

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST AREA OFFICE

725 FRONT STREET, SUITE 300

SANTA CRUZ, CA 95060

427-4863

RING IMPAIRED: (415) 904-5200



W13C

July 23, 1997

TO: Commissioners and Interested Persons

FROM: Tami Grove, District Director
Diane Landry, District Legal Counsel
Steve Guiney, Coastal Program Analyst

SUBJECT: City of Morro Bay De Minimis LCP Amendment No. 3-97. To be reported to the Commission at its meeting of August 12 - 15, 1997, to be held at the Crown Plaza - Holiday Inn - LAX,, 5985 West Century Blvd., Los Angeles 90045.

CITY'S PROPOSED AMENDMENT

The City is requesting that Section 17.44.020(A)(7) of the certified Zoning Ordinance be amended to allow the payment of parking in-lieu fees either in a lump sum or in accordance with a payment plan. Currently, fees must be paid in a lump sum. The Zoning Ordinance allows for the payment of fees in-lieu of providing parking spaces in certain areas of the City, most notably along the Embarcadero, the City's main street along the waterfront. That area has very limited off-street parking and it is physically impossible for most development to provide parking spaces. Instead, the City has established a program where fees are paid to the City based on the number of parking spaces the development would normally be required to provide. The City then uses the fees to construct additional parking spaces for the common use of all development in an area.

The purpose of this notice is to advise interested parties of the determination by the Executive Director that the proposed change to the City's certified LCP as described above is "de minimis."

DE MINIMIS LCP AMENDMENT PROCEDURES
APPLIED TO THE CITY'S PROPOSED AMENDMENT

Coastal Act section 30514(d) provides for the designation of certain proposed amendments to a Local Coastal Program (LCP) as de minimis amendments by the Executive Director and reporting of that designation to the Commission for review. If three or more commissioners object to the de minimis designation the amendment shall be set for public hearing; if three or more commissioners do not object to the de minimis designation, then the amendment shall become part of the certified LCP 10 days after the date of the Commission meeting.

In order to qualify as a de minimis amendment, the following three criteria must be met:

- 1) The Executive Director must determine that the proposed amendment would have no impact, either individually or cumulatively, on coastal resources, and that it is consistent with the policies of Chapter 3;
- 2) The local government must provide public notice of the proposed amendment at least 21 days prior to submitting the amendment to the Commission, by one of the following methods: posting on-site and off-site in the affected area, newspaper publication, or direct mailing to owners and occupants of contiguous property and ;
- 3) The amendment does not propose any change in use of land or water or allowable use of property.

1. Executive Director's determination of no impact to coastal resources and consistency with Chapter 3 of the Coastal Act: The proposed amendment would simply allow the in-lieu parking fee to be paid either in a lump sum or in accordance with a payment plan approved by both the City Finance Director and the City Administrator. It is conceivable that by allowing payment to be made over time the City would not accumulate enough money soon enough to provide additional parking when needed. That could result in additional congestion on the Embarcadero during summer weekends. Although that could reduce the quality of visitors' experiences, no coastal resources would be adversely impacted. Therefore the proposal would not have any impact, either individually or cumulatively, on coastal resources, and it is consistent with the policies of Chapter 3 of the Coastal Act.

2. Provision of public notice: The City of Morro Bay provided public notice by newspaper advertisement on May 19, 1997. The amendment submittal was received on July 14, 1997, thus satisfying the 21 day requirement.

3. No change in use of land or allowable use of property: No change in use is proposed by this amendment. It would simply allow for payment of the in-lieu parking fee according to a payment schedule in addition to the option of paying the fee in a lump sum.

The Executive Director will report in writing this determination to the Coastal Commission at its August 12 - 15 meeting at the Crowne Plaza - Holiday Inn - LAX, 5985 West Century Blvd, Los Angeles 90045. He will also report any comments received on the proposed amendment. If you have any questions or need additional information regarding the proposed amendment or the method under which it is being processed, please contact Steve Guiney or Diane Landry at the Central Coast District Office in Santa Cruz. If you wish to comment on the proposed "de minimis" amendment determination, please do so no later than August 8, 1997.

ORDINANCE NO. 459

AN ORDINANCE OF THE CITY OF MORRO BAY
TO REPEAL CERTAIN PROVISIONS AND
AMEND CERTAIN CHAPTERS AND SECTIONS
OF THE MORRO BAY MUNICIPAL CODE

THE CITY COUNCIL
CITY OF MORRO BAY, CALIFORNIA

The City Council of the City of Morro Bay does ordain as follows:

Section 1. Section 1.04.120 (Ord. 6, Sec. 1 (part), 1964; prior Code Sec. 1308) is hereby repealed.

Section 2. Section 1.04.130 (Ord. 6, Sec. 1 (part), 1964; prior Code Sec. 1328) is hereby repealed.

Section 3. Section 1.12.010 - Public place for posting notices is hereby amended to read as follows:

~~"The following are officially designated as public places for the posting of all ordinances, resolutions or notices adopted or issued by the city....."~~

The officially designated public places for the posting of all public meeting notices will be established by resolution.

Section 1.12.010(A is hereby repealed. (Ord. 272, Sec. 1 (part), 1985; Ord. 6, Sec. 1 (part), 1964; prior Code Sec. 2500).

Section 4. Section 1.16.030 - Penalties for infractions is hereby amended to read as follows:

"Unless otherwise specified, each and every violation of a provision of this code which is an infraction is punishable by:"

- A. A fine not exceeding one hundred dollars for the first violation;
- B. A fine not exceeding two hundred dollars for a second violation of the same provision within one year;
- C. A fine not exceeding five hundred dollars for each additional violation (after the second) of the same provision within one year of the first violation. (Ord. 311, Exhibit A (part), 1987).

Section 5. Section 1.16.050 - Code Enforcement Officer is hereby amended to read:

"The title of Code Enforcement Officer is created. The duties of such named public officer shall be limited to the enforcement of municipal code violations, and such person shall be authorized to exercise the powers set forth in Section 836.5 of the California Penal Code and to make arrest only for the purpose of issuing citations for violation of the municipal code which constitute infractions or misdemeanors. This provision shall not apply to peace officers as designated by Section 830.1 of the California Penal Code. (Ord. 311, Exhibit (part), 1987)."

Section 6. Section 1.16.070 - Citation procedure for violations is hereby amended to read as follows:

A. "Any city officer or employee arresting any person for a violation of any provision of this code, who does not immediately take such arrested person before a magistrate, as prescribed in the California Penal Code, shall adhere to the procedures set forth in California Penal Code Section 853 et seq."

B. Section B is hereby deleted in its entirety. (Ord. 311, Exhibit A (part), 1987).

Section 7. Section 1.16.080 - Failure to appear is hereby repealed as this procedure is preempted by Section 853.6 of the California Penal Code. (Ord. 311, Exhibit A (part), 1987).

Section 8. Section 1.16.090 - Warrant for arrest upon failure to appear is hereby repealed as this procedure is preempted by Section 853.8 of the California Penal Code. (Ord. 311, Exhibit A (part), 1987).

Section 9. Section 2.04.020 - Hours. The city offices shall be closed on all official state holidays, as listed in Section 7600 of the California Government Code and as proclaimed by the mayor of the city. The city offices shall be open to the public for business from eight a.m. to five p.m. on all other business days of the year or as approved by the City Council. (Ord. 6, Section 1 (part), 1964).

Section 10. Section 2.04.030 - Council chambers. The room designated as the assembly room located in the Veterans' Memorial Hall at 209 Surf Street, Morro Bay, California, shall be the council chambers of the city council and all regular meetings of the city council shall be held there. For purposes of conducting special and closed sessions of the legislative body, the city council may meet in the room designated as the conference room located in City Hall at 595 Harbor Street, Morro Bay, California or other locations as set forth in the "Notice of Meetings". (Ord 405, Section 1, 1991).

Section 11. Section 2.08.030 - Order of business. ~~At five-fifteen~~ On the evening of each regular meeting, the members of the council and designated officers and staff may assemble for a scheduled closed session of the legislative body in the room designated for such purposes. Promptly at six p.m. on the night of each regular meeting, the members of the council, the city administrator, the city clerk, the city attorney and other officers shall assemble at their regular stations in the council chamber, whereupon the business of the meeting shall be taken up in the order as the city council may from time to time prescribe by resolution. (Ord. 405, Section 1, 1991).

Section 12. Section 2.08.090 - Copy of minutes. Immediately following each council meeting the city clerk shall ~~send a typewritten~~ include a copy of the minutes thereof to each member of the city council ~~at their respective residences~~ in their agenda packets for the following meeting. Thereafter the ready of such minutes by the city clerk at the following meeting may be dispensed with by a majority vote of the members present. (Ord. 6, Section 1 (part)).

Section 13. Section 2.08.110 - Special meetings. A special meeting may be called at any time by the mayor of the city, or by a majority of the members of the city council, by delivering personally, or by mail, written notice to each member of the city council and ~~to each local newspaper of general circulation, radio or television station requesting notice in writing posting such notice pursuant to Section 1.12.010 of the Morro Bay Municipal Code.~~ (Ord. 6, Section 1 (part), 1964).

Section 14. Chapter 2.12 - City Administrator Manager

Section 15. Section 2.12.010 - Office created. The office of the city ~~administrator~~ manager is established and created pursuant to the provisions of the Sections 34851 et seq. Of the Government Code of the state and all references in this code to city administrator shall mean city manager. The city ~~administrator~~ manager shall be appointed by the city council wholly on the basis of his administrative and executive ability and qualifications and shall hold office for and during the pleasure of the city council (Ord. 14, Section 1 (part), 1965).

Section 16. Section 2.12.030 - Eligibility. No person elected as a ~~councilman~~ council member of the city shall, subsequent to such election, be eligible for appointment as city ~~administrator~~ manager until one year has elapsed after such council member has ceased to be a member of the city council. (Ord. 14, Section 1 (part) 1965).

Section 17. Section 2.12.040 - Temporary administrator manager. The city ~~administrator~~ manager shall appoint, subject to the approval of the city council, one of the other officers or department heads of the city to serve as ~~administrator~~ manager pro tempore during any temporary absence or disability of the city ~~administrator~~ manager. In case of absence or disability of the city ~~administrator~~ manager and his failure to so appoint an ~~administrator~~ manager pro tempore, the city council may designate some qualified city employee to perform the duties of the city ~~administrator~~ manager during the period of absence or disability of the city ~~administrator~~ manager. (Ord. 14, Section 1 (part), 1965).

Section 18. Section 2.12.050 - Compensation. The city ~~administrator~~ manager shall receive such compensation as the city council shall from time to time determine and fix by resolution, and the compensation shall be a proper charge against such funds of the city as the city council shall designate.

The city ~~administrator~~ manager shall be reimbursed for all sums necessarily incurred or paid by him in the performance of his duties or incurred when traveling on business pertaining to the city under direction of the city council; provided, however, that reimbursement shall only be made when a verified itemized claim, setting forth the sums expended for such business for which reimbursement is requested has been presented to the city council for approval and has been so approved. (Ord. 14, Section 1 (part), 1965).

Section 19. Section 2.12.060 - Powers and duties generally. The city ~~administrator~~ manager shall be the administrative head of the government of the city. The city council shall instruct the city ~~administrator~~ manager in matters of policy. Any action, determination or omission of the city ~~administrator~~ manager shall be subject to review by the council, but the council may not overrule, change or modify any such action, determination or omission except by an affirmative vote of at least three members of the council. The city ~~administrator~~ manager shall be responsible for the efficient administration of all the affairs of the city which are under his control. In addition to his general powers as administrative head, and not as a limitation thereon, it shall be his duty and he shall have the powers set forth in Sections 2.12.070 through 2.12.220. (Ord. 14, Section 1 (part), 1965).

Section 20. Section 2.12.070 - Code enforcement duty. It shall be the duty of the city ~~administrator~~ manager to enforce all laws and ordinances of the city and to see that all franchises, contracts, permits, licenses and privileges granted by the city council are faithfully observed. Pursuant to the duty to enforce this code, the city ~~administrator~~ manager shall designate one or more city employees as the code enforcement officer established by Section 1.16.050 of this code. (Ord. 311, Exhibit A (part), 1987).

Section 21. Section 2.12.080 - Authority over employees. It shall be the duty of the ~~administrator~~ manager and he shall have the authority to control, order and give directions to all heads of departments and to subordinate officers and employees of the city under his jurisdiction through their department heads. (Ord. 14, Section 1 (part), 1965).

Section 22. Section 2.12.090 - Power of appointment. It shall be the duty and responsibility of the city ~~administrator~~ manager and he shall appoint, remove, promote and demote any officers and employees of the city, except the city clerk, city attorney, city engineer and city treasurer, subject to the provisions of Chapter 2.32 and resolutions, rules and regulations adopted pursuant thereto. (Ord. 14, Section 1 (part), 1965).

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Section 23. Section 2.12.100 - Reorganization of offices. It shall be the duty and responsibility of the city ~~administrator~~ manager to recommend to the city council such reorganization of offices, positions, departments or units under his direction as may be indicated in the interest of efficient, effective and economical conduct of the city's business. (Ord. 14, Section 1 (part), 1965).

Section 24. Section 2.12.110 - Ordinance recommendation. It shall be the duty of the city ~~administrator~~ manager and he shall recommend to the city council for adoption of such measures and ordinances as he deems necessary or expedient.

Section 25. Section 2.12.120 - Attendance at council meetings. It shall be the duty of the city ~~administrator~~ manager to attend all meetings of the city council unless excused therefrom, except when his removal is under consideration. (Ord. 14, Section 1 (part), 1965).

Section 26. Section 2.12.130 - Financial reports. It shall be the duty of the city ~~administrator~~ manager to keep the city council at all times fully advised as to the financial conditions and needs of the city. (Ord. 14, Section 1 (part), 1965).

Section 27. Section 2.12.140 - Budget preparation and submission. It shall be the duty of the city ~~administrator~~ manager to prepare and submit the proposed annual budget, and to supervise the administration of the budget after its adoption. (Ord. 14, Section 1 (part), 1965).

Section 28. Section 2.12.150 - Investigations. It shall be the duty of the city ~~administrator~~ manager to make investigations into the affairs of the city and any department or division thereof. (Ord. 14, Section 1 (part), 1965).

Section 29. Section 2.12.160 - Public utility and franchise investigation. It shall be the duty of the city ~~administrator~~ manager to investigate all complaints in relation to matters concerning the administration of the city government and in regard to the service maintained by public utilities in the city, and to see that all franchises, permits or privileges granted by the city are faithfully performed and observed. (Ord. 14, Section 1 (part), 1965).

Section 30. Section 2.12.170 - Public property supervision. It shall be the duty of the city ~~administrator~~ manager to and he shall exercise general supervision over all public buildings, public parks and over all public properties which are under the control and jurisdiction of the city council. (Ord. 14, Section 1 (part), 1965).

Section 31. Section 2.12.180 - Hours of employment. It shall be the duty of the city ~~administrator~~ manager to devote his entire time to the duties of his office in the interests of the city. (Ord. 14, Section 1 (part), 1965).

Section 32. Section 2.12.190 - Duties delegated by council. It shall be the duty of the city administrator manager to perform such other duties and exercise such other powers as may be delegated to him from time to time by ordinance, resolution or other action of the city council. (Ord. 14, Section 1 (part), 1965).

Section 33. Section 2.12.200 - Council-administrator manager relations. The city council and its members shall deal with the administrative services of the city only through the city administrator manager, except for the purpose of inquiry, and neither the city council nor any members thereof shall give orders to any subordinates of the city administrator manager. The city administrator manager shall take his orders and instructions from the city council only when sitting in a duly held meeting of the city council and no individual councilman member shall give any orders or instructions to the city administrator manager. Nothing herein contained shall be construed to prevent any councilman member from discussing matters of the city with the city administrator manager. (Ord. 14, Section 1 (part), 1965).

Section 34. Section 2.12.210 - Departmental cooperation. It shall be the duty of all subordinate officers and the city clerk, city treasurer, city engineer and city attorney to assist the city administrator manager in administering the affairs of the city efficiently, economically and harmoniously so far as may be consistent with their duties as prescribed by law and ordinances of the city. (Ord. 14, Section 1 (part), 1965).

Section 35. Section 2.12.220 - Meetings of commissions, boards or committees. The city administrator manager shall attend any and all meetings of commissions, boards or committees hereafter created by the city council, upon his own volition or upon direction of the city council. (Ord. 14, Section 1 (part), 1965).

Section 36. Section 2.12.230 - Removal of administrator manager. The removal of the city administrator manager shall be only upon a three member vote of the whole council in the city in regular council meeting, subject, however, to the provisions of Sections 2.12.240 through 2.12.270. In case of his intended removal by the city council, the city administrator manager shall be furnished with a written notice stating the council's intention to remove him and the reason therefor, at least thirty days before the effective date of his removal. (Ord. 14, Section 1 (part), 1965).

Section 37. Section 2.12.240 - Hearing. Within seven days after the delivery to the city administrator manager of such notice he may by written notification to the city clerk, request a hearing before the city council. Thereafter, the city council shall fix a time for the hearing which shall be held at its usual meeting place, but before the expiration of the thirty day period, at which the city administrator manager shall appear and be heard. (Ord. 14, Section 1 (part), 1965).

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Section 38. Section 2.12.250 - Suspension pending hearing. After furnishing the city administrator manager with written notice of intended removal, the city council may suspend him from duty, but his compensation shall continue until his removal by the council passed subsequent to the hearing referred to in Section 2.12.240. (Ord. 14, Section 1 (part), 1965).

Section 39. Section 2.12.260 - Discretion of council. In removing the city administrator manager, the city council shall use its uncontrolled discretion and its action shall be final and shall not depend upon any particular showing or degree of proof at the hearing; the purpose of which is to allow the city administrator manager to present to the city council his grounds of opposition to his removal prior to its action. (Ord. 14, Section 1 (part), 1965).

Section 40. Section 2.12.270 - Limitation on removal. Notwithstanding the provisions of this chapter, the city administrator manager shall not be removed from office during or within a period of ninety days next succeeding any general municipal election held in the city at which election a member of the city council is elected. The purpose of this provision is to allow any newly elected member of the city council or a reorganized city council to observe the actions and ability of the city administrator manager in the performance of the powers and duties of his office. After the expiration of the ninety day period, the provisions of Sections 2.12.230 through 2.12.260 as to the removal of the city administrator manager shall apply and be effective. (Ord. 14, Section 1 (part), 1965).

Section 41. Section 5.08.120 - Garage sales is hereby amended to read as follows:

"Each person conducting more than two garage sales per year from their private residence wherein goods or merchandise which were not originally purchased for resale and which are being offered for sale to the general public, shall pay an annual business license fee in accordance with the Business License Rate Schedule. No business license will be issued if the garage sales as conducted is contrary to the provisions of Title 17, Zoning. (Each person conducting two or less garage sales per year shall be required to apply for a permit under the Master Fee Schedule)."

Section 42. Section 7.16.040(C) - Pygmy animals is hereby repealed:

"Persons keeping pygmy livestock must obtain a permit from the City."

Section 7.16.040(D) shall be renamed 7.16.040(C).

Section 43. Section 13.04.010 - Statement of policy is hereby amended to repeal the following provision as follows:

".....Service will be started and discontinued without charge for applicants owning property within city limits....."

Section 44. Section 13.04.070 - Application for regular service is hereby amended to read as follows:

".....An application fee shall accompany each application or letter of application. The amount of the application fee shall be set forth in the Master Fee Schedule. An application fee will not be required for short-term service for purposes of cleaning a property to make it ready for rental. Nor shall an application fee be required when an existing customer changes service address by moving from one residence to another."

Section 45. Section 13.04.190(C) - Rendering of bills is hereby amended to read as follows:

"Closing Bills for Metered Service. Closing bills shall be calculated based upon actual consumptions between the last regular meter reading and the meter reading initiated by notice of service discontinuation."

Delete Section 13.04.190(C)[1] through [4].

Rename Section 13.04.190(C)[5] to 13.04.190(C)[1].

Section 46. Section 13.04.200(C) - Payment of bills is hereby amended to read as follows:

"Water bill shall be payable on the date presented and shall become delinquent on and after the last day of that month thirty (30) days after the date of preparation, except that closing bills are delinquent after five (5) days."

Section 47. Section 13.04.220(A) - Rates for service and deposits is hereby amended to read as follows:

"The City Council shall, by resolution, in the Master Fee Schedule, establish the rates which will be charged for water service including, but not limited to, meter or availability impact charge, application fee, and gallonage or cubic footage charge."

Delete Sections 13.04.220(B) and 13.04.220(C).

Section 48. Section 13.04.230(A) through (B)[b](2)[b] - Collection of past-due accounts is hereby deleted. Section 13.04.230(B)[3] is hereby renamed 13.04.230.

Section 49. Section 13.04.250(A) - Nonpayment of bills is hereby amended to read as follows:

"A customer's water service may be discontinued if a bill is not paid on or before the tenth day of the following month after presentation. Date of presentation shall be the date upon which a bill or notice is mailed or delivered personally to the customer on or before the tenth day after becoming delinquent, as defined in Section 13.04.200(C)."


Section 50. Section 17.44.020(A)[7] - Parking facilities is hereby amended to read as follows: ←

→ "The per space fee for new construction, additions or changes in occupancy shall be paid either in a lump sum or in accordance with a payment plan approved by both the Finance Director and the City Administrator, prior to the issuance of construction permits for the structure or occupancy for which the parking is required or prior to the issuance of a City business license for the activity for which the parking is required, if no construction permit is required."

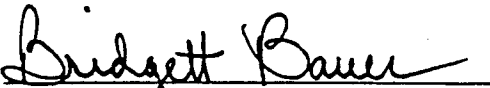
INTRODUCED at a regular meeting of the City Council of the City of Morro Bay at a regular meeting held on the 12th day of May, 1997, on motion by Councilmember Elliott, seconded by Councilmember Peirce.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Morro Bay at a regular meeting held on the 23rd day of June, 1997, by the following vote:

AYES: Anderson, Peirce, Peters, Novak
NOES: None
ABSENT: Elliott


Cathy Novak, Mayor

ATTEST:


Bridgett Bauer, City Clerk

APPROVED AS TO FORM:


City Attorney

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