

ORDINANCE NO. 654

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA,
REPEALING AND REPLACING TITLE 17 (ZONING), AND MISCELLANEOUS
AMENDMENTS TO UPDATE ZONING LANGUAGE REFERENCES IN PAGE 5-3 OF
THE WATERFRONT MASTER PLAN AND CHAPTERS 5.50, 5.60, 7.16, 8.32, 9.28,
10.60, 12.08, 12.12, 13.04, 13.20, 14.44, 14.42, 16.36, 16.40, AND 16.48 OF THE
MORRO BAY MUNICIPAL CODE**

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

WHEREAS, duly noticed public hearings for the Zoning Code / Coastal Implementation Plan (IP) Update of Plan Morro Bay were held by Planning Commission on August 16, 2022, September 6, 2022, September 20, 2022; and

WHEREAS, the Planning Commission of the City of Morro Bay conducted a hybrid public hearing both in-person at 209 Surf Street, Morro Bay, and via video conference on September 20, 2022 for the purpose of considering a favorable recommendation to the Morro Bay City Council for adoption of the Zoning Code Update as part of the Plan Morro Bay project, and forwarded a favorable recommendation with adoption of Planning Commission 08-22; and

WHEREAS, pursuant to State CEQA guidelines, a Program Environmental Impact Report (EIR) for the Plan Morro Bay project was prepared, released for a 45-day public review process on October 19, 2020 to December 4, 2020 and certified by the City Council on May 25, 2021 (State Clearinghouse number 2021111026); and

WHEREAS, the proposed Zoning Code / Coastal Implementation Plan update project implements the General Plan/ Local Coastal Plan (LCP) Coastal Land Use Plan which was considered through a programmatic EIR review and that document provides a programmatic review of the potential impacts associated with implementation of the overall Plan Morro Bay project; and

WHEREAS, State CEQA Guidelines Section 15162 provides that no further review is required under CEQA when there are no substantial changes in the Project, and there are no substantial changes with respect to the circumstances under which the Project is undertaken, and there is no new information of substantial importance, which was not known and could not have been known at the time of certification of the EIR; and

WHEREAS, the proposed Zoning Code/ IP Update Amendment is consistent with and implements the General Plan / LCP Coastal Land Use Plan and is consistent with the analysis presented in the EIR and therefore, pursuant to State CEQA Guidelines Section 15162, no subsequent analysis is required; and

WHEREAS, upon adoption of the Zoning Code / IP, certain miscellaneous amendments will be required in both the 1996 Waterfront Master Plan adopted by Council Resolution 43-96

and several other Municipal Code amendments to update Zoning language references for consistency; and

WHEREAS, the City Council of the City of Morro Bay (the "City") conducted a hybrid public hearing both in-person at the Morro Bay Veteran's Hall at 209 Surf Street and via video conference on October 25, 2022, for the purpose of considering the favorable recommendation by the Planning Commission and for purposes of adoption of the Zoning Code / Coastal Implementation Plan (IP) Update of Plan Morro Bay and finding that no further environmental review is necessary pursuant to CEQA State Guidelines Section 15162; and

WHEREAS, the City Council of the City of Morro Bay (the "City") conducted a hybrid meeting both in-person at the Morro Bay Veteran's Hall at 209 Surf Street and via video conference on November 22, 2022, to adopt Ordinance 654 by second reading and by title only with further reading waived, and direct staff to submit an application for Local Coastal Program (LCP) amendment to the California Coastal Commission for certification; and

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

SECTION 1. The City Council of the City of Morro Bay finds:

A. The above referenced recitals are true and correct and material to the adoption of this Ordinance and are incorporated herein by reference.

B. The proposed Zoning Ordinance will not be injurious or detrimental to the health, safety, comfort, general welfare, or well-being of the persons residing or working in the neighborhood.

C. The Local Coastal Plan Implementation Plan Amendments are intended to further the goals of the California Coastal Act, as set forth in Section 30001.5 of the Public Resources Code, to:

1. Protect, maintain, and where feasible, enhance and restore the overall quality of the coastal zone environment and its natural and artificial resources.

2. Assure orderly, balanced utilization and conservation of coastal zone resources taking into account the social and economic needs of the people of the state.

3. Maximize public access to and along the coast and maximize public recreational opportunities in the coastal zone consistent with sound resources conservation principles and constitutionally protected rights of private property owners.

4. Assure priority for coastal-dependent and coastal-related development over other development on the coast.

5. Encourage state and local initiatives and cooperation in preparing procedures to

implement coordinated planning and development for mutually beneficial uses, including educational uses, in the coastal zone.

D. Pursuant to Morro Bay Municipal Code Section 17.64.080, no amendment to the Zoning Ordinance shall be legally effective in the coastal zone until the amendment is certified by the Coastal Commission. If the Coastal Commission certifies this Ordinance conditioned on substantive changes being made, then the Council will consider the introduction and adoption of another ordinance to incorporate those substantive changes. If the Coastal Commission certifies this Ordinance conditioned on non-substantive changes being made to this Ordinance, then the City Clerk is authorized to amend this Ordinance to reflect those non-substantive changes.

SECTION 2. Title 17 (Zoning) of the Morro Bay Municipal Code is hereby repealed in its entirety upon both final certification by the California Coastal Commission, as well as the effective date as an operation of law, of a new Title 17 of the Morro Bay Municipal Code, in a form substantially similar to the Zoning Code / IP located on the City's Plan Morro Bay website www.morrobayca.gov/planmb with the Zoning Code/IP document specifically located at http://morrobayca.gov/DocumentCenter/View/17256/2022-Zoning-Code_IP and the Zoning Map specifically located at <http://morrobayca.gov/DocumentCenter/View/17002/Proposed-Zoning-Map-Update>. Non-substantive/typographical changes to the Zoning Code replacement at www.morrobayca.gov/planmb may be authorized by the City Attorney; no material changes beyond typographical corrections may be made prior to second reading.

SECTION 3. Section 5.50.120.C.1 of the Morro Bay Municipal Code is amended to read as follows:

C. Location Restrictions.

1. No retail operation shall locate or operate in any zone of the city of Morro Bay, other than in the community commercial (CC) district, the district commercial (DC) district, or the industrial-general (IG) district.

SECTION 4. Section 5.50.130.C.1 of the Morro Bay Municipal Code is amended to read as follows:

C. Location Restrictions.

1. No distribution operation shall locate or operate in any zone of the city of Morro Bay, other than in the community commercial (CC) district, the district commercial (DC) district, or the industrial-general (IG) district.

SECTION 5. Section 5.60.010.H of the Morro Bay Municipal Code is amended to read as follows:

H. "Residential district" means any area zoned as a Residential District in Title 17 of the municipal code or any other area with exclusively residential uses.

SECTION 6. Section 7.16.040.A of the Morro Bay Municipal Code is amended to read as follows:

- A. Except as otherwise permitted in this chapter, no person shall own, keep, maintain, stake or pasture any bovine, swine, sheep, goat, horse or other livestock upon any premises in the city unless the lot or parcel size is a minimum twenty thousand square feet or, the parcel is in a properly zoned agricultural district in which case the number of animals shall not exceed the maximum density allowed for such animals pursuant to Section 17.30.060 of this code.

SECTION 7. Section 8.32.180 of the Morro Bay Municipal Code is amended to read as follows:

Filming shall not be permitted under any circumstances in any environmentally sensitive habitat as identified pursuant to Section 17.14.080 of this code.

SECTION 8. Section 9.28.030 of the Morro Bay Municipal Code is amended to read as follows:

The following acts, among others, are declared to be loud, disturbing, and unnecessary noises in violation of this section, but said enumeration shall not be deemed to be exclusive, namely:

- A. Horns, Signaling Devices, Etc. The sounding of any horn or signaling device on any automobile, motorcycle, or other vehicle on any street or public place of the city except as a danger warning; the creation by means of any such signaling device of any unreasonably loud or harsh sound; and the sounding of any such device for an unnecessary and unreasonable period of time. The use of any signaling device except one operated by hand or electricity; the use of any horn, whistle or other device operated by engine exhaust; and the use of any such signaling device when traffic is for any reason held up.
- B. Radios, Phonographs, Etc. The using, operating, or permitting to be played, used or operated any radio receiving set, television set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet, and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operating and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine, or device between the hours of seven p.m. and seven a.m. in a residential district or between two a.m. and seven a.m. in a nonresidential district in such a manner as to be plainly audible at a distance of fifty feet from the building, structure, or vehicle in which it is located shall be prima facie evidence of a violation of this section.
- C. Live Music. Amplified music, being performed by any live band of two or more persons or by any solo performer between the hours of seven p.m. and seven a.m. in a residential district or between two a.m. and seven a.m. in a nonresidential district, in such a manner as to be plainly audible at a distance of fifty feet from the building or structure in which it is located shall be prima facie evidence of a violation of this section.
- D. Loud Speakers, Amplifiers for Advertising. The using, operating, or permitting to be played, used, or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure for commercial purposes.
- E. Yelling, Shouting, Etc. Yelling, shouting, hooting, whistling, or singing on the public streets between the hours of two a.m. and seven a.m. in a nonresidential district or at any place in a residential district between the hours of seven p.m. and seven a.m. for an unnecessary,

unreasonable period of time so as to annoy or disturb the quiet, comfort or repose of persons in any dwelling, hotel or other type of residence or of any persons in the vicinity.

- F. Steam Whistles. The blowing of any locomotive steam whistle or steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of fire or danger, or upon request of proper city authorities.
- G. Exhausts. The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- H. Loading, Unloading, Opening Boxes. The creation of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates, and containers.
- I. Construction or Repairing of Buildings. The erection (including excavating), demolition, alteration or repair of any building or general land grading and contour activity using equipment in such a manner as to be plainly audible at a distance of fifty feet from the building other than between the hours of seven a.m. and seven p.m. on weekdays and eight a.m. and seven p.m. on weekends except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the community development department, which permit may be granted for a period not to exceed three days or less while the emergency continues and which permit may be renewed for a period of three days or less while the emergency continues. If the building inspector should determine that the public health and safety will not be impaired by the erection, demolition, alteration and repair of any building or the excavation of streets and highways within the hours of seven p.m. and seven a.m. on weekdays and seven p.m. and eight a.m. on weekends and if he further determines that loss or inconvenience would result to any party in interest, he may grant permission for such work to be done within the hours of seven p.m. and seven a.m. on weekdays and seven p.m. and eight a.m. on weekends upon application being made at the time the permit for the work is awarded or during the progress of the work.
- J. Schools, Courts, Churches, and Hospitals. The creation of any excessive noise other than that resulting from construction or excavation work on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.
- K. Pile Drivers, Hammers, Etc. The operation between the hours of seven p.m. and seven a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise except in case of urgent necessity in the interest of public health and safety, and then only with a permit from the building inspector or the director of public services authorizing such devices to be operated during the otherwise prohibited hours while the emergency continues.
- L. Blowers and Motor-driven Cycles. The operating of any noise-creating blower or power fan or any cycle powered by an internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is properly muffled and such engine is equipped with a muffler device sufficient to reduce such noise to a level which will not disturb the surrounding neighborhood. The noise limits set forth in Section 23130 of the California Vehicle Code shall be deemed to be the applicable standard for noise emissions; provided, however, the basis for measuring such limits for devices operated on private property shall be a distance of fifty feet from the property line of the parcel of real property on which the device is located or where the neighboring property

is lawfully devoted to residential complies with the required yard setbacks as established in the zoning regulations for the applicable district.

SECTION 9. Section 10.60.020 of the Morro Bay Municipal Code is amended to read as follows:

At intersections not controlled by a stop sign or traffic signal, no plant, structure, or other solid object over three feet high (above adjacent curb) which would obstruct visibility may be located within the area indicated in Section 17.23.180 of the zoning regulations. At controlled intersections, the city engineer may determine visibility requirements for proper sight distance.

SECTION 10. Section 12.08.080 of the Morro Bay Municipal Code is amended to read as follows:

Any person aggrieved by the determination of the public works director may file an appeal to the planning commission following the payment of the applicable fee. A public hearing shall be held following public notice of property owners within three hundred feet per Section 17.36.060. Said public notice shall also include posting of the subject tree(s) with two placards that are clearly visible indicating the purpose, time, date, and location of the hearing.

The appellant shall submit a report prepared by a certified arborist or landscape architect describing the condition of the tree(s) and the reason(s) for the removal of the tree(s) from the public right-of-way. Trees shall not be removed solely for the preservation of private views.

A tree(s) shall not be removed unless authorized by the proper review authority within the scope of a construction project. Said removal shall be appropriately mitigated on a not less than two-to-one tree replacement. Said tree(s) shall be maintained in a healthy, live condition for a period of five years.

Following the public hearing, the planning commission shall grant or deny the appeal. The granting of the appeal by the planning commission may be subject to conditions deemed appropriate to mitigate the impacts to the community and neighborhood due to the removal of the tree(s). Any person aggrieved by the decision of the planning commission may file an appeal to the city council. The city council shall then conduct a public hearing under the same provisions as stated above.

SECTION 11. Section 12.12.060.E.2 of the Morro Bay Municipal Code is amended to read as follows:

2. Appeals on Major WTFPs shall proceed as provided in accordance with the appeal provisions in Title 17 of the Municipal Code, Sections 17.36.130 (Appeals). The appellate authority may hear the appeal de novo.

SECTION 12. Section 13.04.020.K of the Morro Bay Municipal Code is amended to read as follows:

- K. Licensed Health Care Facility. "Licensed health care facility" means, for the sole and exclusive purpose of this chapter, any facility meeting the definition of a "health facility" set forth in Section 1250 of the state of California Health and Safety Code. This definition shall also include any "residential care facility" as defined under Section 1502(a)(1) of the state of California Health and Safety Code so long as all of these facilities are located on the same property, are under common ownership and are served by the same water meter or meters as a "health care facility" as defined by Health and Safety Code Section 1250.

SECTION 13. Section 13.20.080.B.5 of the Morro Bay Municipal Code is amended to read as follows:

5. Family day care homes, as defined in Section 17.53.010 of this code, as may be amended.

SECTION 14. Sections 14.44.020.A and B of the Morro Bay Municipal Code are amended to read as follows:

Property owners and/or applicants for development permits shall at their own expense design, construct and install frontage improvements consisting of curb, gutters, thru-curb drains, sidewalks, street, and street trees along the entire frontage of the subject property and/or shall correct existing deficiencies in them pursuant to the following provisions:

- A. Such improvements shall be constructed by owner/applicant on all properties within commercial and mixed-use, industrial, residential medium density (RM), or residential high density (RH) districts within the city.
- B. Sidewalk improvements shall not be required for properties within the residential low density (RL) or residential single unit (RS) districts on which a single-family home is being constructed or altered.

SECTION 15. Section 14.42.060.A of the Morro Bay Municipal Code is amended to read as follows:

- A. The building division shall adopt an administrative, nondiscretionary review process for the department to expedite approval of small residential rooftop solar energy systems within thirty days of the adoption on this chapter. The department shall issue a building permit or other nondiscretionary permit the same day for over-the-counter applications or within three business days for electronic applications of receipt of a complete application and meets the requirements of the approved checklist and city standard plan. The building official may require an applicant to apply for a use permit if the official finds, based on substantial evidence, that the solar energy system could have a specific, adverse impact upon the public health and safety. Such decisions may be appealed to the city planning commission per Section 17.36.130 of this code, except references to "director" shall instead refer to the "building official."

SECTION 16. Section 14.42.060.C of the Morro Bay Municipal Code is amended to read as follows:

- C. If a use permit is required, the building official may deny an application for the use permit if the official makes written findings based upon substantive evidence in the record that the proposed installation would have a specific, adverse impact upon public health or safety and there is no feasible method to satisfactorily mitigate or avoid, as defined, the adverse impact. Such findings shall include the basis for the rejection of the potential feasible alternative for preventing the adverse impact. Such decisions may be appealed to the city planning commission per Section 17.36.130 of this code, except references to "director" shall instead refer to the "building official."

SECTION 17. Section 16.36.010 of the Morro Bay Municipal Code is amended to read as follows:

The layout of streets and lots within a subdivision shall be consistent with the densities and types of uses authorized by the general plan, specific plans, and zoning. The subdivision design shall also recognize the physical conditions of the site, such as slope, soil types, and adjacent land use, which may further limit uses of the property. The subdivider must simultaneously consider such factors as terrain, development objectives, and options available under these regulations in order to design a subdivision which best meets the needs of those who will occupy it as well as the community as a whole.

The subdivider must also consider the RS district is intended to provide a single-unit residential area free of disturbing noises, excessive traffic, and hazards created by moving automobiles. The RS district is designed to prevent burdens on the public facilities, including sewer, water, electricity and schools by an influx and increase of people to a degree larger than the city's limits, tax base or financial capabilities can reasonably and responsibly accommodate. The RS district affords protection from deleterious environmental effects and serves to maintain and protect the existing character of the residential neighborhood.

SECTION 18. Section 16.36.050.A of the Morro Bay Municipal Code is amended to read as follows:

- A. In general, subdivisions shall be designed to be compatible with existing lots, residences, and zoning in their vicinity. Subdivisions are to be built, to the extent possible, to foster the appearance of neighborhoods with houses facing one another across public streets, cottage designs and garden courts. Except as otherwise allowed pursuant to State law or any other part of this code, minimum lot sizes shall be as established in the tables below for the underlying zoning district for which a subdivision or other action pursuant to this Title is proposed.

Minimum Lot Size by District	
Zoning	(Lot size - sq. ft.)
RL	5,000
AG	20,000
RS	5,000
RM	5,000
RH	5,000
All Commercial and Mixed-Use and Industrial Zones	6,000

SECTION 19. Chapter 16.40 of the Morro Bay Municipal Code, Compact In-Fill Developments is deleted in its entirety.

SECTION 20. Section 16.48.030 of the Morro Bay Municipal Code is amended to read as follows: The procedures and standards contained in this chapter shall govern all condominium and conversion projects. Commercial and industrial condominium projects may be exempt from the provisions intended to govern residential living units. Detached residential condominium projects shall be subject to the same criteria for Small Lot Single-Unit Development, Section 17.07.040.D.

SECTION 21. CEQA Findings. Pursuant to State CEQA guidelines, a Program EIR for the Plan Morro Bay project was prepared, released for a 45-day public review process on October 19,

2020 to December 4, 2020 and certified by the City Council on May 25, 2021 (State Clearinghouse number 2021111026). The proposed Zoning Code / Coastal Implementation Plan update project implements the General Plan/ LCP which was considered through the programmatic EIR review referenced above. That document provides a programmatic review of the potential impacts associated with implementation of the overall Plan Morro Bay project. State CEQA Guidelines Section 15162 provides that no further review is required under CEQA when there are no substantial changes in the Project, there are no substantial changes with respect to the circumstances under which the Project is undertaken, and there is no new information of substantial importance, which was not known and could not have been known at the time of certification of the EIR. The proposed Zoning Code/ IP Update Amendment is consistent with and implements the General Plan/ LCP Coastal Land Use Plan and is consistent with the analysis presented in the EIR and therefore, pursuant to State CEQA Guidelines Section 15162, no subsequent analysis is required.

SECTION 22. 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 23. Effective Date. This Ordinance shall take effect 30 days after its adoption and upon certification required as an operation of law.

SECTION 24. 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 25TH day of October 2022, by motion of Mayor Headding and seconded by Council Member Addis.

PASSED AND ADOPTED on the 22nd day of November, 2022, by the following vote:

AYES: Headding, Addis, Barton, Ford
NOES: None
ABSENT: Heller
ABSTAIN: None
RECUSE: None

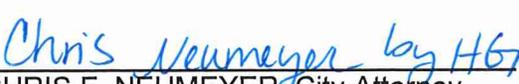


JOHN HEADDING, Mayor

ATTEST:


DANA SWANSON, City Clerk

APPROVED AS TO FORM:



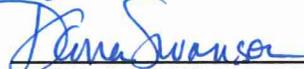
CHRIS F. NEUMEYER, City Attorney

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

I, Dana Swanson, City Clerk for the City of Morro Bay, California, do hereby certify that the foregoing Ordinance No. 654 was duly passed and adopted by the City Council of the City of Morro Bay at the regular meeting thereof, held on the 22nd day of November 2022, by the following vote:

AYES: Headding, Addis, Barton, Ford
NOES: None
ABSENT: Heller
ABSTAIN: None
RECUSED: None

IN WITNESS WHEREOF I have hereunto set my hand and affixed the official seal of the City of Morro Bay, California, this 28th day of November, 2022.



DANA SWANSON, City Clerk