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Prepared March 21, 2014 (for April 9, 2014 hearing)

To: Coastal Commissioners and Interested Persons

From: Nancy Cave, District Manager
Stephanie Rexing, Coastal Planner

**Subject: De Minimis Amendment Determination for City of Half Moon Bay LCP
Amendment Number LCP-2-HMB-13-0221-2 Part 2 (On-site Alcohol Sales)**

City of Half Moon Bay's Proposed Amendment

The City of Half Moon Bay proposes to amend LCP Implementation Plan (IP) Chapter 18.22 "Use Permits" by adding Section 18.22.055 which will require establishments selling alcohol (not just beer and wine) to obtain a use permit. The IP currently has no special permitting requirements for establishments selling alcohol. The City believes requiring use permits for such on-site alcohol sales will provide an effective mitigating mechanism to prevent issues that previously were dealt with through conditions on the establishments' California Department of Alcoholic Beverage Control licenses. Therefore, the proposed amendment would assure that the City is able to condition on-site alcohol sale use permits in order to minimize negative impacts to surrounding uses. See **Exhibit A** for the City Council Ordinance and **Exhibit B** for the proposed amendment.

De Minimis LCP Amendment Determination

Pursuant to Coastal Act Section 30514(d), the Executive Director may determine that a proposed LCP amendment is "de minimis". In order to qualify as a de minimis amendment, the amendment must meet the following three criteria:

1. The Executive Director determines 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 provides 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.

If the Executive Director determines that an amendment is de minimis, that determination must be reported to the Commission. If three or more Commissioners object to the de minimis LCP amendment determination, then the amendment shall be set for a future public hearing; if three or more Commissioners do not object to the de minimis determination, then the amendment is deemed approved, and it becomes a certified part of the LCP 10 days after the date of the Commission meeting (in this case, on April 19, 2013).

The purpose of this notice is to advise interested parties of the Executive Director's determination that the proposed LCP amendment is de minimis. Each of the de minimis criteria is discussed briefly below:

- 1. No impact to coastal resources and consistency with Chapter 3 of the Coastal Act:** The amendment proposed is intended to add a use permit requirement for any on-site alcohol sales, where no such requirement currently exists. Overall, the proposed amendment would only affect establishments wishing to sell alcohol on-site, would allow the City to condition such permits to limit the negative impacts of such establishments, and does not raise coastal resource protection concerns. The amendment would require each establishment to obtain a use permit, assuring that the sale of alcohol conforms to the zoning requirements for the specific district, and to make the following findings: the use will not generate negative impacts, will not adversely affect nearby uses, will not interfere with traffic and pedestrian circulation patterns and will not threaten public health, safety and quiet enjoyment. Along with these required findings, the amendment would allow the City to impose conditions of approval on the alcohol sale use permits such as hours of operation, crowd control and security measures, restrictions on sound and lighting and/or trash and litter removal requirements. Therefore, the proposed amendment will not adversely affect coastal resources and is consistent with the policies of Chapter 3 of the Coastal Act.
- 2. Provision of public notice:** The City provided public notice in advance of the September 25, 2012 Planning Commission hearing and the August 20, 2013 City Council hearing where the proposed LCP amendment was considered. For the Planning Commission hearing, newspaper advertisement notices were printed on September 19, 2012. For the City Council hearing, a newspaper advertisement notice was printed on August 9, 2013. In addition, the proposed text was made available at City Hall and the Half Moon Bay Library for public inspection, all in advance of the City's hearings. The amendment submittal was subsequently received by the Commission on October 25, 2013, thus satisfying the 21-day requirement.
- 3. No change in use of land or allowable use of property:** The amendment does not propose a change in the use of land or allowable use of the property.

California Environmental Quality Act (CEQA)

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. The City exempted the proposed amendment from environmental review under CEQA. This report has discussed the relevant coastal resource issues with the proposal, and has concluded that the proposed LCP amendment is not expected to

result in any significant adverse impact on the environment. Thus, it is unnecessary for the Commission to suggest modifications to the proposed amendment to address adverse environmental impacts because the proposed amendment, as submitted, will not result in any significant environmental effects for which feasible mitigation measures would be required.

Coastal Commission Concurrence

The Executive Director will report this de minimis LCP amendment determination, and any comments received on it, to the Coastal Commission at its April 9, 2014 meeting at the Hyatt Santa Barbara, 1111 East Cabrillo Blvd in Santa Barbara. If you have any questions or need additional information regarding the proposed amendment or the method under which it is being processed, please contact Stephanie Rexing at the North Central Coast District Office in San Francisco. If you wish to comment on and/or object to the proposed de minimis LCP amendment determination, please do so by April 2, 2014.

Procedural Note - LCP Amendment Action Deadline

This proposed LCP amendment was filed as complete on February 25, 2014. It amends the IP only and the 60-day action deadline is April 26, 2014. Thus, unless the Commission extends the action deadline (it may be extended by up to one year), the Commission has until April 26, 2014 to take a final action on this LCP amendment.

Exhibits

- Exhibit A: City Council Ordinance
- Exhibit B: Proposed IP Amendment

cc - 9/13/13

ORDINANCE NO. C-2013-08

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY
ADOPTING AMENDMENTS TO TITLE 18 "ZONING" OF THE HALF MOON BAY MUNICIPAL CODE:**

(1) AMENDING CHAPTER 18.02 "DEFINITIONS" AT SECTION 18.02.040 TO DELETE THE "PROPORTIONALITY RULE"; (2) AMENDING CHAPTER 18.06 "RESIDENTIAL LAND USE (R-1, R-2, R-3)" TO ADD SECTION 18.06.035 "R-1-B-3 DEVELOPMENT STANDARDS"; AND (3) AMENDING CHAPTER 18.22 "USE PERMITS" TO ADD SECTION 18.22.055 "ON-SALE ALCOHOL OUTLETS" AND SECTIONS 18.22.240 through 18.22.370 "WIRELESS TELECOMMUNICATION FACILITIES"

WHEREAS, the City of Half Moon Bay is committed to the maximum public participation and involvement in matters pertaining to the General Plan and its Elements, the Local Coastal Program, and the Zoning Code; and

WHEREAS, this amendment to Title 18 of the Municipal Code involves changes to the text of various sections of the Municipal Code for the purpose of modifying existing definitions, design and development review procedures, and development standards and regulations, and to modify or remove other provisions that are outdated or ineffective; and

WHEREAS, the Planning Commission, as the Advisory Body to the City Council, conducted duly noticed public hearings on September 25, 2012 and October 9, 2012 where all those in attendance desiring to be heard were given an opportunity to speak on amendments proposed by this ordinance; and

WHEREAS, the Planning Commission at its public hearing considered City-initiated text amendments to Chapters 18.02, 18.06 and 18.22 of the Zoning Code; and

WHEREAS, following the close of the public hearing the Planning Commission voted unanimously to recommend that the City Council amend Title 18 of the Municipal Code as set forth in this ordinance; and

WHEREAS, the Local Coastal Program is intended to be carried out in a manner fully in conformity with the California Coastal Act.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HALF MOON BAY DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter 18.02 DEFINITIONS Amended. The definition of "Exceptional Lot" as contained in Section 18.02.040 of Chapter 18.02 "Definitions" is hereby repealed.

Section 2. Chapter 18.06 RESIDENTIAL LAND USE (R-1, R-2, R-3) Amended. Chapter 18.06.035 is hereby added to Chapter 18.06 to read as follows:

"18.06.035 Residential development standards. The following development standards shall apply in the R-1-B-3 district:

- A. Uses permitted shall be those specified in Section 18.06.020.
- B. Additional regulations shall be those specified in Section 18.06.025.
- C. Except as set for in Subsection D, development standards shall be as specified for the R-1 district in Section 18.06.030 and as generally applicable in Sections 18.06.040 through 18.06.080.
- D. Notwithstanding Subsection C, the standards set forth in Table B-2 shall apply:

Table B-2 R-1-B-3 ZONING DISTRICT DEVELOPMENT STANDARDS

Minimum Lot Size	Average Minimum Width	Front Yard Setback	Side Yard Setback	Rear Yard Setback
10,000 sq. ft.	90 ft.	25 ft.	20% of width of lot; 5 ft. min. on each side	20 ft.

Section 3. Chapter 18.22 USE PERMITS amended. Chapter 18.22 "USE PERMITS" is hereby amended by adding Section 18.22.055 "On-Sale Alcohol Outlets" as follows:

"Section 18.22.055 On-Sale Alcohol Outlets.

A. Notwithstanding any other provision of this Title, on-sale alcoholic beverage retail establishments, including restaurants, bars, and certain other establishments selling alcoholic beverages for consumption on premises pursuant to a license issued by the Department of Alcoholic Beverage Control for the classifications listed in paragraph B shall only be permitted in any zoning district if a use permit therefore is approved by the Planning Commission in accordance with this Chapter.

B. License classifications subject to the requirements of this section shall include all of the following:

47	On-Sale General for Bona Fide Public Eating Place
48	On-Sale General for Public Premises
49	On-Sale General for Seasonal Business
50	On-Sale General for Club

C. Findings. The planning commission may approve an on-sale alcoholic beverage retail establishment providing the use conforms to all applicable criteria set forth in this chapter, the particular district zoning regulations and to all of the following criteria:

1. That the proposed use will not generate negative impacts in the neighborhood created by the sale of alcohol; and
2. That the proposed use will not adversely affect adjacent or nearby uses, including churches, schools, hospitals, parks, recreation centers, and residences; and
3. That the proposed use will not interfere with vehicular or pedestrian circulation along a public street or sidewalk; and
4. That the proposed use is designed in a manner that ensures that it will not be conducted in a manner that threatens public health, safety, quiet enjoyment of residential property or general welfare."

D. Conditions. The planning commission or city council on appeal may deny any use permit application which is inconsistent with the above-noted criteria, or may impose any conditions on the applicant or proposed use reasonably related thereto including, but not limited to, hours of operation, restrictions on live entertainment and/or amplified sound, exterior lighting requirements, security, crowd control, and/or pedestrian circulation measures and trash and litter removal."

Section 4. Chapter 18.22 "USE PERMITS" further amended. Chapter 18.22 is further amended to add Sections 18.22.240 through 18.22.3.70, pertaining to Wireless Telecommunications Facilities, as follows:

"Section 18.22.240 Wireless Telecommunications Facilities – Purpose.

The purpose of this chapter is to establish regulations for the establishment of wireless telecommunication facilities within the City of Half Moon Bay, consistent with the Half Moon Bay Municipal Code, and with the intent to:

- A. Allow for the provision of wireless communications services adequate to serve the public's interest within the City.
- B. Require, to the maximum extent feasible, the co-location of wireless telecommunication facilities.
- C. Encourage and require, to the maximum extent feasible, the location of new wireless telecommunication facilities in areas where negative external impacts will be minimized.

D. Protect and enhance public health, safety, and welfare.

E. The regulations in this chapter are intended to be consistent with State and Federal law, particularly the Federal Telecommunications Act of 1996, in that they are not intended to (1) be used to unreasonably discriminate among providers of functionally equivalent services; (2) have the effect of prohibiting personal wireless services within the City of Half Moon Bay; or (3) have the effect of prohibiting the siting of wireless communication facilities on the basis of the environmental/health effects of radio frequency emissions, to the extent that the regulated services and facilities comply with the regulations of the Federal Communications Commission concerning such emissions.

18.22.250. Wireless Telecommunication Facilities - Definitions.

For purposes of this chapter, the following terms shall have the meanings set forth below:

A. "Abandoned." A facility shall be considered abandoned if it is not in use for six consecutive months.

B. "Administrative review" means consideration of a proposed co-location facility by staff for consistency with the requirements of this chapter, the consideration of which shall be ministerial in nature, shall not include conditions of approval, and shall not include a public hearing.

C. "Co-location" means the placement or installation of wireless telecommunication facilities, including antennas and related equipment on, or immediately adjacent to, an existing wireless telecommunication facility.

D. "Co-location facility" means a wireless telecommunication facility that has been co-located consistent with the meaning of "co-location" as defined in Section 18.22.250(C). It does not include the initial installation of a new wireless telecommunication facility that will support multiple service providers.

E. "Wireless telecommunication facility" or "WTF" means equipment installed for the purpose of providing wireless transmission of voice, data, images, or other information including, but not limited to, cellular telephone service, personal communications services, and paging services, consisting of equipment and network components such as towers, utility poles, transmitters, base stations, and emergency power systems. Wireless telecommunication facility does not include radio or television broadcast facilities.

18.22.260. Wireless Telecommunication Facilities - Permit Requirements and Standards for New Wireless Telecommunication Facilities That Are Not Co-location Facilities.

All new wireless telecommunication facilities that are not co-location facilities must meet the standards and requirements set forth in Sections 18.22.270 through 18.22.370:

18.22.270. Wireless Telecommunication Facilities - Permit Requirements for New Wireless Telecommunication Facilities That Are Not Co-location Facilities.

A use permit will be required for the initial construction and installation of all new wireless telecommunication facilities, in accordance with requirements, procedures, appeal process, and revocation process outlined in this Chapter.

18.22.280. Wireless Telecommunication Facilities - Development and Design Standards for New Wireless Telecommunication Facilities That Are Not Co-location Facilities.

All new wireless telecommunication facilities must meet the following minimum standards. Where appropriate, more restrictive requirements may be imposed as a condition of use permit approval.

A. New wireless telecommunication facilities shall be prohibited in Coastal Resource Areas, as defined by Section 18.38.020, except when all of the following written findings are made by the reviewing authority: (1) There is no other feasible location(s) in the area; and (2) There is no alternative facility configuration that would avoid impacts to environmentally sensitive habitat areas; and (3) Prohibiting such facility would be inconsistent with federal law; and (4) Adverse impacts to the sensitive habitat are minimized to the maximum extent feasible; and (5) Unavoidable impacts are mitigated so that there is no loss in habitat quantity or biological productivity.

B. New wireless telecommunication facilities shall not be located in areas zoned Residential (R), unless the applicant demonstrates, by a preponderance of the evidence, that a review has been conducted of other options, and no other sites or combination of sites allows feasible service or adequate capacity and coverage. This review shall include, but is not limited to, identification of alternative site(s) within 2.5 miles of the proposed facility. See Section 18.22.310(A)(11) for additional application requirements.

C. New wireless telecommunication facilities shall not be located in areas where co-location on existing facilities would provide equivalent coverage with less environmental impact.

D. Except where aesthetically inappropriate, new wireless telecommunication facilities must be constructed so as to accommodate co-location, and must be made available for co-location unless technologically infeasible.

E. The adverse visual impact of utility structures shall be avoided by: (1) siting new wireless telecommunication facilities outside of public viewshed whenever feasible; (2) maximizing the use of existing vegetation and natural features to cloak wireless telecommunication facilities; and (3) constructing towers no taller than necessary to provide adequate coverage. When visual impacts cannot be avoided, they shall be minimized and mitigated by: (a) screening wireless telecommunication facilities with landscaping consisting of non-invasive and/or native plant material; (b) painting all equipment to blend with existing landscape colors; and (c) designing wireless telecommunication facilities to blend in with the surrounding environment. Attempts to replicate trees or other natural objects shall be used as a last resort. Landscaping shall be maintained by the property or facility owner and/or operator. The landscape screening requirement may be modified or waived by the Planning Commission in instances where it would not be appropriate or necessary, such as in a commercial or industrial area.

F. Paint colors for the wireless telecommunication facility shall minimize its visual impact by blending with the surrounding environment and/or buildings. Prior to the issuance of a building permit, the applicant shall submit color samples for the wireless telecommunication facility. Paint colors shall be subject to the review and approval of the Planning and Building Department. Color verification shall occur in the field after the applicant has painted the equipment the approved color, but before the applicant schedules a final inspection.

G. The exteriors of wireless telecommunication facilities shall be constructed of non-reflective materials.

H. The wireless telecommunication facility shall comply with all the requirements of the underlying zoning district(s).

I. Except as otherwise provided below, ground-mounted towers, spires and similar structures may be built and used to a greater height than the limit established for the zoning district in which the structure is located; provided that no such exception shall cover, at any level, more than 15% in area of the lot nor have an area at the base greater than 1,600 sq. ft.; provided, further that no tower, spire or similar structure in any district shall ever exceed a maximum height of 150 feet.

1. In forested areas, no structure or appurtenance shall exceed the height of the forest canopy by more than 10% of the height of the forest canopy, or five feet, whichever is less.
 2. In any Residential district, no monopole or antenna shall exceed the maximum height for structures allowed in that district, except that new or co-located equipment on an existing structure in the public right-of-way shall be allowed to exceed the maximum height for structures allowed in that district by 10% of the height of the existing structure, or by five feet, whichever is less.
 3. A building-mounted wireless telecommunication facility shall not exceed the maximum height allowed in the applicable zoning district, or 16 feet above the building roofline, whichever is higher, except that in any Residential district, no monopole or antenna shall exceed the maximum height for structures allowed in that district.
- J. In any Residential district, accessory buildings in support of the operation of the wireless telecommunication facility may be constructed, provided that they comply with the provisions of this Title regarding accessory buildings, except that the building coverage and floor area maximums shall apply to buildings in aggregate, rather than individually. If an accessory building not used in support of a wireless telecommunication facility already exists on a parcel, no accessory building in support of the operation of the wireless telecommunication facility may be constructed absent removal of the existing accessory building. If an accessory building(s) in support of the operation of the wireless telecommunication facility is constructed on a parcel, no other accessory buildings not used in support of a wireless telecommunication facility shall be constructed until the accessory building(s) in support of the operation of that wireless telecommunication facility is(are) removed.
- K. In any Residential district, ground-mounted towers, spires and similar structures may be built and used provided that they shall not cover, in combination with any accessory building(s), shelter(s), or cabinet(s) or other above-ground equipment used in support of the operation of the wireless telecommunication facility, more than 15% in area of the lot nor an area greater than 1,600 sq. ft. Buildings, shelters, and cabinets shall be grouped. Towers, spires, and poles shall also be grouped, to the extent feasible for the technology.
- L. Diesel generators shall not be installed as an emergency power source unless the use of electricity, natural gas, solar, wind or other renewable energy sources are not feasible. If a diesel generator is proposed, the applicant shall provide written documentation as to why the installation of options such as

electricity, natural gas, solar, wind or other renewable energy sources is not feasible.

18.22.290. Wireless Telecommunication Facilities - Performance Standards for New Wireless Telecommunication Facilities That Are Not Co-location Facilities.

No use may be conducted in a manner that, in the determination of the Planning Director, does not meet the performance standards below. Measurement, observation, or other means of determination must be made at the limits of the property, unless otherwise specified.

- A. Wireless telecommunication facilities shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).
- B. The applicant shall file, receive, and maintain all necessary licenses and registrations from the Federal Communications Commission (FCC), the California Public Utilities Commission (CPUC) and any other applicable regulatory bodies prior to initiating the operation of the wireless telecommunication facility. The applicant shall supply the Planning and Building Department with evidence of these licenses and registrations. If any required license is ever revoked, the applicant shall inform the Planning and Building Department of the revocation within ten (10) days of receiving notice of such revocation.
- C. Once a use permit is obtained, the applicant shall obtain a building permit and build in accordance with the approved plans.
- D. The project's final inspection approval shall be dependent upon the applicant obtaining a permanent and operable power connection from the applicable energy provider.
- E. The wireless telecommunication facility and all equipment associated with it shall be removed in its entirety by the applicant within 90 days if the FCC and/or CPUC license and registration are revoked or the facility is abandoned or no longer needed, and the site shall be restored and revegetated to blend with the surrounding area. The owner and/or operator of the wireless telecommunication facility shall notify the City Planning Department upon abandonment of the facility. Restoration and revegetation shall be completed within two months of the removal of the facility.
- F. Wireless telecommunication facilities shall be maintained by the permittee(s) and subsequent owners in a manner that implements visual

resource protection requirements of Section 18.22.280(E), and (F) above (e.g., landscape maintenance and painting), as well as all other applicable zoning standards and permit conditions.

G. Road access shall be designed, constructed, and maintained over the life of the project to avoid erosion, as well as to minimize sedimentation in nearby streams.

H. A grading permit may be required, per the City's adopted Building Code. All grading, construction and generator maintenance activities associated with the proposed project shall be limited from 7:00 a.m. to 6:00 p.m., Monday through Friday, and 9:00 a.m. to 5:00 p.m. on Saturday or as further restricted by the terms of the use permit. Construction activities will be prohibited on Sunday and any nationally observed holiday. Noise levels produced by construction activities shall not exceed 80-dBA at any time.

I. The use of diesel generators or any other emergency backup energy source shall comply with the City of Half Moon Bay Noise Ordinance.

J. If technically practical and without creating any interruption in commercial service caused by electronic magnetic interference (EMI), floor space, tower space and/or rack space for equipment in a wireless telecommunication facility shall be made available to the City for public safety communication use.

18.22.300. Wireless Telecommunication Facilities - Additional Requirements.

A. New wireless telecommunication facilities shall not be located between the first public road and the sea, or on the seaward side of Highway 1 in areas that are not currently developed, unless no feasible alternative exists, the facility is not visible from a public location, or will be attached to an existing structure in a manner that does not significantly alter the appearance of the existing structure.

B. New wireless telecommunication facilities shall comply with all applicable policies, standards, and regulations of the Local Coastal Program Land Use Plan (LCP/LUP), and all other requirements of this Title, including the requirement to obtain a Coastal Development Permit in accordance with Chapter 18.20.

C. At the time of renewal of the Use Permit in accordance with Section 18.22.320 or the Coastal Development Permit (CDP) in accordance with Section Chapter 18.20, or at the time of an amendment to the Use Permit or Coastal

Development Permit, if earlier, the applicant shall incorporate all feasible new or advanced technologies that will reduce previously unavoidable environmental impacts, including reducing visual impacts in accordance with Section 18.22.280(E), to the maximum extent feasible.

D. New wireless telecommunication facilities shall obtain a CDP, pursuant to Chapter 18.20, and the period of development authorization for any such CDP shall be limited to ten years.

18.22.310. Wireless Telecommunication Facilities - Application Requirements for New Wireless Telecommunication Facilities That Are Not Co-location Facilities.

A. In addition to the requirements set forth in Sections 18.22.280-300, applicants for new wireless telecommunication facilities shall submit the following materials regarding the proposed wireless telecommunication facility:

1. A completed Planning Permit application form.
2. A completed Use Permit for a Cellular or Other Personal Wireless Telecommunication Facility Form.
3. A completed Environmental Information Disclosure Form.
4. Proof of ownership or statement of consent from the owner of the property.
5. A site plan, including a landscape plan (if appropriate under the provision of Section 18.22.280(E)), and provisions for access.
6. Elevation drawing(s).
7. Photo simulation(s) of the wireless telecommunication facility from reasonable line-of-sight locations from public roads or viewing locations.
8. A preliminary erosion control plan shall be submitted with the use permit application. A complete construction and erosion control plan shall be submitted with the building permit application.
9. A maintenance plan detailing the type and frequency of required maintenance activities, including maintenance of the access road.
10. For projects that are technically capable of accommodating additional facilities, a description of the planned maximum ten-year buildout of the site for

the applicant's wireless telecommunication facilities, including, to the extent possible, the full extent of wireless telecommunication facility expansion associated with future co-location facilities by other wireless telecommunication facility operators. The applicant shall use best efforts to contact all other wireless telecommunication service providers in the City known to be operating in the City upon the date of application, to determine the demand for future co-locations at the proposed site, and, to the extent feasible, shall provide written evidence that these consultations have taken place, and a summary of the results, at the time of application. The City shall, within 30 days of its receipt of an application, identify any known wireless telecommunication providers that the applicant has failed to contact and with whom the applicant must undertake their best efforts to fulfill the above consultation and documentation requirements. The location, footprint, maximum tower height, and general arrangement of future co-locations shall be identified by the 10-year buildout plan. If future co-locations are not technically feasible, an explanation shall be provided of why this is so.

11. Identification of existing wireless telecommunication facilities within a 2.5-mile radius of the proposed location of the new wireless telecommunication facility, and an explanation of why co-location on these existing facilities, if any, is not feasible. This explanation shall include such technical information and other justifications as are necessary to document the reasons why co-location is not a viable option. The applicant shall provide a list of all existing structures considered as alternatives to the proposed location. The applicant shall also provide a written explanation why the alternatives considered were either unacceptable or infeasible. If an existing tower was listed among the alternatives, the applicant must specifically address why the modification of such tower is not a viable option. The written explanation shall also state the radio frequency coverage and/or capacity needs and objective(s) of the applicant.

12. A statement that the wireless telecommunication facility is available for future co-location projects, or an explanation of why future co-location is not technologically feasible.

13. A Radio Frequency (RF) report describing the emissions of the proposed wireless telecommunication facility and, to the extent reasonably ascertainable, the anticipated increase in emissions associated with future co-location facilities.

14. The mandated use permit application fee, and other fees as applicable.

15. Depending on the nature and scope of the project, other application materials, including, but not limited to, a boundary and/or topographical survey, may be required.

16. Applications for the establishment of new wireless telecommunication facilities inside Residential (R) zoning districts and General Plan land use designations shall be accompanied by a detailed alternatives analysis that demonstrates that there are no feasible alternative non-residential sites or combination of non-residential sites available to eliminate or substantially reduce significant gaps in the applicant carrier's coverage or network capacity.

17. A report outlining the applicant's efforts to ensure service reliability and availability, particularly for emergency services (e.g., 911 calls) and service restoration in disaster events. The report should include, at a minimum, a description of the network design elements, features, and related equipment employed by applicant to mitigate service outages in the City and/or surrounding coast side communities.

18.22.320. Wireless Telecommunication Facilities - Use Permit Term, Renewal and Expiration.

Use permits for wireless telecommunication facilities, including approval of the ten-year buildout plan as specified by Section 18.22.310(A)(10), shall be valid for ten years following the date of final approval. The applicant shall file for a renewal of the use permit and pay the applicable renewal application fees six months prior to expiration with the City Planning and Building Department, if continuation of the use is desired. In addition to providing the standard information and application fees required for a use permit renewal, wireless telecommunication facility use permit renewal applications shall provide an updated buildout description prepared in accordance with the procedures established by Section 18.22.310(A)(10).

Renewals of use permits approved after the effective date of this chapter shall only be approved if all conditions of the original use permit have been satisfied, and the ten-year buildout plan has been provided. If the use permit for an existing wireless telecommunication facility has expired, applications for co-location at that site, as well as after-the-fact renewals of use permits for the existing wireless telecommunication facilities, will be subject to the standards and procedures for new wireless telecommunication facilities outlined in Sections 18.22.260 through 18.22.310.

18.22.330. Wireless Telecommunication Facilities - Permit Requirements and Standards for Co-location Facilities.

A. Co-location Facilities Requiring a Use Permit. In accordance with Section 65850.6 of the California Government Code, applications for co-location will be

subject to the standards and procedures outlined for new wireless telecommunication facilities, above (in Sections 18.22.260 through 18.22.320), if any of the following apply:

1. No use permit was issued for the original wireless telecommunication facility,
2. The use permit for the original wireless telecommunication facility did not allow for future co-location facilities or the extent of site improvements involved with the co-location project, or
3. No Environmental Impact Report (EIR) was certified, or no Negative Declaration or Mitigated Negative Declaration was adopted for the location of the original wireless telecommunication facility that addressed the environmental impacts of future co-location of facilities.

B. Permit Requirements for Other Co-location Facilities. Applications for all other co-locations shall be subject to a building permit approval. Prior to the issuance of a building permit for co-location, the applicant shall demonstrate compliance with the conditions of approval, if any, of the original use permit, by submitting an application to the Planning and Building Department for an administrative review of the original use permit, including all information requests and all associated application fees, including specifically those for administrative review of a use permit, which fee shall be equivalent to the fee established for a use permit inspection.

18.22.340. Wireless Telecommunication Facilities - Development and Design Standards for Co-location Facilities.

- A. The co-location facility must comply with all approvals and conditions of the underlying use permit for the wireless telecommunication facility.
- B. The adverse visual impact of utility structures shall be avoided by: (1) maximizing the use of existing vegetation and natural features to cloak wireless telecommunication facilities; and (2) constructing towers no taller than necessary to provide adequate coverage. When visual impacts cannot be avoided, they shall be minimized and mitigated by: (a) screening co-location facilities with landscaping consisting of non-invasive and/or native plant material; (b) painting all equipment to blend with existing landscape colors; and (c) designing co-location facilities to blend in with the surrounding environment. Attempts to replicate trees or other natural objects shall be used as a last resort. To the extent feasible, the design of co-location facilities shall also be in visual harmony with the other wireless telecommunication facility(ies) on the site.

Landscaping shall be maintained by the owner and/or operator. The landscape screening requirement may be modified or waived by the Planning Director or his/her designee in instances where it would not be appropriate or necessary, such as in a commercial or industrial area.

C. Paint colors for the co-location facility shall minimize its visual impact by blending with the surrounding environment and/or buildings. Prior to the issuance of a building permit, the applicant shall submit color samples for the co-location facility. Paint colors shall be subject to the review and approval of the Planning and Building Department. Color verification shall occur in the field after the applicant has painted the equipment the approved color, but before the applicant schedules a final inspection.

D. The exteriors of co-location facilities shall be constructed of non-reflective materials.

E. The wireless telecommunication facility shall comply with all the requirements of the underlying zoning district.

F. Except as otherwise provided below, ground-mounted towers, spires and similar structures may be built and used to a greater height than the limit established for the zoning district in which the structure is located; provided that no such exception shall cover, at any level, more than 15% in area of the lot nor have an area at the base greater than 1,600 sq. ft.; provided, further that no tower, spire or similar structure in any district shall ever exceed a maximum height of 150 feet.

1. In forested areas, no structure or appurtenance shall exceed the height of the forest canopy by more than 10% of the height of the forest canopy, or five feet, whichever is less.

2. In any Residential district, no monopole or antenna shall exceed the maximum height for structures allowed in that district, except that new or co-located equipment on an existing structure in the public right-of-way shall be allowed to exceed the maximum height for structures allowed in that district, or, if the public right-of-way is not in a district, in the closest adjacent district, by 10% of the height of the existing structure, or by five feet, whichever is less.

3. A building-mounted wireless telecommunication facility shall not exceed the maximum height allowed in the applicable zoning district, or 16 feet above the building roofline, whichever is higher, except that in any Residential district,

no facility, monopole or antenna shall exceed the maximum height for structures allowed in that district.

G. In any Residential district, accessory buildings in support of the operation of the wireless telecommunication facility may be constructed, provided that they comply with the provisions of this Title regarding accessory buildings, except that the building coverage and floor area maximums shall apply to buildings in aggregate, rather than individually. If an accessory building not used in support of a wireless telecommunication facility already exists on a parcel, no accessory building(s) in support of the operation of the wireless telecommunication facility may be constructed absent removal of the existing accessory building. If an accessory building(s) in support of the operation of the wireless telecommunication facility is(are) constructed on a parcel, no other accessory buildings not used in support of a wireless telecommunication facility shall be constructed until the accessory building(s) in support of the operation of that wireless telecommunication facility is(are) removed.

H. In any Residential district, ground-mounted towers, spires and similar structures may be built and used provided that they shall not cover, in combination with any accessory building(s), shelter(s), or cabinet(s) or other above-ground equipment used in support of the operation of the wireless telecommunication facility, more than 15% in area of the lot nor an area greater than 1,600 sq. ft. Buildings, shelters, and cabinets shall be grouped. Towers, spires, and poles shall also be grouped, to the extent feasible for the technology.

I. Diesel generators shall not be installed as an emergency power source unless the use of electricity, natural gas, solar, wind or other renewable energy sources are not feasible. If a diesel generator is proposed, the applicant shall provide written documentation as to why the installation of options such as electricity, natural gas, solar, wind or other renewable energy sources is not feasible.

J. Expansion of co-location facilities beyond the footprint and height limit identified in the planned maximum ten-year buildout of the site as specified in Section 18.22.310(A)(10), or in the original use permit for the facility, shall not be subject to administrative review and shall instead comply with the use permit provisions for new wireless telecommunication facilities in Sections 18.22.260 through 18.22.310, unless a minor change or expansion beyond these limits is determined to be a minor modification of the use permit by the Planning Director. If the Planning Director does determine that such change or expansion is a minor modification, the change or expansion shall instead be subject to the provisions of Sections 18.22.330 through 18.22.370.

K. At the discretion of the Planning Director, a co-location proposal that is smaller in extent, footprint, height, number of antennas or accessory buildings may be considered using the administrative review provisions of Sections 18.22.330 through 18.22.370 if it will have less environmental impact than the original plan.

18.22.350. Wireless Telecommunication Facilities - Performance Standards for Co-Location Facilities.

No use may be conducted in a manner that, in the determination of the Planning Director, does not meet the performance standards below. Measurement, observation, or other means of determination must be made at the limits of the property, unless otherwise specified.

A. Co-location facilities shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).

B. The applicant shall file, receive and maintain all necessary licenses and registrations from the Federal Communications Commission (FCC), the California Public Utilities Commission (CPUC) and any other applicable regulatory bodies prior to initiating the operation of the co-location facility. The applicant shall supply the Planning and Building Department with evidence of each of these licenses and registrations. If any required license is ever revoked, the applicant shall inform the Planning and Building Department of the revocation within ten (10) days of receiving notice of such revocation.

C. The project's final inspection approval shall be dependent upon the applicant obtaining a permanent and operable power connection from the applicable energy provider.

D. The co-location facility and all equipment associated with it shall be removed in its entirety by the applicant within 90 days if the FCC and/or CPUC licenses required to operate the site are revoked or the facility is abandoned or no longer needed, and the site shall be restored and revegetated to blend with the surrounding area. The owner and/or operator of the wireless telecommunication facility shall notify the City Planning Department upon abandonment of the facility. Restoration and revegetation shall be completed within two months of the removal of the facility.

E. Co-location facility maintenance shall implement visual resource protection requirements of Section 18.22.340(B), and (C) above (e.g., landscape maintenance and painting).

F. Road access shall be maintained over the life of the project to avoid erosion, as well as to minimize sedimentation in nearby streams.

G. The use of diesel generators or any other emergency backup energy source shall comply with the City of Half Moon Bay Noise Ordinance.

H. If technically practical and without creating any interruption in commercial service caused by electronic magnetic interference (EMI), floor space, tower space and/or rack space for equipment in a wireless telecommunication facility shall be made available to the City for public safety communication use.

18.22.360. Wireless Telecommunication Facilities - Additional Requirements and Standards for Co-location Facilities.

A. Co-location facilities located between the first public road and the sea, or on the seaward side of Highway 1 in undeveloped areas, shall only be allowed if the facility is not visible from a public location, or will be attached to an existing structure in a manner that does not significantly alter the appearance of the existing structure.

B. Co-location facilities shall comply with all applicable Local Coastal Program (LCP) policies, standards, and regulations and Zoning District development standards.

C. Pursuant to Public Resources Code Sections 30106 and 30610(b) as well as Title 14, Section 13253(b)(7) of the California Code of Regulations, the placement of co-located facilities on an existing wireless telecommunication facility shall require a CDP, except that if a CDP was issued for the original wireless telecommunication facility and that CDP authorized the proposed new co-location facility, the terms and conditions of the underlying CDP shall remain in effect and no additional CDP shall be required.

18.22.370. Wireless Telecommunication Facilities - Application Requirements for Co-location Facilities.

Applicants that qualify for administrative review of co-location facilities in accordance with Section 18.22.330 shall be required to submit the following:

- A. A completed Planning Permit application form.
- B. Proof of ownership or statement of consent from the owner of the property and/or the primary operator of the wireless telecommunication facility where the co-location is proposed.
- C. A site plan showing existing and proposed wireless telecommunication facilities.
- D. Elevation drawing(s) showing existing and proposed wireless telecommunication facilities.
- E. A completed Environmental Information Disclosure Form.
- F. A preliminary erosion control plan shall be submitted with the use permit application. A complete construction and erosion control plan shall be submitted with the building permit application.
- G. A maintenance and access plan that identifies any changes to the original maintenance and access plan associated with the existing wireless telecommunication facility or use permit.
- H. A Radio Frequency (RF) report demonstrating that the emissions from the co-location equipment as well as the cumulative emissions from the co-location equipment and the existing facility will not exceed the limits established by the Federal Communications Commission (FCC) and the use permit for the existing wireless telecommunication facility.
- I. The mandated administrative review fee, and other fees as applicable.
- J. Prior to the issuance of a building permit, the applicant shall submit color samples for the co-location equipment. Paint colors shall be subject to the review and approval of the Planning and Building Department. Color verification shall occur in the field after the applicant has painted the equipment the approved color, but before the applicant schedules a final inspection."
- K. A report outlining the applicant's efforts to ensure service reliability and availability, particularly for emergency services (e.g., 911 calls) and service restoration in disaster events. The report should include, at a minimum, a description of the network design elements, features, and related equipment employed by applicant to mitigate service outages in the City and/or surrounding coast side communities."

Section 5. Compliance with California Environmental Quality Act. A Notice of Exemption regarding this amendment to Titles 14 and 18 is adequate environmental documentation for the project.

Section 6. Effective Date. This ordinance shall be in full force and effect from and after the thirtieth (30th) following its final passage.

Section 7. Severability. If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 8. Publication. The City Clerk of the City of Half Moon Bay is hereby directed to publish this Ordinance, or the title hereof as a summary, pursuant to Government Code Section 36933, once within fifteen (15) days after its passage in the Half Moon Bay Review, a newspaper of general circulation published in the City of Half Moon Bay.

INTRODUCED at a regular meeting of the City Council of the City of Half Moon Bay, California, held on the 20th day of August, 2013.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Half Moon Bay, California, held on the 3rd day of September, 2013 by the following vote:

AYES, Councilmembers: Alifano, Fraser, Muller, Patridge & Mayor Kowalczyk

NOES, Councilmembers: _____

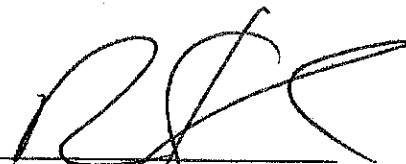
ABSENT, Councilmembers: _____

ABSTAIN, Councilmembers: _____

ATTEST:



Siobhan Smith, City Clerk



Rick Kowalczyk, Mayor



I, SIOBHAN SMITH, CITY CLERK OF THE CITY OF HALF MOON BAY, DO HEREBY CERTIFY that the attached is a full, true and correct copy of Ordinance No. C-2014-02, "City-Initiated Zoning Text Amendments to Chapter 18.02 Definitions – To Eliminate the 'Proportionality Rule' Definition adopted by the City Council at their Regular City Council Meeting held on the 4th day of February, 2014 by the following vote:

AYES: Alifano, Fraser, Kowalczyk, Patridge

NOES:

ABSTAIN:

ABSENT: Muller

DATED this 6th day of February, 2014

Siobhan Smith

City Clerk

ORDINANCE NO. C-2014-02

**CITY-INITIATED ZONING CODE TEXT AMENDMENTS TO CHAPTER 18.02 DEFINITIONS – TO
ELMINATE THE “PROPORTIONALITY RULE” DEFINITION**

RECITALS

WHEREAS, the City of Half Moon Bay is committed to maximum public participation and involvement in matters pertaining to the General Plan and its Elements, the Local Coastal Program, and the Zoning Code; and

WHEREAS, this amendment to Title 18 of the City of Half Moon Municipal Code eliminates the definition of “Proportionality Rule”;

WHEREAS, the Planning Commission, as the Advisory Body to the City Council, conducted duly notices public hearings on September 25, 2012 and October 9, 2012, where all those in attendance desiring to be heard were given an opportunity to speak on the City-initiated text amendments to Chapters 18.02, 18.06, 18.22 of the Zoning Code; and

WHEREAS, the procedures for processing the application have been followed as required by law; and

WHEREAS, the Zoning Code is part of the Implementation Plan of the City of Half Moon Bay’s certified Local Coastal Program/Land Use Plan, which is intended to be carried out in a manner fully in conformity with the California Coastal Act.

NOW THEREFORE, THE CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Chapter 18.02 Amended. The definition of “Proportionality Rule” is hereby deleted in its entirety.

Section 2. Compliance with California Environmental Quality Act. A Notice of Exemption regarding this amendment to Title 18 is adequate environmental documentation for the project.

Section 3. Effective Date. This ordinance amending the LCP Implementation Plan shall be transmitted to the California Coastal Commission and shall take effect immediately upon its certification by the California Coastal Commission or upon the concurrence of the Commission with a determination by the Executive Director that the ordinance adopted by the City is legally adequate.

"18.06.035 Residential development standards. The following development standards shall apply in the R-1-B-3 district:

- A. Uses permitted shall be those specified in Section 18.06.020.
- B. Additional regulations shall be those specified in Section 18.06.025.
- C. Except as set for in Subsection D, development standards shall be as specified for the R-1 district in Section 18.06.030 and as generally applicable in Sections 18.06.040 through 18.06.080.
- D. Notwithstanding Subsection C, the standards set forth in Table B-2 shall apply:

Table B-2 R-1-B-3 ZONING DISTRICT DEVELOPMENT STANDARDS

Minimum Lot Size	Average Minimum Width	Front Yard Setback	Side Yard Setback	Rear Yard Setback
10,000 sq. ft.	90 ft.	25 ft.	20% of width of lot; 5 ft. min. on each side	20 ft.

Section 3. Chapter 18.22 USE PERMITS amended. Chapter 18.22 "USE PERMITS" is hereby amended by adding Section 18.22.055 "On-Sale Alcohol Outlets" as follows:

"Section 18.22.055 On-Sale Alcohol Outlets.

A. Notwithstanding any other provision of this Title, on-sale alcoholic beverage retail establishments, including restaurants, bars, and certain other establishments selling alcoholic beverages for consumption on premises pursuant to a license issued by the Department of Alcoholic Beverage Control for the classifications listed in paragraph B shall only be permitted in any zoning district if a use permit therefore is approved by the Planning Commission in accordance with this Chapter.

B. License classifications subject to the requirements of this section shall include all of the following:

47	On-Sale General for Bona Fide Public Eating Place
48	On-Sale General for Public Premises
49	On-Sale General for Seasonal Business
50	On-Sale General for Club

C. Findings. The planning commission may approve an on-sale alcoholic beverage retail establishment providing the use conforms to all applicable criteria set forth in this chapter, the particular district zoning regulations and to all of the following criteria:

1. That the proposed use will not generate negative impacts in the neighborhood created by the sale of alcohol; and
2. That the proposed use will not adversely affect adjacent or nearby uses, including churches, schools, hospitals, parks, recreation centers, and residences; and
3. That the proposed use will not interfere with vehicular or pedestrian circulation along a public street or sidewalk; and
4. That the proposed use is designed in a manner that ensures that it will not be conducted in a manner that threatens public health, safety, quiet enjoyment of residential property or general welfare."

D. Conditions. The planning commission or city council on appeal may deny any use permit application which is inconsistent with the above-noted criteria, or may impose any conditions on the applicant or proposed use reasonably related thereto including, but not limited to, hours of operation, restrictions on live entertainment and/or amplified sound, exterior lighting requirements, security, crowd control, and/or pedestrian circulation measures and trash and litter removal."

Section 4. Chapter 18.22 "USE PERMITS" further amended. Chapter 18.22 is further amended to add Sections 18.22.240 through 18.22.3.70, pertaining to Wireless Telecommunications Facilities, as follows:

"Section 18.22.240 Wireless Telecommunications Facilities – Purpose.

The purpose of this chapter is to establish regulations for the establishment of wireless telecommunication facilities within the City of Half Moon Bay, consistent with the Half Moon Bay Municipal Code, and with the intent to:

- A. Allow for the provision of wireless communications services adequate to serve the public's interest within the City.
- B. Require, to the maximum extent feasible, the co-location of wireless telecommunication facilities.
- C. Encourage and require, to the maximum extent feasible, the location of new wireless telecommunication facilities in areas where negative external impacts will be minimized.