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Prepared March 28, 2014 (for April 9, 2014 hearing)

To: Coastal Commissioners and Interested Persons

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

Subject: **City of Half Moon Bay LCP-2-HMB-13-0221-2 Part 3 (Telecommunication Facilities)** Public hearing and action on request by the City of Half Moon Bay to add standards and procedures related to wireless telecommunication facilities.

SUMMARY OF STAFF RECOMMENDATION

The City of Half Moon Bay is proposing to amend the Local Coastal Program (LCP) Implementation Plan (IP) to establish regulations and permitting requirements for wireless telecommunication facilities. The proposed regulations contain standards requiring wireless telecommunication facilities to be located outside the public viewshed and east of Highway 1, unless no other alternative exists, to be designed to blend in with the surroundings, and to be as short as technically feasible. The proposed regulations would encourage co-location of new wireless telecommunication facilities on existing facilities, in an attempt to minimize visual impacts by reducing the total number of wireless facility sites permitted in the City. The proposed amendments also require that no new wireless telecommunication facilities be permitted where they will adversely affect coastal resource areas, unless no other alternative exists, and that if required to be sited in such areas, the facilities be sited so as to avoid adverse impacts to the maximum extent feasible. The proposed regulations have been drafted to conform to the Federal Telecommunications Act, which prohibits local governments from discriminating among providers and from applying regulations that have the effect of prohibiting the provision of personal wireless services.

Under the proposed regulations, all new wireless telecommunication facilities would continue to require a coastal development permit (CDP) in all zoning districts. Permits for wireless facilities would be limited to a ten-year development authorization period and CDPs issued for wireless telecommunications facilities would be appealable to the Commission in all areas in the City where the Commission retains appeal jurisdiction. New facilities would be required to

accommodate future co-located facilities, and new co-located facilities would not be required to obtain a new use permit and CDP, as long as the underlying facility has a valid use permit and CDP that provides for the co-location. The co-located facility would be required to adhere to the terms and conditions of the underlying use permit and CDP.

While the amendment as proposed mostly assures compliance with the coastal resource protection policies of the LCP Land Use Plan (LUP), Suggested Modifications are recommended to assure that coastal resources are protected to the maximum extent feasible consistent with federal law. For example, Suggested Modifications are proposed to clarify that only in circumstances required by federal law can new and co-located wireless telecommunication facilities be located in such a way as to adversely impact coastal resources. Other suggested modifications expressly limit heights of facilities and require camouflaging techniques be applied where facilities are unavoidably in significant public viewsheds. Suggested Modifications would also ensure that use permit and CDP standards are internally consistent and clarify that all wireless telecommunications facilities whether new or co-located, will require a CDP which may be appealable to the Commission, whether a use permit is required or not.

The City has indicated their agreement with Staff's suggested modifications. Therefore, staff recommends that the Commission reject the proposed amendment and approve it only as modified to ensure that the ordinance is in conformance with and adequate to carry out the certified LUP visual resources and sensitive habitats policies. The required motions and resolutions are found on page 4.

Staff Note: LCP Amendment Action Deadline
This proposed LCP amendment was filed as complete on February 25, 2014. The proposed amendment affects the LCP's Implementation Plan (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.

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EXHIBITS

I. MOTION AND RESOLUTION

Staff recommends that the Commission, after public hearing, deny the proposed LCP amendment as submitted and approve the amendment with suggested modifications. The Commission needs to make two motions, one to reject the IP amendment as submitted and a second to approve the IP amendment with suggested modifications, in order to act on this recommendation.

A. Denial of the IP Amendment as Submitted

Staff recommends a **YES** vote on the motion below. Passage of the motion will result in rejection of the IP amendment and the adoption of the following resolution and findings in this staff report. The motion passes only by an affirmative vote of a majority of the Commissioners present.

***Motion*:** *I move that the Commission **reject** Implementation Plan Amendment Number LCP-2-HMB-13-0221-2 Part 3 as submitted by the City of Half Moon Bay and I recommend a yes vote.*

Resolution: *The Commission hereby denies certification of the Implementation Plan Amendment Number LCP-2-HMB-13-0221-2 Part 3 as submitted by the City of Half Moon Bay and adopts the findings set forth in this staff report on the grounds that, as submitted, the Implementation Plan Amendment is not consistent with and not adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan Amendment would not comply with the California Environmental Quality Act because there are feasible alternatives or mitigation measures which could substantially lessen any significant adverse impacts which the Implementation Plan Amendment may have on the environment.*

B. Approval of the IP Amendment With Suggested Modifications

Staff recommends a **YES** vote on the motion below. Passage of the motion will result in certification of the IP amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

***Motion*:** *I move that the Commission **certify** Implementation Plan Amendment Number LCP-2-HMB-13-0221-2 Part 3 for the City of Half Moon Bay if it is modified as suggested in the staff report and I recommend a yes vote.*

Resolution: *The Commission hereby certifies the Implementation Plan Amendment Number LCP-2-HMB-13-0221-2 Part 3 to the City of Half Moon Bay's Local Coastal Program if modified as suggested and adopts the findings set forth in this staff report on the grounds that the Implementation Plan Amendment with the suggested modifications conforms with, and is adequate to carry out, the provisions of the certified Land Use Plan. Certification of the Implementation Plan Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Plan Amendment on the environment, or 2) there are no further feasible*

alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

II. SUGGESTED MODIFICATIONS

The Commission hereby suggests the following modifications to the proposed LCP amendment, which are necessary to make the requisite Land Use Plan consistency findings. If the City of Half Moon Bay accepts each of the suggested modifications within six months of Commission action (i.e., by October 9, 2014), by formal resolution of the City Council, the modified amendment will become effective upon Commission concurrence with the Executive Director's finding that this acceptance has been properly accomplished. Where applicable, text in cross-out format denotes text that the City proposes to delete and text in underline format denotes text that the City proposes to add. Text in underline format denotes proposed text of the LCP amendment, double cross out format denotes text to be deleted through the Commission's suggested modifications and text in double underline format denotes text to be added through the Commission's suggested modifications.

I. Add Section 18.20.025(A) as follows:
8. Installation of new wireless telecommunication facilities shall obtain a CDP that is found consistent with all provisions of the certified Local Coastal Program whether or not a use permit is required or approved.

9. Pursuant to Public Resources Code Sections 30106 and 30610(b) as well as Title14, Section 13253(b)(7) of the California Code of Regulations, and whether or not a use permit is required or approved, 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.

II. Modify Section 18.22.270 as follows:
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. Approval of a use permit in accordance with this Chapter does not eliminate the need for a coastal development permit that is consistent with the certified Local Coastal Program.

III. Modify Section 18.22.280 as follows:
A. New wireless telecommunication facilities shall be prohibited in Coastal Resource Areas, as defined by Section 18.38.020, except when denial of the facility would be inconsistent with federal law and the reviewing authority finds that there is no feasible location outside Coastal Resource Areas. Where denial of the facility would be inconsistent with federal law and the reviewing authority finds there is no feasible alternative outside Coastal Resource Areas, approval of the facility is also subject to 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)~~ (1)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~~2) Adverse impacts to the sensitive habitat are minimized to the maximum extent feasible; and (~~5~~3) Unavoidable impacts are mitigated so that there is no loss in habitat quantity or biological productivity; and (4) The facility can be found consistent with all otherwise applicable Local Coastal Program (LCP) policies, standards, and regulations and Zoning District development standards.

...

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 may only ~~shall~~ be used as a last resort. Landscaping shall be maintained by the property or facility owner and/or operator. The landscape screening requirement in (a) 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.

...

I. Except as otherwise ~~provided below~~ required by federal law, ground-mounted towers, spires and similar structures ~~may~~ shall not be built and used to a greater height than the limit established for the zoning district in which the structure is located and, ~~: provided that no such exception~~ shall not 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 the height of any ~~no~~ tower, spire or similar structure in any district shall be the minimum necessary to comply with federal law ~~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 monopole or antenna shall exceed the maximum height for structures allowed in that district.~~

...

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. In addition, all such structures shall count towards coverage and FAR for the lot. Buildings, shelters, and cabinets shall be grouped. Towers, spires, and poles shall also be grouped, to the extent feasible for the technology.

IV. Modify Section 18.22.290 as follows:

...

A. Wireless telecommunication facilities shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA). If located within 100 feet of an environmentally sensitive habitat area, lighting shall be directed away from the environmentally sensitive habitat area to the maximum extent feasible.

V. Modify Section 18.22.300 as follows:

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 a denial of such facilities would be inconsistent with federal law and the reviewing authority finds that no feasible alternative exists.~~, the facility is not visible from a public location, or will be attached~~ Where a denial of such facilities would be inconsistent with federal law and the reviewing authority finds that no feasible alternative exists, the facility shall avoid impacts to the public viewshed to the maximum extent feasible, such as by attaching to an existing structure in a manner that does not significantly alter the appearance of the existing structure.

B. New wireless telecommunication facilities also 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 also obtain a CDP, pursuant to Chapter 18.20, and the period of development authorization for any such CDP shall be limited to no longer than ten years.

VI. Modify Section 18.22.310.A as follows:

...

7 . Photo simulation(s) of the wireless telecommunication facility from all ~~reasonable~~ line-of sight locations used by the public, including trails, scenic points, and roads ~~from public roads or viewing locations~~.

...

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...

...

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

VII. Modify Section 18.22.320 as follows:

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 no more than ten years following the date of final approval.

VIII. Modify Section 18.22.330 as follows:

...

A. Co-location Facilities Requiring a Use Permit. ~~In accordance~~ Consistent with Section 65850.6 of the California Government Code,...

IX. Modify Section 18.22.340 as follows:

...

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 co-location facilities~~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 may only~~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 in (a) 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.

...

F. Except as otherwise ~~provided below~~ required by federal law, ground-mounted towers, spires and similar structures ~~may~~ shall not be built and used to a greater height than the

limit established for the zoning district in which the structure is located and, ~~: provided that no such exception~~ shall not 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 the height of any ~~no~~ tower, spire or similar structure in any district shall be the minimum necessary to comply with federal law ~~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 monopole or antenna shall exceed the maximum height for structures allowed in that district.~~

...

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. In addition, all such structures shall count towards coverage and FAR for the lot. Buildings, shelters, and cabinets shall be grouped. Towers, spires, and poles shall also be grouped, to the extent feasible for the technology.

...

K. At the discretion of the Planning Director, a co-location proposal that reduces the ~~is smaller in~~ extent, footprint, height, number of antennas or accessory buildings as identified in the planned maximum ten-year buildout of the site as specified in Section 18.33.310(A)(10) or in the original use permit for the facility, 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~~.

X. Modify Section 18.22.350 as follows:

...

A . Co-location facilities shall not be lighted or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA). If located within 100 feet of an environmentally sensitive habitat area, lighting shall be directed away from the environmentally sensitive habitat area to the maximum extent feasible.

XI. Modify Section 18.22.360 as follows:

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 a denial of such facilities would be inconsistent with federal law and the reviewing authority finds that no feasible alternative exists. Where a denial of such facilities would be inconsistent with federal law and the reviewing authority finds that no feasible alternative exists, a co-located facility shall avoid impacts to the public viewshed to the maximum extent feasible. A co-located facility shall not significantly alter the appearance of the existing structure~~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~~.

...

C. Pursuant to Public Resources Code Sections 30106 and 30610(b) as well as Title14, Section 13253(b)(7) of the California Code of Regulations, and whether or not a use permit is required,...

XII. Add Section 18.37.070 as follows:

A. Installation of wireless telecommunication facilities shall obtain a CDP that is found consistent with all provisions of the certified Local Coastal Program as set forth in Section 18.20.025(A) 8 and 9. Telecommunication facilities shall satisfy all development standards applicable to the issuance of both use permits and CDPS except as more specifically set forth below.

B. 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 a denial of such facilities would be inconsistent with federal law and the reviewing authority finds that no feasible alternative exists. Where a denial of such facilities would be inconsistent with federal law and the reviewing authority finds that no feasible alternative exists, the facility shall comply with all otherwise applicable provisions of the certified LCP and shall avoid impacts to the public viewshed to the maximum extent feasible, such as by attaching to an existing structure in a manner that does not significantly alter the appearance of the existing structure.

C. 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 a denial of such facilities would be inconsistent with federal law and the reviewing authority finds that no feasible alternative exists. Where a denial of such facilities would be inconsistent with federal law and the reviewing authority finds that no feasible alternative exists, a co-located facility shall comply with all otherwise applicable standards of the certified LCP and shall avoid impacts to the public viewshed to the maximum extent feasible. A co-located facility shall not significantly alter the appearance of the existing structure.

D. Telecommunication facilities shall be subject to the height limitations set forth in Chapter 18.22.

XIII. Add Section 18.38.120 as follows:

A. Installation of wireless telecommunication facilities shall obtain a CDP that is found consistent with all provisions of the certified Local Coastal Program as set forth in Section 18.20.025(A) 8 and 9. Telecommunication facilities shall satisfy all development standards applicable to the issuance of both CDPs and use permits except as more specifically set forth below.

B. New wireless telecommunication facilities shall be prohibited in Coastal Resource Areas, as defined by Section 18.38.020, except when denial of the facility would be inconsistent with federal law and the reviewing authority finds there is no feasible location outside Coastal Resource Areas. Where denial of the facility would be inconsistent with federal law and the reviewing authority finds there is no feasible location outside Coastal Resource Areas, approval of the facility is also subject to all of the following written findings:(1)There is no alternative facility configuration that would avoid impacts to environmentally sensitive habitat areas; (2)Adverse impacts to the sensitive habitat are minimized to the maximum extent feasible; (3) Unavoidable impacts are mitigated so that there is no loss in habitat quantity or biological productivity; and (4) The facility can be found consistent with all otherwise applicable Local Coastal Program (LCP) policies, standards, and regulations and Zoning District development standards.

III. FINDINGS AND DECLARATIONS

A. DESCRIPTION OF PROPOSED LCP AMENDMENT

The proposed LCP Amendment would amend the Implementation Plan (IP) to establish regulations and permitting requirements for wireless telecommunication facilities. The current zoning code does not include use permit standards for these telecommunication facilities. Under the proposed regulations, all new wireless telecommunication facilities would continue to require a CDP in all districts and both CDPs and use permits for wireless facilities would be limited to a ten-year development authorization period.

The proposed regulations would govern the placement and installation of cell towers and contain standards requiring wireless towers and other facilities to be located outside the public viewshed and east of Highway 1, unless no other alternative exists, to be designed to blend in with the surroundings, and to be as short as technically feasible. The proposed regulations further protect visual resources to ensure that in the future, obsolete technological design is replaced by available, feasible, technological designs that further reduce visual impacts. The proposed regulations require, at the time of renewal or amendment to the permit, that applicants further reduce visual impacts if new, feasible, technologies are available to do so. This approach is consistent with the Commission's past actions on similar amendments.

The proposed regulations would also encourage co-location of new wireless telecommunication facilities on existing facilities, in an attempt to minimize visual impacts by reducing the total number of wireless facility sites in the City. New facilities would be required to accommodate future co-located facilities, and new co-located facilities would not be required to obtain a new use permit and CDP, as long as the underlying facility has a valid use permit and CDP that

provided for the co-location. The co-located facility would be required to adhere to the terms and conditions of the underlying use permit and CDP.

Proposed amendment sections 18.22.280.A requires that no new wireless telecommunication facilities be permitted in Coastal Resource Areas including sensitive habitat areas unless no other alternative exists, and that if required to be sited in such areas, the facilities be sited so as to avoid adverse environmental impacts to the maximum extent feasible. Additionally, sections 18.22.290.A and 18.22.350.A require that facilities shall not be lighted unless required by the Federal Communications Commission.

The proposed regulations have been drafted to conform to the Federal Telecommunications Act, which prohibits local governments from discriminating among providers and from applying regulations that have the effect of prohibiting the provision of personal wireless services. The full text of the IP Amendment request can be found in **Exhibit 2**.

B. CONSISTENCY ANALYSIS

1. Standard of Review

The proposed amendment affects the IP component of the City of Half Moon Bay's certified LCP. The standard of review for IP amendments is that they must be consistent with and adequate to carry out the policies of the certified LUP.

2. IP Amendment Consistency Analysis

Visual Resources

Applicable LUP Provisions

> *Policy 7-1:*
> *The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated in the California Coastline Preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting.*
>
> *Policy 7-11:*
> *New development along primary access routes from Highway 1 to the beach, as designated on the Land Use Plan Map, shall be designed and sited so as to maintain and enhance the scenic quality of such routes, including building setbacks, maintenance of low height of structures, and landscaping which establishes a scenic gateway and corridor.*

LUP Policy 7-1 protects the scenic and visual qualities of coastal areas as resources of importance and requires that new development be sited and designed to protect views to and

along such coastal visual resource areas. Policy 7-1 further requires that development minimize alteration of natural landforms, be visually compatible with surrounding areas, and in highly scenic areas, be subordinate to the character of its setting. Policy 7-11 requires new development along access routes from Highway 1 to the beach be sited and designed to maintain the scenic quality of those routes.

Consistency Analysis
The proposed IP amendment requires new wireless telecommunication facilities to avoid and minimize impacts to visual resources. Proposed section 18.22.280.E requires new facilities to be sited outside of the public viewshed whenever feasible, and, when facilities must be in the public viewshed, it requires them to be designed to blend into the surroundings through the use of non-invasive and/or native plant landscaping and appropriate paint colors. This section also requires towers to be no taller than necessary to provide adequate coverage consistent with Federal requirements. Views of the shoreline are given additional protection through Section 18.22.300.A, which prohibits development of new wireless telecommunication facilities between the first public road and the sea in urban areas, and between Highway 1 and the sea in rural areas.

The proposed amendments' Section 18.22.280 and 18.22.340 would limit new wireless telecommunication facilities in Coastal Resource Areas. However, as written the proposed amendments would allow new and co-located facilities to exceed allowable heights designated in zoning districts and would allow new facilities to be as tall as 150 feet. Further height exceptions are provided to allow facilities to go above forested areas, above existing structures and above rooflines. Allowing the heights of these new and co-located wireless telecommunication facilities to exceed zoning district height limitations as proposed would not assure that visual resources are protected and that new development is sited and designed to minimize impacts. Therefore, **Suggested Modifications III and IX** are proposed to clarify that only in circumstances required by federal law can new and wireless telecommunication facilities exceed designated zoning district height limitations. Further, the suggested modifications assure that federally required height limit exceptions will only exceed the designated zoning district height limitation by no more than the minimum height required to comply with federal law. Finally, the suggested modifications would assure that all new wireless telecommunication facilities are counted towards floor area ratio requirements for the lot.

Section 18.22.300.A and section 18.22.360.A, in its proposed iteration, would allow new stand alone and co-located wireless telecommunication facilities to be sited between the first public road and the sea, under certain provisions. **Suggested Modifications V and XI** are proposed in order to better clarify that new wireless telecommunication facilities cannot be located between the first public road and the sea, unless a prohibition on such facilities would be inconsistent with federal law because no other feasible options exist in order to provide adequate cellular coverage. Further, if no other feasible options exist, the facilities located between the first public road and the sea must minimize visual impacts to the maximum extent feasible by, for example, attaching to existing structures in a way that does not impact the appearance of the existing structures.

While the amendments as proposed protect views by requiring new applications for wireless telecommunication facilities to produce photo simulations of the new facilities from "reasonable line-of-sight locations", the required locations for such photo simulations are not inclusive enough to consider all types of public views that are protected. Therefore, **Suggested Modification VI** proposes to require photo simulations from all viewing locations used by the public including trails, scenic points and roads.

The Half Moon Bay IP contains Chapter 18.37, Visual Resource Protection Standards that specifically protect visual resources with regard to specific areas such as beach viewsheds, scenic corridors and upland slopes and with regard to specific development types such as utilities, lighting and signs. The amendments as proposed do not incorporate the specific visual protection standards contained in the Wireless Telecommunication Facilities Chapter into the Visual Resource Protection Standards. Therefore, even though the entire City of Half Moon Bay is located in the coastal zone, the use permit standards would not apply to CDPs and a CDP would be subject to different standards than a use permit. **Suggested Modification XII** adds the visual resource protection standards specific to wireless telecommunication facilities into the IP's Visual Resource Protection Standards Chapter 18.37 and cross-references the Wireless Telecommunication Facilities chapter 18.22 to maintain consistency. As modified the proposed amendments would assure that the installation of new and co-located wireless telecommunication facilities will protect visual resources in accordance with the Visual Resource Protection Standards in the IP and maintains internal consistency between the visual resource protection standards contained in all chapters of the IP.

As modified above, the Commission finds the proposed IP amendment would conform with and be adequate to carry out the visual resource policies of the LUP, including policy 7-1 which protects the visual qualities of coastal areas as resources of importance and 7-11 which requires new development along access routes from Highway 1 to the beach be sited and designed to maintain the scenic quality of those routes.

Sensitive Habitats

Applicable LUP Provisions

Policy 3-3 Protection of Sensitive Habitats:
(a) Prohibit any land use and/or development which would have significant adverse impacts on sensitive habitat areas.
(b) Development in areas adjacent to sensitive habitats shall be sited and designed to prevent impacts that could significantly degrade the environmentally sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of such areas.

Policy 3-4 Permitted Uses:
(a) Permit only resource-dependent or other uses which will not have a significant adverse impact in sensitive habitats.
(b) In all sensitive habitats, require that all permitted uses comply with U. S. Fish and Wildlife and State Department of Fish and Game regulations.

LUP Policy 3-3 prohibits development that has significant adverse impacts on sensitive habitat areas and LUP Policy 3-4 permits only resource dependent uses that comply with United States Fish and Wildlife Service (USFWS) and California Department of Fish and Wildlife (CDFW) regulations in sensitive habitat areas.

Consistency Analysis
Proposed amendment sections 18.22.280.A requires that no new wireless telecommunication facilities be permitted in Coastal Resource Areas including sensitive habitat areas unless no other alternative exists, and that if required to be sited in such areas, the facilities be sited so as to avoid adverse environmental impacts to the maximum extent feasible. Additionally, sections 18.22.290.A and 18.22.350.A require that facilities shall not be lighted unless required by the Federal Communications Commission. Although it is accurate for the regulations to allow for siting in sensitive habitat areas if prohibiting the facility would be inconsistent with federal law and no other alternative exists, this section must be modified to require the reviewing authority to make a series of findings when allowing development of wireless telecommunication facilities in sensitive habitat areas, including finding that there is no other feasible location or alternative facility configuration that would avoid impacts to sensitive habitat areas and that all otherwise applicable findings can also be made. Therefore, **Suggested Modification III** to section 18.22.280.A requires a series of findings that must be made before facilities may be sited in sensitive habitat areas. As modified, the proposed amendments assure that facilities shall avoid environmentally sensitive habitat areas or if required to be sited in such areas, that adverse impacts are minimized to the maximum extent feasible consistent with federal law.

Additionally, the proposed amendments would allow facilities that are required to be sited in environmentally sensitive habitat areas to be lighted in a way that does not assure that adverse impacts to such areas are minimized and/or mitigated to the maximum extent feasible. Therefore, Suggested **Modifications IV and X** would require that any wireless telecommunication facilities that must be sited in environmentally sensitive habitat areas to comply with federal law would have to minimize and mitigate impacts to sensitive habitat areas by directing lighting away from sensitive habitats to the maximum extent feasible, ensuring compliance with LUP policies.

The Half Moon Bay IP contains Chapter 18.38 Coastal Resource Conservation Standards that specifically protect sensitive habitats such as riparian corridors and wetlands and impose specific conditions on development allowed in such areas. The amendments as proposed do not incorporate the specific habitat resource protection standards contained in the Wireless Telecommunication Facilities Chapter into the Coastal Resource Conservation Standards. Therefore, even though the entire City is in the coastal zone, the use permit standards would not apply to CDPs and a CDP would be subject to different standards than a use permit. **Suggested Modification XIII** adds the habitat protection standards specific to wireless telecommunication facilities into the IP's Coastal Resource Conservation Standards Chapter 18.38 and cross-references the Wireless Telecommunication Facilities chapter 18.22. As modified the proposed amendments would assure that the installation of new and co-located wireless telecommunication facilities is subject to the same CDP and use permit standards and maintain internal consistency between the habitat protection standards contained in all chapters of the IP.

The Commission finds that, as modified, the IP amendment conforms with and is adequate to carry out LUP policies 3-3 and 3-4.

C. OTHER ISSUES OF FEDERAL AND STATE LAW CONSISTENCY, CLARITY AND UPDATING

Coastal Act sections 30106 and 30610(b) as well as Section 13253(b)(7) of the Commission's regulations requires a coastal development permit for any improvement to a structure which changes the intensity of use of the structure. The addition of a co-located facility to an existing wireless telecommunication facility results in a change in the intensity of use of the existing facility and therefore requires a CDP under Coastal Act sections 30106 and 30610(b) as well as Section 13253(b)(7) of the Commission's regulations. However, because new wireless telecommunication facilities are required under the proposed regulations to anticipate future co-located facilities, it is possible that the addition of new co-located facilities was authorized under the existing permit. Any co-located facility that has been authorized by an existing, valid CDP would not require an additional CDP. The proposed amendment acknowledges that new co-located facilities require a CDP except when there is an underlying CDP that has already provided the necessary authorization. New co-located facilities are required to comply with the terms and conditions of the underlying CDP.

Suggested Modifications I, II and XI clarify that all wireless telecommunications facilities, whether new or co-located, will require a CDP, which may be appealable to the Commission, whether a use permit is required or not. Additionally, changes to Sections 18.22.280.E, 18.22.300.B-D, 18.22.310.A.10, 18.22.320, 18.22.330.A, 18.22.340.B, 18.22.340.F and 18.22.340.K through **Suggested Modifications III, V, VI, VII, VIII and IX** are adopted in order to add clarity and specificity to the amendment.

Federal Telecommunications Act

The subject IP amendment proposes to regulate wireless services facilities, which are also regulated by other federal and state laws. Under section 307(c)(7)(B) of the Telecommunications Act of 1996, state and local governments may not unreasonably discriminate among providers or apply regulations that have the effect of prohibiting the provision of personal wireless services. Any decision to deny a permit for a personal wireless service facility must be in writing and must be supported by substantial evidence. Also, the Telecommunications Act prevents state and local governments from regulating the placement of wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the regulations of the Federal Communications Commission (FCC) concerning such emissions. The City's proposed amendment is consistent with the Federal law as summarized above. The limitations upon a state and local government's authority with respect to telecommunications facilities contained within the Telecommunications Act of 1996 (TCA) do not state or imply that the TCA prevents public entities from exercising their traditional prerogative to restrict and control development based upon aesthetic or other land use considerations. Other than the enumerated exceptions, the TCA does not limit or affect the authority of a state or local government. Though Congress sought to encourage the expansion of telecommunication technologies, the TCA does not federalize telecommunications land use law. Instead, Congress struck a balance between public entities and telecommunication service providers. Under the TCA, public entities retain control "over decisions regarding the placement, constructions, and

modification of telecommunication facilities." 47 U.S.C. section 332(c)(7)(A).

State Laws Governing Telecommunication Facilities
Government Code section 65964 addresses a local government's ability to limit the duration of a local permit for a telecommunication facility to less than 10 years. Government Code section 65850.6 limits a local government's local regulation of co-location facilities, prohibiting local governments from requiring a discretionary permit for wireless facilities that are co-located on existing wireless facilities that have received a discretionary permit and undergone environmental review. Although the suggested modifications adopted herein are consistent with Government Code sections 65964 and 65850.6, when acting on a coastal development permit, neither the Commission nor the City are operating pursuant to such local law authority. In fact, as with most laws governing local regulatory authority, section 65850.6 expressly acknowledges the ability of a local government to regulate consistent with state laws, such as the Coastal Act.

A fundamental purpose of the Coastal Act is to ensure that state policies prevail over the concerns of local government. (See City of Chula Vista v. Superior Court (1982) 133 Cal.App.3d 472, 489 [Commission exercises independent judgment in approving LCP because it is assumed statewide interests are not always well represented at the local level].) Under the Coastal Act's legislative scheme, the LCP and the development permits issued by local agencies pursuant to the Coastal Act are not solely a matter of local law, but embody state policy. (Pratt v. California Coastal Commission (2008) 162 Ca. App.4th1068.) Once the LCP is certified, it does not become a matter of local law.

The Coastal Act specifically requires that local governments assume a regulatory responsibility that is in addition to their responsibilities under other state laws. In section 30005.5 of the Coastal Act, the Legislature recognized that it has given authority to local governments under section 30519 that would not otherwise be within the scope of the power of local governments. Section 30005.5 provides:

> *Nothing in this division shall be construed to authorize any local government…to exercise any power it does not already have under the Constitution and the laws of this state or that is not specifically delegated pursuant to section 30519. (Emphasis added.)*

Thus, when deciding whether an applicant for a CDP has complied with the requirements of a certified LCP, a city or county is not acting under its "police power" authority but rather under authority delegated to it by the state. LCP provisions regulating development activities within the coastal zone are an element of a statewide plan, and are not local in nature. In exercising the development review authority delegated to it under the Coastal Act, with the attendant obligations to comply with Coastal Act policies and the certified LCP, the local government implements a statewide statutory scheme to which all persons, including state and local public agencies, are subject.

D. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.9 of the California Public Resources Code – within the California Environmental Quality Act (CEQA) – exempts a local government from the requirement of preparing an environmental impact report (EIR) in connection with its activities and approvals

necessary for the preparation and adoption of a local coastal program. Therefore, local governments are not required to prepare an EIR in support of their proposed LCP amendments, although the Commission can and does use any environmental information that the local government submits in support of its proposed LCPA. Instead, the CEQA responsibilities are assigned to the Coastal Commission and the Commission's LCP review and approval program has been found by the Resources Agency to be the functional equivalent of the environmental review required by CEQA, pursuant to CEQA Section 21080.5. Therefore the Commission is relieved of the responsibility to prepare an EIR for each LCP.

Nevertheless, the Commission is required, in approving an LCP amendment submittal, to find that the approval of the proposed LCP, as amended, does conform with CEQA provisions, including the requirement in CEQA section 21080.5(d)(2)(A) that the amended LCP will not be approved or adopted as proposed if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. §§ 13542(a), 13540(f), and 13555(b).

The City's LCP Amendment consists of an Implementation Plan (IP) amendment. The Commission incorporates its findings on land use plan conformity into this CEQA finding as it is set forth in full. The Implementation Plan amendment as originally submitted does not conform with and is not adequate to carry out the policies of the certified LUP with respect to visual resources and sensitive habitat policies.

The Commission, therefore, has suggested modifications to bring the Implementation Plan amendment into full conformance with the certified Land Use Plan. As modified, the Commission finds that approval of the LCP amendment will not result in significant adverse environmental impacts under the meaning of the California Environmental Quality Act. Absent the incorporation of these suggested modifications to effectively mitigate potential resource impacts, such a finding could not be made.

The Commission finds that the Local Coastal Program Amendment, as modified, will not result in significant unmitigated adverse environmental impacts under the meaning of CEQA. Further, future individual projects would require coastal development permits, issued by the City of Half Moon Bay, and in the case of areas of original jurisdiction, by the Coastal Commission. Throughout the coastal zone, specific impacts to coastal resources resulting from individual development projects are assessed through the coastal development review process; thus, an individual project's compliance with CEQA would be assured. Therefore, the Commission finds that there are no other feasible alternatives or mitigation measures under the meaning of CEQA which would further reduce the potential for significant adverse environmental impacts.

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 Title14, 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

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 Title14, 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.