

ORDINANCE NO. 659(B)

AN ORDINANCE OF THE PEOPLE  
OF THE CITY OF MORRO BAY, CALIFORNIA,  
ADOPTING AN INITIATIVE MEASURE ENTITLED "INITIATIVE MEASURE TO AMEND CITY OF  
MORRO BAY'S GENERAL PLAN (PLAN MORRO BAY), ADOPTED BY CITY COUNCIL ON MAY 25,  
2021, TO PROHIBIT, UNLESS APPROVED BY MORRO BAY VOTERS, ANY CHANGE TO LAND USE  
DESIGNATIONS OF VISITOR-SERVING COMMERCIAL OR COMMERCIAL/RECREATIONAL FISHING,  
ON CERTAIN DESIGNATED PARCELS WITHIN THE CITY "

City of Morro Bay, California

The People of the City of Morro Bay do ordain as follows:

**SECTION 1: PURPOSES, EFFECT, AND FINDINGS.**

**A. Purposes:** The purposes of this Initiative are to: (1) protect the natural beauty, sensitivity, and intrinsic value of Morro Bay's waterfront and Embarcadero; (2) prevent the visual and physical degradation of Morro Bay's natural environment; (3) promote the health and safety of Morro Bay's residents, tourists, boaters, and wildlife habitat; (4) maintain present levels of coastal access to our California Historic Landmark, Morro Rock, as well as to the Harbor, and surrounding beaches; and (5) preserve Morro Bay as a world-renowned tourist destination.

**B. Effect:** This Initiative amends *Plan Morro Bay*, the City of Morro Bay's General Plan, adopted in May, 2021 to readopt and reaffirm the existing "Visitor-Serving Commercial" and "Commercial/Recreational Fishing" land use designations for certain parcels situated on both sides of Embarcadero Road from Beach Street to Atascadero Road, and Coleman Drive including Morro Rock parking lots, such that these parcels, even if subdivided, may only be amended or re-designated by a majority of Morro Bay voters at a regular or special election.

**C. Findings:** The People of the City of Morro Bay ("City") find that this Initiative promotes and protects the safety, welfare, and quality of life of Morro Bay residents, based upon the following findings, any one of which would be sufficient to support adoption of this Initiative:

1. *Plan Morro Bay* serves as the City of Morro Bay's General Plan, prepared in accordance with Government Code section 65300 and following sections, and as the City's Local Coastal Program (LUP) Land Use Plan, prepared in accordance with the California Coastal Act, Public Resources Code section 30000 and following sections. The City Council adopted *Plan Morro Bay* on May 25, 2021, and the California Coastal Commission certified it on August 12, 2021. *Plan Morro Bay* governs and regulates land use and development policies and decisions in Morro Bay, in addition to serving other functions. This Initiative refers to this document either as *Plan Morro Bay* or the *Plan Morro Bay* General Plan.

2. *Plan Morro Bay* affirms the critical importance of visitor-serving and commercial fishing uses as "Coastal Priority Uses," stating the following on pages 3-28 and 3-29:

**Coastal Priority Uses**

The Coastal Act requires the City to prioritize uses that serve important needs for the community and visitors, such as recreation, coastal access, open space, and visitor-serving and coastal-dependent uses. Nearly all of Morro Bay is in the coastal zone. Coastal priority uses range from visitor-serving recreation and services to coastal dependent businesses such as aquaculture and commercial fishing.

3. *Plan Morro Bay* defines and describes "Visitor-Serving Commercial" land uses as follows, permitting them at a floor-area ratio of up to 1.25:

*Visitor-oriented services and uses located at easily accessible locations and tourist destinations within the coastal zone. In general, ground-floor development should be reserved for retail shops, restaurants and bars, and visitor accommodations, with the upper floors reserved for additional visitor accommodations and offices.*

4. The Morro Bay Zoning Code correspondingly defines "Visitor-serving facility" as follows:

"Visitor serving facility" means those stores, shops, businesses, recreational facilities (both public and private), parks and natural preserves which are regularly utilized by the traveling public.

5. Consistent with the *Plan Morro Bay* General Plan’s Visitor-Serving Commercial designation, the City’s Zoning Code currently allows for a wide variety of tourism-oriented businesses in Morro Bay’s Visitor-Serving Commercial (C-VS) Zoning District, including but not limited to restaurants, coffee shops, specialty retail boutiques, travel agents, retail establishments selling boat and marine supplies, souvenirs, antiques, art galleries and studios, museums, hotels and motels, bars and taverns, boat rentals, fishing supplies, service stations, parking lots, and parks and open space.

6. *Plan Morro Bay* describes “Commercial/Recreational Fishing” land uses as follows, permitting them at a floor-area ratio of up to 0.5:

[This designation] Implements Measure D, which protects the tidelands area between Beach Street and Target Rock. Development and use permits are limited to fishing activities only.

7. Consistent with the *Plan Morro Bay* General Plan’s Commercial/Recreational Fishing designation, the City’s Zoning Code currently allows for fishing-oriented businesses and uses in Morro Bay’s Commercial/Recreational Fishing (CF) Zoning District, and expressly prohibits the City from granting any permit, authorization or other approval of any state owned tidelands subject to city lease between Beach Street and Target Rock, unless such development or use is primarily for the purpose of serving or facilitating licensed commercial fishing activities or noncommercial recreational fishing activities, or if clearly incidental thereto.

8. *Plan Morro Bay* Figure LU-4, Land Use Map, depicts those parcels of land within the City that are currently designated Visitor-Serving Commercial and Commercial/Recreational Fishing. See **Exhibit A**. Included among these are certain parcels situated on both sides of Embarcadero Road from Beach Street to Atascadero Road designated for Visitor-Serving Commercial uses, and on both sides of Coleman Drive including Morro Rock for Commercial/Recreational uses, referred to as the “Measure D Area,” and further shown on **Exhibit B**.

9. *Plan Morro Bay* currently includes POLICY LU-4.2:

Measure D/Commercial/Recreational Fishing Uses: Ensure commercial fishing activity is prioritized in the Measure D area.

10. *Plan Morro Bay* currently includes POLICY LU-4.6: Development Priority, which states:

Using private lands suitable for visitor-serving commercial recreational facilities shall have priority over using such lands for private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

11. *Plan Morro Bay’s* Visitor-Serving Commercial and Commercial/Recreational Fishing land use designations are critical to maintaining Morro Bay’s economic vitality, quality of life, status as a tourist destination, recreational resources, and natural environment.

12. Any change in *Plan Morro Bay’s* Visitor-Serving Commercial and/or Commercial/Recreational Fishing land use designations to allow industrial or other non-commercial uses will have a deleterious impact on Morro Bay’s citizens, its economy, environment, reputation, and overall quality life.

13. This Initiative is therefore necessary to ensure that future land uses that are incompatible with, or that would adversely impact, existing and future Visitor-Serving Commercial and Commercial/Recreational Fishing uses are not permitted to operate on those parcels situated on both sides of Embarcadero Road from Beach Street to Atascadero Road, and

Coleman Drive including Morro Rock parking lots, unless a majority of Morro Bay voters approve of such other uses.

## **SECTION 2: PLAN MORRO BAY GENERAL PLAN AMENDMENTS.**

A. This Initiative hereby amends the *Plan Morro Bay* General Plan as adopted by the City of Morro Bay on May 25, 2021, and as approved by the California Coastal Commission on August 12, 2021. Text to be inserted in the Plan is indicated in ***bold italic*** type. Text in standard type currently appears in the *Plan Morro Bay* General Plan and is not changed or readopted by this Initiative. The amendments to the *Plan Morro Bay* General Plan made in this SECTION 2 may be changed only by a majority vote of the people at a regular or special election, except where expressly stated otherwise.

B. *Plan Morro Bay*, Chapter 3B “Land Use,” is hereby amended to insert the following text on page 3-28 and 3-29:

### **Visitor-Serving Uses**

Visitors come to Morro Bay year-round to enjoy the beautiful scenery, the beach, and an eclectic and laid-back vibe. The diverse array of shops, restaurants, and recreation opportunities are an important part of both the economy and personality of Morro Bay, and these uses need to be protected for the enjoyment of visitors and locals alike. The Coastal Act also requires that visitor-serving uses be prioritized over most other uses in the coastal zone.

Approximately 145 acres of land are designated for visitor-serving uses, primarily located in the Embarcadero, downtown, and State Park areas. These uses include hotels and other lodging, restaurants, parking facilities, shopping, and entertainment options. Because of their location near the coastline, the businesses and recreation areas are vulnerable to both development pressure and increasing flood risk due to sea level rise. The Land Use Map and policies work together to protect visitor-serving uses from encroachment of all kinds.

***The voters of Morro Bay have adopted an initiative to maintain visitor-serving uses on certain designated parcels. Pursuant to the provisions of the Initiative, the following shall obtain:***

***The provisions setting forth the land use designations for Visitor-Serving Commercial in Plan Morro Bay as adopted by the City of Morro Bay on May 25, 2021 and certified by the California Coastal Commission on August 12, 2021, referenced herein and amended hereby, for those parcels shown in Figure LU-4.1 below, shall not be further amended, even if subdivided, except as set forth herein, unless such amendment is approved by a vote of the people of the City of Morro Bay.***

***Figure LU-4.1 depicts those parcels currently designated Visitor-Serving Commercial and Commercial/Recreational Fishing that may not be redesignated unless by a vote of the people in accordance with the Initiative.***

C. *Plan Morro Bay*, Chapter 3B “Land Use,” is hereby amended to insert the following text on page 3-30, immediately above the heading titled “Energy and Industrial Uses” and below the text describing Figure LU-5, as follows:

Figure LU-5 identifies fishing and boating facilities in Morro Bay, differentiating between administrative, commercial, and recreational services:

***The voters of Morro Bay have adopted an initiative to maintain visitor-serving and commercial/recreational fishing uses on certain designated parcels. Pursuant to the provisions of the Initiative, the following shall obtain:***

***The provisions setting forth the land use designations for Commercial/Recreational Fishing in Plan Morro Bay as adopted by the City of Morro Bay on May 25, 2021 and certified by the California Coastal Commission on August 12, 2021, referenced herein and amended hereby, for those parcels shown in shown in Figure LU-4.1, shall not be further amended, even if subdivided, except as set forth herein, unless such amendment is approved by a vote of the people of the City of Morro Bay.***

D. *Plan Morro Bay*, Chapter 3B “Land Use,” is hereby amended to insert the following new POLICY LU-4.6.1 on page 3-35 and 3-36, immediately following existing POLICY LU-4.6:

POLICY LU-4.6: Development Priority. Using private lands suitable for visitor-serving commercial recreational facilities shall have priority over using such lands for private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

***POLICY LU-4.6.1: Amendment only by vote of the People. The voters of Morro Bay have adopted an initiative to maintain visitor-serving uses on certain designated parcels. Pursuant to the provisions of the Initiative, the following shall obtain:***

***The provisions setting forth the land use designations for Visitor-Serving Commercial in Plan Morro Bay as adopted by the City of Morro Bay on May 25, 2021 and certified by the California Coastal Commission on August 12, 2021, and as referenced herein and amended hereby, for those parcels shown in Figure LU-4.1, shall not be further amended, even if subdivided, except as set forth herein, unless such amendment is approved by a vote of the people of the City of Morro Bay.***

E. *Plan Morro Bay*, Chapter 3B “Land Use,” is hereby amended to insert the following new POLICY LU-5.1.1 on page 3-37, immediately following existing POLICY LU-5.1:

POLICY LU-5.1: Use Conflicts. Reduce potential conflicts between commercial fishing and coastal recreational uses.

***POLICY LU-5.1.1: Amendment only by vote of the People. The voters of Morro Bay have adopted an initiative to maintain commercial/recreational fishing uses on certain designated parcels. Pursuant to the provisions of the Initiative, the following shall obtain:***

***The provisions setting forth the land use designations for Commercial/Recreational Fishing in Plan Morro as adopted by the City of Morro Bay on May 25, 2021 and certified by the California Coastal Commission on August 12, 2021, for those parcels shown in Figure LU-4.1, shall not be further amended, even if subdivided, except as set forth herein, unless such amendment is approved by a vote of the people of the City of Morro Bay.***

F. *Plan Morro Bay*, Chapter 3B “Land Use,” is hereby amended to insert this measure’s Exhibit B, as Figure LU-4.1 following page 3-31.

### **SECTION 3. IMPLEMENTATION.**

A. **Effective Date:** “Effective Date” means the date that this Initiative became effective pursuant to state law. Upon the Effective Date of this Initiative, the City is directed to promptly take all appropriate actions needed to implement this Initiative, including but not limited to,

taking any administrative steps necessary to update any and all City maps, figures, and any other documents maintained by the City so they conform to the legislative policies set forth in this Initiative.

**B. *Plan Morro Bay General Plan:*** Upon the Effective Date of this Initiative, the provisions of SECTION 2 of the Initiative are hereby inserted into the *Plan Morro Bay General Plan*, as an amendment thereof; except that if the four amendments of the mandatory elements of the General Plan permitted by state law for any given calendar year have already been used in the year in which the Initiative becomes effective, this General Plan amendment shall be the first amendment inserted into the *Plan Morro Bay General Plan* on January 1 of the following year. Upon the Effective Date of this Initiative, any provisions of the Morro Bay Municipal Code or of any other City of Morro Bay ordinance or resolution that are inconsistent with the provisions adopted by this Initiative shall not be applied or enforced in a manner inconsistent with this Initiative.

**C. *Interim Amendments:*** The date that the notice of intention to circulate this Initiative was submitted to the City of Morro Bay elections official is referenced herein as the "Submittal Date." The *Plan Morro Bay General Plan* in effect on the Submittal Date as amended by this Initiative is required by state law to comprise an integrated, internally consistent, and compatible statement of policies for the City. In order to ensure that nothing in this Initiative measure would prevent the *Plan Morro Bay General Plan* from being an integrated, internally consistent, and compatible statement of the policies of the city, as required by state law, and to ensure that the actions of the voters in enacting this Initiative are given effect, any amendment or update to the *Plan Morro Bay General Plan* that is adopted between the Submittal Date and the date that the *Plan Morro Bay General Plan* is amended by this Initiative measure shall, to the extent that such interim-enacted provision is inconsistent with the *Plan Morro Bay General Plan* provisions adopted by this Initiative, be amended as soon as possible to ensure consistency between the provisions adopted by this Initiative and other provisions of the *Plan Morro Bay General Plan*.

**D. *Other City Plans, Ordinances, and Policies:*** The City of Morro Bay is hereby authorized and directed to amend the *Plan Morro Bay General Plan*, and other City of Morro Bay plans thereafter, as necessary to ensure consistency between the provisions adopted in this Initiative and other sections of the *Plan Morro Bay General Plan*, the Morro Bay Zoning Code, and any other City of Morro Bay plans, ordinances, and policies. Such amendments include any zoning designations of any lands designated by the *Plan Morro Bay General Plan* as Visitor-Serving Commercial, so that the underlying zoning of the properties is consistent with the properties' land use designation as enacted and/or affirmed by SECTION 2 of this Initiative.

**E. *Reorganization:*** The *Plan Morro Bay General Plan* may be reorganized or readopted in different format, and individual provisions may be renumbered or reordered, in the course of ongoing updates of the *Plan Morro Bay General Plan* in accordance with state law, provided that the provisions of SECTION 2 of this Initiative shall remain in the General Plan unless repealed or amended by vote of the people of the City of Morro Bay.

**F. *Implementing Ordinances:*** The City Council is authorized, after a duly noticed public hearing, to adopt implementing ordinances, guidelines, rules, and/or regulations, as necessary, to further the purposes of this Initiative.

**G. *Enforcement and Defense of Initiative:*** The City Council shall take all steps reasonably necessary to enforce this Initiative and to defend it against any challenge to its validity. The proponents of this Initiative, the committee sponsoring this Initiative, or any other elector of the City, have standing to seek a writ of mandate to enforce the provisions of this Initiative.

**I. *Applications in the Planning Process:*** This Initiative shall apply to any City of Morro Bay planning application that seeks to re-designate lands with a Visitor-Serving Commercial designation as of the Effective Date of this Initiative, and where the application has not been approved as of the Effective Date.

**J. Exemptions:** The provisions of this Initiative shall not apply to the extent, but only to the extent, that they would violate the constitutions or laws of the United States or the state of California. Should any application of the Initiative effect a taking of private property under the constitutions or laws of the United States or the state of California, an exemption to the Initiative's application is permitted to the minimum extent necessary to avoid such a taking. Any such exemption requires a finding by the City Council, based on substantial evidence, that the application of the Initiative would constitute an unconstitutional taking of property and that the exemption is applied only to the extent necessary to avoid an unconstitutional taking. Likewise, an exemption to the Initiative's application is permitted to the minimum extent necessary to avoid infringing a vested right obtained pursuant to state law as of the Effective Date.

#### **SECTION 4: EFFECT OF COMPETING OR ALTERNATIVE MEASURE ON THE SAME BALLOT**

By voting for this Initiative, the voters expressly declare their intent that any other City of Morro Bay measure that appears on the same ballot as this Initiative and addresses voter approval for designation or re-designation of lands designated Visitor-Serving Commercial, or conflicts with any provision of this Initiative, shall be deemed to conflict with the entire policy scheme adopted by this Initiative. Because of this conflict, if this Initiative and any such other City of Morro Bay measure receive a majority of votes by the voters voting thereon at the same election, then the measure receiving the most votes in favor shall prevail and no provision of the other measure shall take effect. For the purposes of this SECTION 4, any other measure that appears on the same ballot as this Initiative and purports to amend any provision of this Initiative shall be deemed to directly conflict with this entire Initiative.

#### **SECTION 5: SEVERABILITY AND INTERPRETATION**

This Initiative shall be broadly construed in order to achieve its purpose. It is the intent of the voters that the provisions of this Initiative be interpreted or implemented by the City of Morro Bay in a manner that facilitates the purposes set forth in this Initiative. This Initiative shall be interpreted so as to be consistent with all applicable Federal, State, and County laws, rules, and regulations. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion of this Initiative is held to be invalid or unconstitutional by a final judgment of a court of competent jurisdiction, it is the will of the voters that such decision shall not affect the validity of the remaining portions of this Initiative. The voters hereby declare that this Initiative, and each section, subsection, paragraph, subparagraph, sentence, clause, phrase, part, or portion thereof would have been adopted or passed even if one or more sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, parts, or portions were declared invalid or unconstitutional. If any provision of this Initiative is held invalid as applied to any person or circumstance, such invalidity shall not affect any application of this Initiative that can be given effect without the invalid application.

If any portion of this Initiative is held by a court of competent jurisdiction to be invalid, we the People of the City of Morro Bay indicate our strong desire that: (1) the City Council use its best efforts to sustain and re-enact that portion; and (2) the City Council implement this Initiative by taking all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express intent of this Initiative, including adopting or reenacting any such portion in a manner consistent with this Initiative.

Any singular term shall include the plural and any plural term shall include the singular. The title and captions of the various sections in this Initiative are for convenience and organization only, and are not intended to be referred to in construing the provisions of this Initiative.

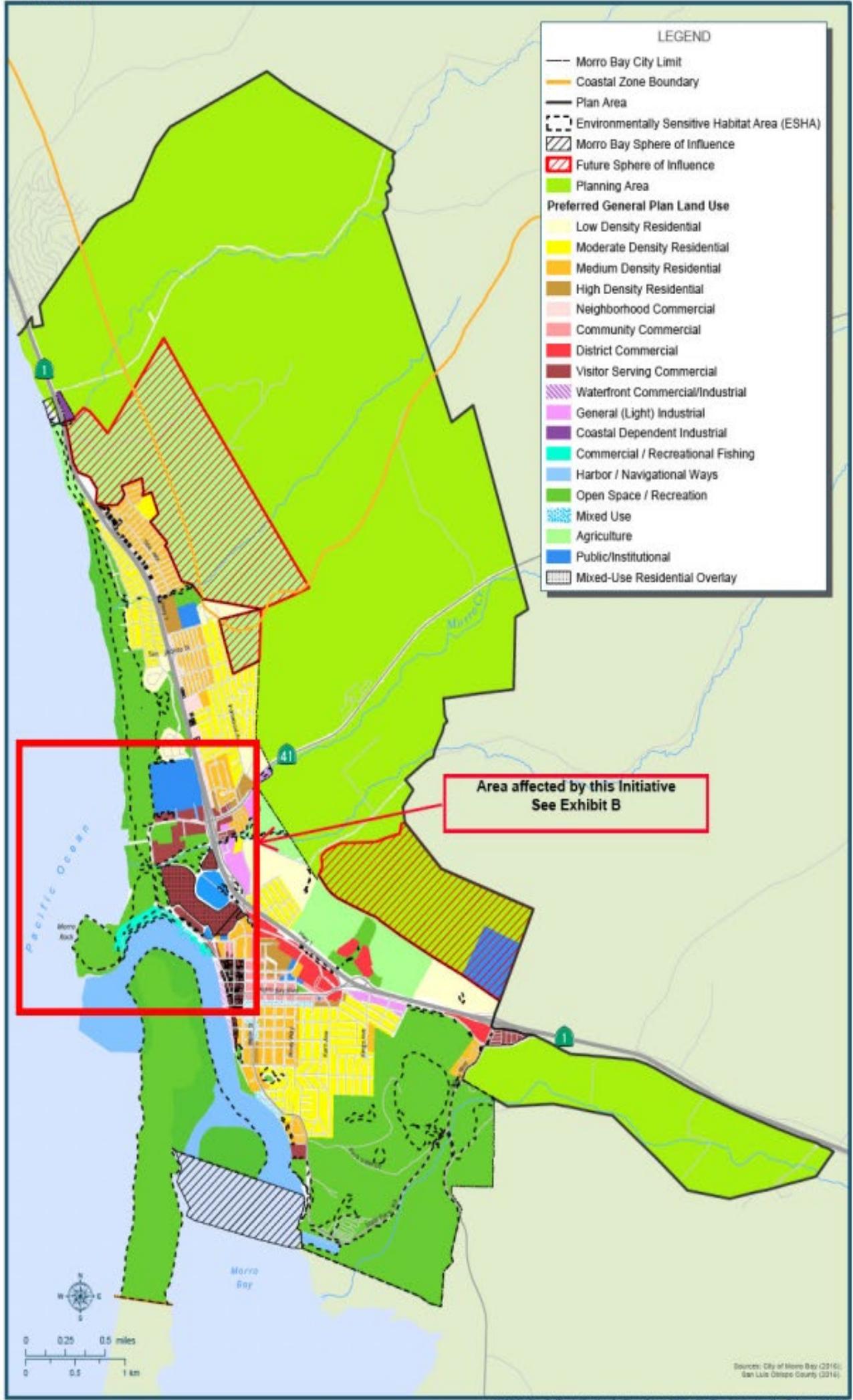
#### **SECTION 6: AMENDMENT AND REPEAL**

Except as otherwise provided herein, this Initiative may be amended or repealed only by a vote of the people of the City of Morro Bay.

## SECTION 7: EXHIBITS

**Exhibit A:** *Plan Morro Bay (2021) Figure LU-4, Land Use Map, annotated to show area affected by this Initiative.*

**Exhibit B** (to be inserted into *Plan Morro Bay* as Figure LU-4.1): *Detail of Plan Morro Bay (2021) Figure LU-4, Land Use Map, delineating parcels currently designated Visitor-Serving Commercial and Commercial/Recreational Fishing that may not be redesignated unless by a vote of the people in accordance with this Initiative.*



**EXHIBIT B  
PARCELS/AREAS AFFECTED BY THIS INITIATIVE**



- Visitor Serving Commercial
- Commercial / Recreational Fishing
- Mixed-Use Residential Overlay

 Areas affected by this Initiative