of strong defenses, such as physical distancing and frequent hand washing, when using face coverings.”

The State of California Public Health Officer to date has not mandated face coverings be worn statewide. However, cities and counties may adopt stricter face covering regulations or recommendations than the State of California.

3. County of San Luis Obispo

The County of San Luis Obispo (as of June 2, 2020) recommends “face coverings in certain situations. Specifically, if people cannot maintain six feet of physical distance from others outside of the household, we recommend wearing cloth face coverings (such as bandanas or scarves, or homemade mouth and nose coverings), and only if the covering will not obstruct your ability to breathe. Wearing a cloth face covering may not protect you from getting COVID-19. But, if used correctly, wearing a cloth face covering may provide some additional protection.” (Attachment 3, “Should SLO County Residents Wear Cloth Face Coverings?” *County Office of Emergency Services*, June 2, 2020, <https://www.emergencyslo.org/en/face-coverings.aspx>.)

According to San Luis Obispo County Health Officer Penny Borenstein, MD, MPH, “There is no incontrovertible, compelling or even a preponderance of evidence to support an Order to wear a cloth mask in the community setting at this time.” Dr. Borenstein further states: “I am supportive of cashiers and customers wearing cloth masks inside a grocery store or any essential business if social distancing is difficult to maintain. Supporting evidence is not strong enough to issue an Order to mandate the use of cloth masks at this time; consumer preference is already accomplishing this in most parts of the County.” (Attachment 4, “COVID-19 and the Use of Cloth Face Masks,” *County Health Officer Dr. Penny Borenstein*, May 3, 2020, <https://www.emergencyslo.org/en/resources/Current-Emergency-Information/Documents/COVID-19-and-Use-of-Face-Masks.pdf>.)

On May 27, 2020, as reported by Mr. Dave Alley of KEYT News, “San Luis Obispo County Public Health Officer Dr. Penny Borenstein was asked about mask use while speaking at the county's COVID-19 press briefing. ‘I get asked that all the time why is this county not going forward with an order for masks,’ said Borenstein. ‘The main reason is our numbers don't dictate at this moment that we need to dictate that to people.’ Borenstein has long pointed out the San Luis Obispo County Public Health Department recommends face coverings when physical distancing cannot be observed. ‘The utilization of masks as an additional protective measure is something that we should all do when necessary,’ said Borenstein. ‘When you cannot maintain the other measures, in particular, social distancing, or physical distancing.’ She added that while there is no current face covering order in the county, there could potentially be one in the future. ‘We reserve that for a situation if we seem to be going in the wrong direction with our disease spread, but right now we continue to have very low numbers,’ said Borenstein.” (<https://keyt.com/health/coronavirus/2020/05/27/slo-county-public-health-officer-explains-where-there-is-no-countywide-mask-order/>.)

4. Regional and Statewide

Regionally, some cities and counties have mandated (Santa Barbara County, Monterey County, City of Pismo Beach) the use of face coverings in certain situations, or recommended (e.g., San Luis

Obispo County) the use of face coverings when outside of a household and unable to “socially distance” (generally understood to mean staying six feet away from other people).

- A. On May 26, 2020, a **Santa Barbara County** order went into effect mandating the use of coverings in many situations, including inside of retail businesses, restaurants, government agencies, public transportation and many other locations. Failure to comply with that order could result in a misdemeanor charge that includes a \$1,000 fine and/or jail time.
- B. On April 28, 2020, a similar order was issued in **Monterey County**.
- C. On May 19, 2020, the **City of Pismo Beach** adopted an urgency face covering ordinance which went into effect May 20. That ordinance mandates the wearing of face covering by employees of essential businesses working in a publicly accessible area of the business and where the employee is unable to maintain a six-foot separation from members of the public patronizing the business. Members of the public patronizing the businesses are not required to wear face coverings. However, businesses must post signs encouraging the use of face coverings.
- D. In contrast, on May 8, 2020, the **City of San Luis Obispo** considered mandating a face covering requirement in crowded areas such as in stores where customers and business workers come into close contact, yet decided against such a policy, including for reasons of difficulty with enforcing such a policy.

Statewide, some jurisdictions have adopted strict requirements for the use of face coverings, while other jurisdictions have repealed mandates to be replaced with recommendations.

- A. In **San Francisco** public health officials require residents to wear face coverings any time they leave home and get within 30 feet of anyone not living in their household, and San Francisco businesses are supposed to refuse service to anyone not wearing a covering.
- B. In the **City of Los Angeles** face coverings are mandated when visiting any retail business (including those that are open only for curbside or doordside pickup), when exercising in a neighborhood or are on a trail, golf course or beach (where one must wear a face covering if out of the water and people are nearby), when riding on L.A. Department of Transportation transit buses, Metro buses or trains, or traveling through Los Angeles International Airport.
- C. **Riverside County** initially had a mandate to wear face coverings in many situations, but that order by the Riverside County Public Director was rescinded by a vote of the Riverside County Board of Supervisors, and now in Riverside County face coverings are no longer a requirement but are strongly recommended whenever practical and within reason.
- D. A similar course of events occurred in **San Bernardino County**, with that county rescinded its mandatory face covering order in early May.

5. Potential Local Government Action

If the Council desired to take local government action concerning face coverings, options include requesting an ordinance be brought back to Council so as to enact a local law on use of face coverings, adoption of a resolution concerning recommendations for the use of face coverings, or

possibly even some form of provision of face coverings, or directions on making face coverings at home, by the City to the public.

A. Ordinance

The Council could ask staff to bring back at a subsequent Council meeting, for discussion and possible introduction, an ordinance mandating the use of face coverings during the pandemic.

As a preliminary matter, it must be noted that routine ordinances generally take about 45 days from introduction until they are effective as law (as an ordinance needs to be first introduced, then adopted at another Council meeting, and then becomes law 30 days after adoption).

The Council does have the option of considering at a subsequent Council meeting adoption of an “urgency ordinance” which is effective immediately. Passage of an urgency ordinance requires a 4/5’s vote, however, and may only be adopted “[f]or the immediate preservation of the public peace, health or safety, containing a declaration of the facts constituting the urgency.” (Government Code section 36937(b).)

If Council were to request a face covering ordinance, issues to consider include:

- i. Where are face coverings required? (Only when cannot social distance?, whenever outside the home?, when in a commercial establishment?, etc.)
- ii. What exceptions? (Most jurisdictions that mandate face coverings provide exceptions for documented medical conditions, and also for certain age groups)
- iii. What are penalties? (Monetary fines?, criminal citation?, warnings at first?)
- iv. Who enforces? (the City? local businesses?)
- v. Does a business need to provide coverings to employees, if its employees are required by the City to wear face coverings?
- vi. Should businesses and other places, where coverings are required, need to post signs?

B. Resolution

The Council could adopt a resolution strongly encouraging the use of face coverings by members of the public in certain circumstances.

If Council were to take this course of action, a resolution is attached for consideration. (Attachment 5.) The attached resolution in Section 2 has core face covering recommendations consistent with advice from the CDC and the County of San Luis Obispo. Pursuant to discussion, Council may desire to modify the recommendations in Section 2 of the attached resolution.

C. Provision by City to Residents of Face Coverings / Directions to Make Face Coverings

A further consideration is to possibly subsidize the provision of face coverings to members of the public. Methods to accomplish this include through provision of face coverings by the City to residents

and visitors (upon request perhaps, with payment in full for cost to City, or with payment in part for cost to City) or distribution by the City to local businesses for offer to customers. Staff could be directed to accomplish this task if Council wanted to pursue this option.

If Council were to pursue this option, it must be noted that both the CDC and the County recommend that surgical masks and N-95 respirators not be used by the general public, explaining that those are critical public health supplies that must continue to be reserved for healthcare workers and other medical first responders.

There are recommendations also from public health authorities on how to make face coverings at home from common materials. (Attachment 6, "How to Make Cloth Face Coverings," Centers for Disease Control and Prevention, May 21, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-to-make-cloth-face-covering.html>.) Perhaps the City could distribute such recommendations and directions to residents.

CONCLUSION

Staff recommends Council discuss possible local government action in regards to the use of face coverings during the COVID-19 pandemic, and then after discussion review options which include: 1) consider directing staff to bring back a face covering ordinance for introduction (more details from Council would be needed); 2) consider adoption of Resolution No. 49-20 recommending the use of face coverings in certain circumstance; and/or 3) consider directing staff to proceed with provision to the public of face coverings and/or recommendations on making face coverings (more details from Council would be needed).

ATTACHMENTS

1. "Recommendation Regarding the Use of Cloth Face Coverings, Especially in Areas of Significant Community-Based Transmission," *Centers for Disease Control and Prevention*, April 3, 2020
2. "Face Coverings Guidance," *State Public Health Officer Dr. Sonia Y. Angell*, April 1, 2020
3. "Should SLO County Residents Wear Cloth Face Coverings?" *County Office of Emergency Services*, June 2, 2020
4. "COVID-19 and the Use of Cloth Face Masks," *County Health Officer Dr. Penny Borenstein*, May 3, 2020
5. Resolution No. 49-20
6. "How to Make Cloth Face Coverings," Centers for Disease Control and Prevention, May 21, 2020



Coronavirus Disease 2019 (COVID-19)

Recommendation Regarding the Use of Cloth Face Coverings, Especially in Areas of Significant Community-Based Transmission

CDC continues to study the spread and effects of the novel coronavirus across the United States. We now know from [recent studies](#) that a significant portion of individuals with coronavirus lack symptoms

("asymptomatic") and that even those who eventually develop symptoms ("pre-symptomatic") can transmit the virus to others before showing symptoms. This means that the virus can spread between people

interacting in close proximity—for example, speaking, coughing, or sneezing—even if those people are not exhibiting symptoms. In light of this new evidence, CDC recommends wearing cloth face coverings in public settings where other social distancing measures are difficult to maintain (e.g., grocery stores and pharmacies) **especially** in areas of significant community-based transmission.



Use of Cloth Face Coverings to Help Slow the Spread of COVID-19

It is critical to emphasize that maintaining 6-foot social distancing remains important to slowing the spread of the virus. CDC is additionally advising the use of simple cloth face coverings to slow the spread of the virus and help people who may have the virus and do not know it from transmitting it to others. Cloth face coverings fashioned from household items or made at home from common materials at low cost can be used as an additional, voluntary public health measure.

The cloth face coverings recommended are not surgical masks or N-95 respirators. Those are critical supplies that must continue to be reserved for healthcare workers and other medical first responders, as recommended by current CDC guidance.

How to Make Your own Face Covering

Recent Studies:

- Rothe C, Schunk M, Sothmann P, et al. Transmission of 2019-nCoV Infection from an Asymptomatic Contact in Germany. *The New England journal of medicine*. 2020;382(10):970-971.
- Zou L, Ruan F, Huang M, et al. SARS-CoV-2 Viral Load in Upper Respiratory Specimens of Infected Patients. *The New England journal of medicine*. 2020;382(12):1177-1179.
- Pan X, Chen D, Xia Y, et al. Asymptomatic cases in a family cluster with SARS-CoV-2 infection. *The Lancet Infectious diseases*. 2020.
- Bai Y, Yao L, Wei T, et al. Presumed Asymptomatic Carrier Transmission of COVID-19. *Jama*. 2020.
- Kimball A HK, Arons M, et al. Asymptomatic and Presymptomatic SARS-CoV-2 Infections in Residents of a Long-Term Care Skilled Nursing Facility — King County, Washington, March 2020. *MMWR Morbidity and mortality weekly report*. 2020; ePub: 27 March 2020.
- Wei WE LZ, Chiew CJ, Yong SE, Toh MP, Lee VJ. Presymptomatic Transmission of SARS-CoV-2 — Singapore, January 23–March 16, 2020. *MMWR Morbidity and mortality weekly report*. 2020; ePub: 1 April 2020.
- Li R, Pei S, Chen B, et al. Substantial undocumented infection facilitates the rapid dissemination of novel coronavirus (SARS-CoV2). *Science (New York, NY)*. 2020.



State of California—Health and Human
Services Agency
**California Department of
Public Health**



GAVIN NEWSOM
Governor

April 1, 2020

TO: General Public

SUBJECT: Face Coverings Guidance

This document provides public health information for the use of cloth face coverings by the general public when outside the home conducting essential activities. It does not substitute for existing guidance about social distancing and handwashing. It does not mandate that face coverings be worn state-wide.

Guidance

- Our best community and individual defense against COVID 19 is washing our hands frequently, avoiding touching our eyes, nose and mouth with unwashed hands, avoiding being around sick people and physical distancing, especially by staying at home. A strong health care delivery system and emergency response system is also an essential core defense to save lives when people do get ill.
- There may be a benefit to reducing asymptomatic transmission and reinforcing physical distancing from the use of face coverings. However, face coverings may increase risk if users reduce their use of strong defenses, such as physical distancing and frequent hand washing, when using face coverings.

Considerations

- Counties that choose to introduce policies promoting face coverings for their residents should make sure that these policies do not put increased demand on medical grade respirators, such as N95 and surgical masks. Counties should emphasize the use of face coverings in conjunction with evidence-based interventions such as staying at home, physical distancing when completing essential activities and washing hands.
- Individuals outside of counties with recommendations on face coverings, should wear coverings if they feel comfortable doing so, and practice strict hand washing before and after touching and adjusting the mask. They are reminded that face coverings are not a replacement for other evidence-based measures such as physical distancing, frequent hand washing practices, and remaining at home when not doing essential activities.

Background

What is a cloth face covering?

A cloth face covering is a material that covers the nose and mouth. It can be secured to the head with ties or straps or simply wrapped around the lower face. It can be made of a variety of materials, such as cotton, silk, or linen. A cloth face covering may be factory-made or sewn by hand, or can be improvised from household items such as scarfs, T-shirts, sweatshirts, or towels.

How well do cloth face coverings work to prevent spread of COVID-19?

There is limited evidence to suggest that use of cloth face coverings by the public during a pandemic could help reduce disease transmission. Their primary role is to reduce the release of infectious particles into the air when someone speaks, coughs, or sneezes, including someone who has COVID-19 but feels well. Cloth face coverings are not a substitute for physical distancing and washing hands and staying home when ill, but they may be helpful when combined with these primary interventions.

When should I wear a cloth face covering?

You may choose to wear a cloth face covering when you must be in public for essential activities, such as shopping at the grocery store. Wearing a cloth face covering does not eliminate the need to physically distance yourself from others.

How should I care for a cloth face covering?

It's a good idea to wash your cloth face covering frequently, ideally after each use, or at least daily. Have a bag or bin to keep cloth face coverings in until they can be laundered with detergent and hot water and dried on a hot cycle. If you must re-wear your cloth face covering before washing, wash your hands immediately after putting it back on and avoid touching your face. Discard cloth face coverings that:

- No longer cover the nose and mouth
- Have stretched out or damaged ties or straps
- Cannot stay on the face
- Have holes or tears in the fabric

California Department of Public Health
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Department Website (cdph.ca.gov)



Page Last Updated : April 3, 2020

SAN LUIS OBISPO COUNTY

CURRENT EMERGENCY INFORMATION

Face Coverings

...Current Emergency Information / COVID19 Information for San Luis Obispo County / Businesses/Workplace / Face Coverings

Should SLO County Residents Wear Cloth Face Coverings?

Calling All Fabric Face Covering Makers, We Need You!

We are recommending face coverings in certain situations. Specifically, if people cannot maintain six feet of physical distance from others outside of the household, we recommend wearing cloth face coverings (such as bandanas or scarves, or homemade mouth and nose coverings), and only if the covering will not obstruct your ability to breathe.

Wearing a cloth face covering may not protect you from getting COVID-19. But, if used correctly, wearing a cloth face covering may provide some additional protection.

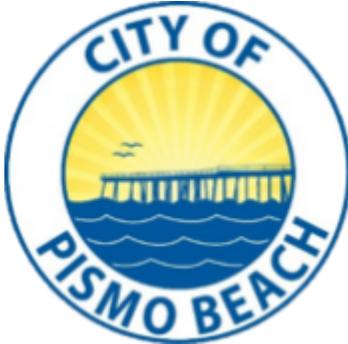
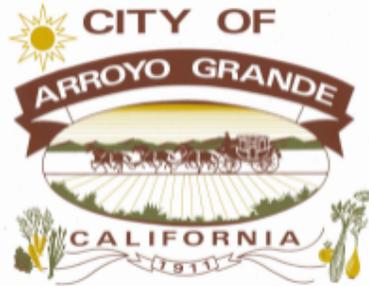
Here is our guidance, which is in line with [CDC guidance](#):

- Only health care workers and some first responders, and those who are sick should use medical-grade Personal Protective Equipment (PPE), such as surgical masks or N95 face masks. Please do not purchase these items. These critical supplies must continue to be reserved for healthcare workers and other medical first responders and their patients, as recommended by current CDC guidance.
- Those who cannot maintain a safe six feet of distance from others outside of the home should wear a cloth face covering – such as a bandana or homemade cloth face covering – that does not obstruct breathing. The CDC recommends wearing cloth face coverings in public settings where other social distancing measures are difficult to maintain (e.g., grocery stores and pharmacies), especially in areas of significant community-based transmission.
- If you wear a cloth face covering in public, avoid touching it and be sure to clean it daily. The County Public Health Department recommends that cloth face coverings be washed daily with hot water and detergent/soap. This point is very important, because it can do more harm than good if you do not keep it clean. We DO NOT want people walking around with dirty cloth face coverings.

- Wearing face coverings should be used in addition to, not instead of, staying home except for essential activities, washing your hands, maintaining a safe six feet of physical distance as much as possible when you are outside of the home, and
- If you're sick with COVID-19 symptoms, stay home. Call your healthcare provider or nearest urgent care to get tested, and follow their instructions. Likewise, if you have a high risk of getting seriously ill from COVID-19 – meaning you are 65 or older and/or have other underlying health conditions – stay home. If you are sick or at a high risk of serious complications, do not go to the grocery store or pharmacy. We can deliver food and medicine to your door.

We will continue to monitor the CDC and state guidance, and if their guidance changes, we will let the public know.

Facial Covering Position Statement by Dr. Borenstein: COVID-19 and the Use of Cloth Face Masks



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COUNTY OF SAN LUIS OBISPO HEALTH AGENCY
PUBLIC HEALTH DEPARTMENT

Michael Hill *Health Agency Director*

Penny Borenstein, MD, MPH *Health Officer/Public Health Director*

COVID-19 and the Use of Cloth Face Masks

Summary of Findings

Issues:

Should cloth masks be worn during this COVID-19 pandemic in either the community setting or in places of business where food is sold?

Conclusions:

1. There is no incontrovertible, compelling or even a preponderance of evidence to support an Order to wear a cloth mask in the community setting at this time.
2. I am supportive of cashiers and customers wearing cloth masks inside a grocery store or any essential business if social distancing is difficult to maintain. Supporting evidence is not strong enough to issue an Order to mandate the use of cloth masks at this time; consumer preference is already accomplishing this in most parts of the County.

Introduction

A number of counties in California have adopted recommendations regarding the use of cloth masks in the community setting. The evidence is not conclusive regarding whether this practice is helpful or harmful in reducing the spread of COVID-19. There are convincing arguments both for and against the use of cloth masks in public places (see table: The Pros and Cons of Wearing a Cloth Mask). In creating a guideline for San Luis Obispo County, we have considered the prevalence of COVID-19 in our community as well as our success in flattening the curve by implementing known infection control strategies such as strict social distancing.

Note that local, state, and national guidelines, when they support the use of masks, uniformly support the use of cloth masks only and recommend **against** the use of medical masks (whether called surgical or procedure masks or N95 respirators). There is insufficient supply chain confidence of personal protective equipment (PPE) for healthcare workers and without adequate supplies of masks, gloves and gowns, our medical professionals are not only putting themselves at risk, they may be putting their patients at risk.

Observations of patrons at retailers in various parts of San Luis Obispo County reveals that about half of people choosing to wear face masks in public are wearing medical-grade masks. We urge those of you who have a supply of unused medical-grade masks to donate these for use by local health care providers by emailing the County's Emergency Operations Center at EOC-donations@co.slo.ca.us or call (805) 543-2444.

Public Health Department

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www.slopublichealth.org

The Pros and Cons of Wearing a Cloth Mask

The following is information about the effectiveness of cloth masks and medical (surgical, procedure) masks in preventing infection that may prove useful in deciding whether to wear a cloth mask in the community setting. **The public should not use medical masks but rather save those for health care professionals.** Medical masks are discussed below because cloth and medical masks are often compared in medical studies and also to show that they are by no means a perfect option for use in the community setting.

Arguments in Favor of Wearing a Mask	Arguments Against Wearing a Mask
<p>Conclusion: Wearing facemasks can be very slightly protective against primary infection from casual community contact, and modestly protective against household infections when both infected and uninfected members wear facemasks. The risk of acquiring a viral infection is reduced by 6%. When both ill and well wear a medical mask in a household, the risk is reduced by 19%.</p> <p>https://www.medrxiv.org/content/10.1101/2020.04.01.20049528v1 (not peer reviewed)</p>	<p>With near universal use of cloth and medical masks worn in public in Wuhan, China during the 2019-2020 flu season leading up to the COVID-19 outbreak, the outbreak spread virtually unchecked.</p>
<p>CDC Recommendation Regarding the Use of Cloth Face Coverings, Especially in Areas of Significant Community-Based Transmission where other social distancing measures are difficult to maintain (e.g., grocery stores and pharmacies) due to the possible asymptomatic spread of COVID 19 from individuals who are not aware they have the virus.</p> <p>https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html</p>	<p>With no masking order in place, San Luis Obispo County residents have successfully “flattened the curve” by using social distancing.</p>
<p>Cloth masks should be considered the last resort to prevent droplet transmission from infected individuals but would be better than no protection at all when in close proximity to others. Both cloth and medical masks significantly reduced the number of microorganisms expelled but medical masks were 3 times more effective. The testing was performed immediately after putting on the mask.</p> <p>“Any mask (cloth or medical), no matter how efficient at filtration or how good the seal, will have minimal effect if is not used in conjunction</p>	<p>In a study involving 1607 health care workers across 14 hospitals, the rate of infection outcomes were 13 times higher in the cloth mask group compared with the medical mask group. Penetration of cloth masks by particles was almost 97% and medical masks 44%.</p> <p>Conclusions: “This study is the first RCT of cloth masks, and the results caution against the use of cloth masks. This is an important finding to inform occupational health and safety. Moisture retention, reuse of cloth masks and poor filtration may result in increased risk of infection.”</p> <p>https://bmjopen.bmj.com/content/5/4/e006577</p>

Arguments in Favor of Wearing a Mask	Arguments Against Wearing a Mask
<p>with other preventative measures such as... good respiratory etiquette and regular hand hygiene.”</p> <p>https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7108646/pdf/S1935789313000438a.pdf</p>	
<p>The California Department of Public Health recommends people wear cloth masks if they feel comfortable doing so however it should not be a replacement for other evidence-based practices such as physical distancing, frequent hand washing, and remaining at home.</p> <p>“There may be a benefit to reducing asymptomatic transmission and reinforcing physical distancing from the use of (cloth) face coverings.”</p> <p>https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Face-Coverings-Guidance.aspx</p>	<p>“Available evidence shows that (cloth masks)... may even increase the risk of infection due to moisture, liquid diffusion and retention of the virus. Penetration of particles through cloth is reported to be high.” “Altogether, common fabric cloth masks are not considered protective against respiratory viruses and their use should not be encouraged.”</p> <p>https://www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/face-masks.html</p>
<p>CDC recommends wearing cloth masks in public settings where other social distancing measures are difficult to maintain (e.g., grocery stores and pharmacies) especially in areas of significant community-based transmission.</p> <p>https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/cloth-face-cover.html</p>	<p>“Moisture retention, reuse of cloth masks and poor filtration may result in increased risk of infection.”</p> <p>The virus may survive on the surface of the facemasks.”</p> <p>“Self-contamination through repeated use and improper doffing is possible.”</p> <p>https://bmjopen.bmj.com/content/5/4/e006577</p>
<p>In close proximity (approximately 3 ft.), medical masks can block up to 90% of large droplets (not viral aerosols) expelled directly onto the front surface of the mask. In this study, only 7% of the droplets penetrated the mask.</p> <p>https://www.ncbi.nlm.nih.gov/pubmed/21197329</p>	<p>Textile materials (that can be used for cloth masks) can contain harmful chemicals and dyes (i.e. formaldehyde). There is no research available regarding the safety of breathing through such materials but formaldehyde is a gas that can irritate a person’s eyes, nose, throat and lungs, or trigger an asthma attack, even at low concentrations. Prolonged exposure to formaldehyde can cause cancer.</p> <p>https://ww2.arb.ca.gov/resources/fact-sheets/formaldehyde</p> <p>https://www.gao.gov/new.items/d10875.pdf</p>

Arguments in Favor of Wearing a Mask	Arguments Against Wearing a Mask
<p>Medical masks can reduce but not eliminate the emission of viral particles into the environment in respiratory droplets (not viral aerosols) emitted by someone who is wearing the mask. (Studied in individuals with a fresh mask for the first 30 minutes of use.)</p> <p>https://www.nature.com/articles/s41591-020-0843-2</p>	<p>According to the World Health Organization, the use of a medical mask by healthy people to protect themselves from COVID-19 in community settings is not supported by current evidence. The following potential risks should be carefully taken into account in deciding to wear a medical mask in the community setting:</p> <ul style="list-style-type: none"> • self-contamination that can occur by touching and reusing a contaminated mask • depending on type of mask used, potential breathing difficulties • diversion of mask supplies and consequent shortage of masks for health care workers • diversion of resources from effective public health measures, such as hand hygiene <p>https://www.who.int/publications-detail/advice-on-the-use-of-masks-in-the-community-during-home-care-and-in-healthcare-settings-in-the-context-of-the-novel-coronavirus-(2019-ncov)-outbreak</p>
<p>“Of the nine trials of facemasks identified in community settings, in all but one, facemasks were used for respiratory protection of well people. They found that facemasks and facemasks plus hand hygiene may prevent infection in community settings, subject to early use and compliance.”</p> <p>https://www.bmj.com/content/350/bmj.h694.full</p>	<p>Wearing cloth masks in public can create a false sense of security and complacency in which people may neglect other hygiene practices.</p> <p>https://www.who.int/publications-detail/advice-on-the-use-of-masks-in-the-community-during-home-care-and-in-healthcare-settings-in-the-context-of-the-novel-coronavirus-(2019-ncov)-outbreak</p>
<p>There is limited (some) evidence that wearing a medical mask by healthy individuals in the households or among contacts of a sick patient, or among attendees of mass gatherings may be beneficial as a preventive measure.</p> <p>https://www.who.int/publications-detail/advice-on-the-use-of-masks-in-the-community-during-home-care-and-in-healthcare-settings-in-the-context-of-the-novel-coronavirus-(2019-ncov)-outbreak</p>	<p>Frequent washing and drying of a cloth mask can decrease the filtration capacity of the mask.</p> <p>https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6599448/</p>
	<p>Failing to wash a cloth mask daily increases the risk of self-contamination for the person wearing the mask due to contaminants found on the outer surface of the mask after use. The risk increases with longer duration of use.</p> <p>https://bmcinfectdis.biomedcentral.com/track/pdf/10.1186/s12879-019-4109-x</p>

Arguments in Favor of Wearing a Mask	Arguments Against Wearing a Mask
	<p>Buying pre-manufactured masks such as N95 and medical masks can create shortages of PPE for health care providers.</p> <p>https://www.who.int/news-room/detail/03-03-2020-shortage-of-personal-protective-equipment-endangering-health-workers-worldwide</p>
	<p>Virus-contaminated aerosols can pass through cloth and medical masks with coughing and sneezing.</p> <p>https://annals.org/aim/fullarticle/2764367</p>
	<p>“The evidence is not sufficiently strong to support widespread use of facemasks as a protective measure against COVID-19.”</p> <p>https://www.medrxiv.org/content/10.1101/2020.04.01.20049528v1</p>
	<p>“Neither surgical nor cotton masks effectively filtered SARS-CoV-2 during coughs by infected patients... the size and concentrations of SARS-CoV-2 in aerosols generated during coughing are unknown. Oberg and Brousseau demonstrated that surgical masks did not exhibit adequate filter performance against aerosols measuring 0.9, 2.0, and 3.1 μm in diameter. Lee and colleagues showed that particles 0.04 to 0.2 μm can penetrate surgical masks. The size of the SARS-CoV particle from the 2002–2004 outbreak was estimated as 0.08 to 0.14 μm; assuming that SARS-CoV-2 has a similar size, surgical masks are unlikely to effectively filter this virus.”</p> <p>https://annals.org/aim/fullarticle/2764367</p>
	<p>“The CDC does not <i>mandate</i> that face coverings be worn statewide.”</p> <p>https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/Face-Coverings-Guidance.aspx</p>

Arguments in Favor of Wearing a Mask	Arguments Against Wearing a Mask
	There is no evidence that cloth masks or medical masks worn in public plus practicing social distancing is any better than social distancing alone.
	The outer surface of a mask in a patient with COVID-19 is almost always positive for virus, even more often than the inside surface. Coughing and speaking have been documented to disperse the virus out into the air. https://annals.org/aim/fullarticle/2764367

Given the breadth of published and observed findings, County of San Luis Obispo Public Health will not mandate that cloth face masks be worn in all public places in at this time. Were the prevalence in our community to increase or with the advent of more convincing evidence in favor of this strategy, this guidance may change.

This review is not intended to lead to the conclusion that one should use medical masks over cloth masks; medical masks should be preserved for health care providers. Thus, **there are two valid choices for use of face coverings - a cloth mask in a community setting or no mask at all.**

The fact that there are more comments listed in the “Against” column is not a reflection of bias on behalf of this reviewer but rather that there seem to be more researchers performing studies that produced those results. More plentiful results do not mean more meaningful results.

The reason that this document is lengthy and does not point to a clear-cut conclusion is because there is no conclusive evidence on either side of the issue. One might say that the obvious choice then is to choose the more conservative masking side of the issue. This choice might be the clear approach were it not for concerns raised about the safety of wearing cloth masks and their effectiveness.

Statements of endorsement and concern exist regarding the use of cloth masks by reputable organizations on both sides of the issue. Absent an absolute conclusion, individuals are left to accept the complexity of the issue and make their own decisions.

Recommendations for Homemade Cloth Face Masks

The following guidance outlines safety considerations associated with homemade cloth masks.

Material Considerations

When considering a fabric to make your mask, please keep in mind that some textile fabrics can contain dyes and chemicals from the factory.

- Try to avoid any fabrics that are labeled "wrinkle-free", "durable press" or "easy care finish" since these fabrics may be treated with a product that includes formaldehyde.

CDC recommends using 100% cotton fabric for making a cloth face mask. Although "organic cotton" would be the best choice, any clean woven cotton fabric should work.

- Do not use fabrics that have been in contact with harmful household chemicals such as paint removers, stain removers and cleaning products.

Once you have chosen a fabric to create your mask:

- Please make sure to launder the fabric **at least two times before first use** in order to ensure any harmful contaminants are removed. Be cautious of using scented detergent because the residual odor may cause a respiratory reaction.

For CDC guidance on how to make a cloth mask, please visit

<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/diy-cloth-face-coverings.html>

Other Considerations

Cloth face coverings **should not** be placed on:

- Children under age 2
- Anyone who may have difficulty breathing
- Anyone who is unconscious
- Anyone who is incapacitated or otherwise unable to remove the mask without assistance

If you should decide to wear a cloth face mask, please remember to:

- Wash your hands after putting the mask on and after taking the mask off
- Do not touch your face or the mask while wearing it
- Disinfect areas where the mask is stored while not in use
- Wash your cloth mask daily
- Do not fail to abide by social distancing standards

Plexiglass Shields

Plexiglass shields have been placed in many essential businesses as a barrier between the cashier and the customer. If interfering with the passage of respiratory droplets is the intent of those who wish to wear a mask, the same outcome might be achieved by the placement of plexiglass barriers at points of cashier-customer interaction in the grocery store and in other

RESOLUTION NO. 49-20

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
STRONGLY AND URGENTLY RECOMMENDING DURING THE COVID-
19 PANDEMIC THE USE OF FACE COVERINGS**

T H E C I T Y C O U N C I L

City of Morro Bay, California

WHEREAS, in December 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19) was first identified in Wuhan City, Hubei Province, China; and,

WHEREAS, COVID-19 is a respiratory disease that may result in serious illness or death and is easily transmissible from person to person; and

WHEREAS, as of June 2, 2020, the federal Centers for Disease Control and Prevention (“CDC”) has reported in the United States there are over 1.8 million COVID-19 cases and over 105,000 deaths; and

WHEREAS, the California Governor on March 4, 2020 proclaimed a State of Emergency to exist in California due to the COVID-19 pandemic; and

WHEREAS, the President of the United States on March 13, 2020 declared the outbreak of COVID-19 in the United States constituted a national emergency; and

WHEREAS, On March 13, 2020, the San Luis Obispo County Emergency Services Director issued a Proclamation of Local Emergency due to the spread of COVID-19 in the County of San Luis Obispo; and

WHEREAS, on March 14, 2020, the Morro Bay City Manager proclaimed a declaration of the existence of a local emergency within the City of Morro Bay due to the threat posed to the City from COVID-19, and that declaration was subsequently ratified by the City Council on March 19, 2020; and

WHEREAS, the federal Centers for Disease Control and Prevention (“CDC”) has concluded that a significant portion of individuals with coronavirus lack symptoms (“asymptomatic”) and that even those who eventually develop symptoms (“pre-symptomatic”) can transmit the virus to others before showing symptoms; and

WHEREAS, the CDC has therefore concluded the coronavirus can spread between people interacting in close proximity - for example, speaking, coughing, or sneezing - even if those people are not exhibiting symptoms; and

WHEREAS, the CDC thus recommends wearing cloth face coverings in public settings where other social distancing measures are difficult to maintain (e.g., grocery stores and pharmacies) especially in areas of significant community-based transmission; and

WHEREAS, the County of San Luis Obispo (as of June 2, 2020) recommends “face coverings in certain situations. Specifically, if people cannot maintain six feet of physical distance from others outside of the household, we recommend wearing cloth face coverings (such as bandanas or scarves, or homemade mouth and nose coverings), and only if the covering will not obstruct your ability to breathe.”; and

WHEREAS, San Luis Obispo County Public Health Officer Dr. Penny Borenstein advised on May 27, 2020 that “The utilization of masks as an additional protective measure [from the coronavirus] is something that we should all do when necessary... when you cannot maintain the other measures, in particular, social distancing, or physical distancing.”; and

WHEREAS, in the interests of public health and safety, the City Council strongly and urgently recommends during the COVID-19 pandemic the use of face coverings that do not obstruct breathing, by those who cannot maintain a safe six feet of distance from others outside of the home, and in public settings where other social distancing measures are difficult to maintain (e.g., grocery stores and pharmacies), especially in areas of significant community-based transmission. .

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

1. **Recitals.** The City Council hereby finds and believes that the above recitals are true and correct and incorporate them herein by reference.
2. **Urgent Recommendation.** The City Council strongly recommends for the duration of the COVID-19 pandemic the use of face coverings in certain situations. Specifically, the City Council urges and strongly recommends:
 - a. A face covering that does not obstruct breathing should be worn by those who cannot maintain a safe six feet of distance from others outside of the home.
 - b. A face covering that does not obstruct breathing should be worn in public settings where other social distancing measures are difficult to maintain (e.g., grocery stores and pharmacies), especially in areas of significant community-based transmission.
3. **Effective Date of Resolution.** This Resolution shall be effective immediately upon passage and adoption. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

4. **Publication.** This Resolution and its contents will be published and promulgated in as widespread a manner as is reasonably feasible under the conditions prevailing during this local emergency.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Morro Bay, California, at a regular meeting thereof held on the 9th day of June 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

JOHN HEADDING, Mayor

ATTEST:

DANA SWANSON, City Clerk

Coronavirus Disease 2019 (COVID-19)

How to Make Cloth Face Coverings

CDC on Homemade Cloth Face Coverings

- **Who should NOT use cloth face coverings:** children under age 2, or anyone who has trouble breathing, is unconscious, incapacitated or otherwise unable to remove the mask without assistance
- **Cloth face coverings are NOT surgical masks or N-95 respirators.** Surgical masks and N-95 respirators must be reserved for healthcare workers and other medical first responders, as recommended in CDC guidance.

CDC recommends wearing cloth face coverings in public settings where other [social distancing](#) measures are difficult to maintain, like, grocery stores and pharmacies.

Simple cloth face coverings can be made at home and may help prevent the spread of COVID-19.

Sew and No Sew Instructions

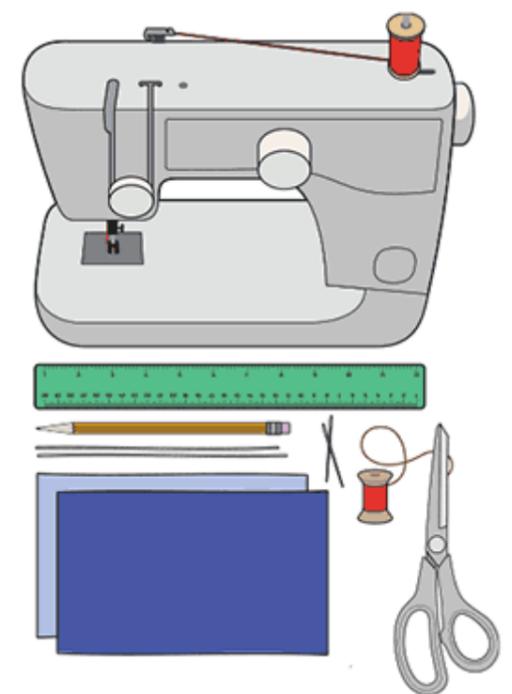
Sewn Cloth Face Covering

Materials

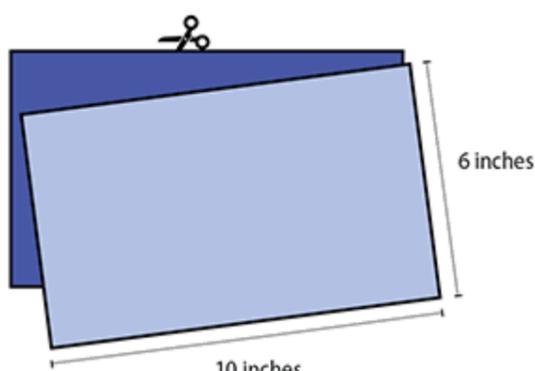
- Two 10"x6" rectangles of cotton fabric
- Two 6" pieces of elastic (or rubber bands, string, cloth strips, or hair ties)
- Needle and thread (or bobby pin)
- Scissors
- Sewing machine

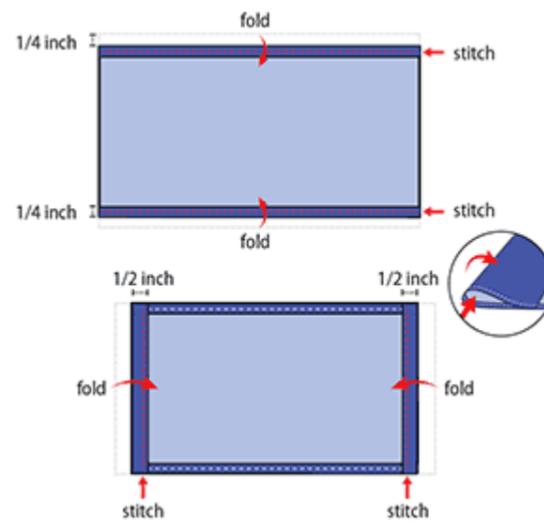
Tutorial

1. Cut out two 10-by-6-inch rectangles of cotton fabric. Use tightly woven cotton, such as quilting fabric or cotton sheets. T-shirt fabric will work in a pinch. Stack the two rectangles; you will sew the mask as if it was a single piece of fabric.

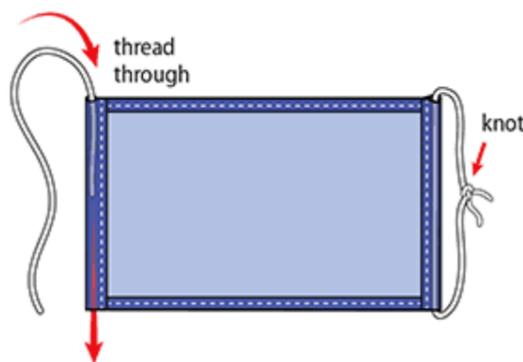


2. Fold over the long sides $\frac{1}{4}$ inch and hem. Then fold the double layer of fabric over $\frac{1}{2}$ inch along the short sides and stitch down.

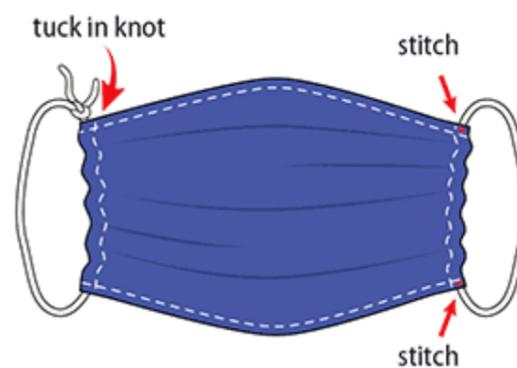




3. Run a 6-inch length of 1/8-inch wide elastic through the wider hem on each side of the mask. These will be the ear loops. Use a large needle or a bobby pin to thread it through. Tie the ends tight. Don't have elastic? Use hair ties or elastic head bands. If you only have string, you can make the ties longer and tie the mask behind your head.



4. Gently pull on the elastic so that the knots are tucked inside the hem. Gather the sides of the mask on the elastic and adjust so the mask fits your face. Then securely stitch the elastic in place to keep it from slipping.

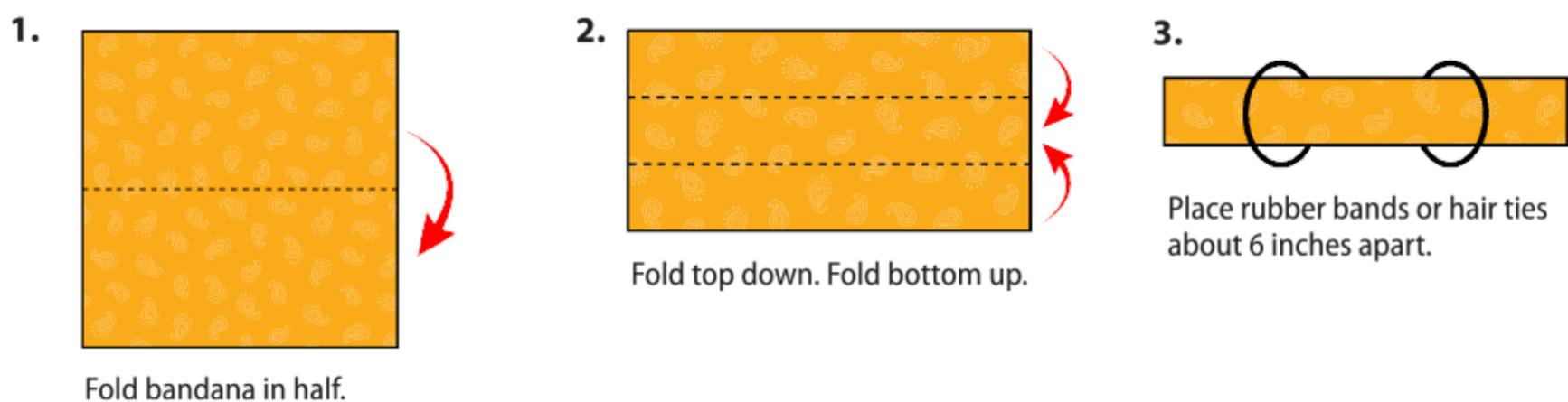


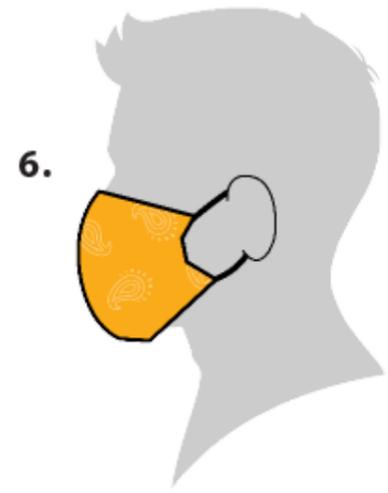
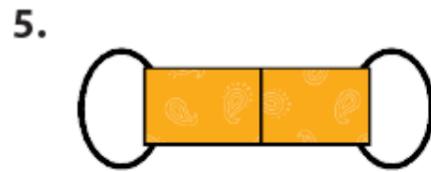
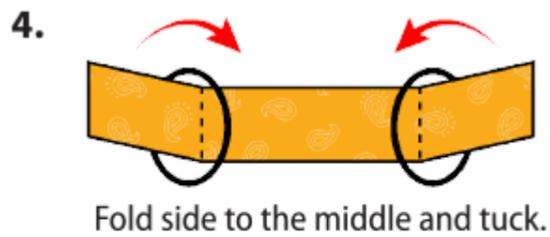
Non-sewn Face Covering

Materials

- Bandana, old t-shirt, or square cotton cloth (cut approximately 20"x20")
- Rubber bands (or hair ties)
- Scissors (if you are cutting your own cloth)

Tutorial





Make sure your cloth face covering:

- fits snugly but comfortably against the side of the face
- completely covers the nose and mouth
- is secured with ties or ear loops
- includes multiple layers of fabric
- allows for breathing without restriction
- can be laundered and machine dried without damage or change to shape

See more about how to [wear](#) and [wash](#) your cloth face covering.

More Information

[Recommendation Regarding the Use of Cloth Face Coverings](#)

[About Cloth Face Coverings](#)

[How to Wear Your Cloth Face Covering](#)

[How to Wash Your Cloth Face Covering](#)

[Video: U.S. Surgeon General, Dr. Jerome Adams- How to Make Your own Face Covering](#)

[Important Information About Your Cloth Face Coverings](#) 

[ASL Video Series: Easy DIY Cloth Face Covering](#)

[How To Make Your Own Face Covering Video](#)

Page last reviewed: May 21, 2020