

**CALIFORNIA COASTAL COMMISSION**

NORTH CENTRAL COAST DISTRICT OFFICE  
45 FREMONT STREET, SUITE 2000  
SAN FRANCISCO, CA 94105  
PHONE: (415) 904-5260  
FAX: (415) 904-5400  
WEB: WWW.COASTAL.CA.GOV



# W11b

**Prepared February 17, 2017 for March 8, 2017 Hearing**

**To:** Commissioners and Interested Persons  
**From:** Nancy Cave, North Central Coast District Manager  
Stephanie Rexing, North Central Coast District Supervisor  
**Subject:** **City of Half Moon Bay LCP Amendment Number LCP-2-HMB-17-0006-1 Part A (Day Care Use Regulations)**

---

## SUMMARY OF STAFF RECOMMENDATION

The City of Half Moon Bay is proposing to amend its certified IP portion of its LCP in order to delete definitions for “Limited Day Care” and add definitions and use classifications for “Small” and “Large Family Day Care”; permit small and large family day cares in all residential zones, and commercial zones that allow residential such as, commercial-downtown (C-D), commercial-residential (C-R) and commercial-visitor serving (C-VS) districts; and establish use regulations for “Large Family Day Care” in residential, commercial and mobile home park districts. The purpose of this amendment is intended to bring the City Zoning Ordinance into conformance with the State of California Child Care Act and state housing laws.

Half Moon Bay’s LCP requires that allowable uses proposed in zones meet all the development standards set out in the LUP, comply with all other policies in the LUP, and the LCP prohibits development that would have significant impacts on sensitive habitat areas. The proposed IP amendment would delete an existing definition for limited day care and would add definitions for small and large family day cares and would allow those day care uses incidental to permitted uses in all residential, commercial that allows residential (C-D, C-R and C-VS), and mobile home zoning districts. When and if new day care use is proposed in any of these residential or commercial zones, such use will have to be incidental to an already permitted development. Such development would have been permitted as an allowable use in the zone through a CDP, which assures that it complies with relevant resource protection standards in the LCP through a finding that the development conforms to the required resource protection provisions in the LCP, including that it does not impact sensitive habitat areas. The existing policies in the LCP would continue to protect all relevant coastal resources where these incidental uses would be allowed.

Therefore, staff recommends that the Commission approve the proposed LCP amendment as submitted. The one motion necessary to effect that recommendation can be found on page 3 of this report.

**Staff Note: LCP Amendment Action Deadline**

This proposed LCP amendment was filed as complete on February 6, 2017. The proposed amendment includes IP changes only, and the original 60-day action deadline is April 6, 2017. Thus, unless the Commission extends the action deadline (it may extend the deadline by up to one year), the Commission has until April 6, 2017 to take a final action on this LCP amendment.

**TABLE OF CONTENTS**

**I. MOTIONS AND RESOLUTIONS .....3**  
**II. SUGGESTED MODIFICATIONS .....3**  
**III. FINDINGS AND DECLARATIONS.....3**  
    A. DESCRIPTION OF PROPOSED LCP AMENDMENT ..... 3  
    B. CONSISTENCY ANALYSIS ..... 4  
    C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)..... 6

**EXHIBITS**

Exhibit A: Location Maps

Exhibit B: City Council Ordinance and Full Text of Amendments

## I. MOTIONS AND RESOLUTIONS

Staff recommends that the Commission, after public hearing, approve the proposed LCP amendment as submitted. The Commission needs to take one vote on the proposed amendment in order to act on this recommendation.

### A. Certify the IP Amendment as Submitted

Staff recommends a **NO** vote. Failure of this motion will result in certification of the Implementation Plan Amendment as submitted and 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 reject the Implementation Plan Amendment LCP-2-HMB-17-0006-1 Part A as submitted by Half Moon Bay.*

***Resolution:** The Commission hereby certifies Implementation Plan Amendment LCP-2-HMB-17-0006-1 Part A as submitted by Half Moon Bay and adopts the findings set forth in this staff report that, as submitted, the Implementation Plan Amendment is consistent with and adequate to carry out the certified Land Use Plan. Certification of the Implementation Plan Amendment, as submitted, 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 or mitigation measures that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Plan Amendment as submitted.*

## II. FINDINGS AND DECLARATIONS

### A. DESCRIPTION OF PROPOSED LCP AMENDMENT

Half Moon Bay is proposing to amend its IP Sections 18.02 and 18.03 in the “Definitions” and “Use Classifications” sections, respectively, to delete the definition for “Limited Day Cares” and to add definitions and use classifications for “Small” and “Large Family Day Cares.” In addition Sections 18.06, -.07, -.08 and -.17 in the IP chapters addressing residential, commercial, and mobile home park districts will be modified in order to: permit small and large family day cares in residential, commercial-downtown (C-D), commercial-residential (C-R) and commercial-visitor serving (C-VS) districts, and establish use regulations for “Large Family Day Cares” in residential, commercial and mobile home park districts. The purpose of this amendment is intended to bring the City Zoning Ordinance into conformance with the State of California Child Care Act and state housing laws. (Health and Safety Code, § 1596.70 et seq., specifically, §§ 1597.45, 1597.46.) Please see **Exhibit A** for location maps and **Exhibit B** for the City Council Ordinance approving the amendment in its full text.

## **B. CONSISTENCY ANALYSIS**

### **Standard of Review**

The proposed amendment affects the IP components of the Half Moon Bay 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.

### **Applicable Land Use Plan Policies**

Half Moon Bay's LUP has policies requiring that all new development must comply with all other policies of the LUP.

*LUP Policy 1-4: Prior to the issuance of any development permit required by this Plan, the City shall make the finding that the development meets the standards set forth in all applicable Land Use Plan policies.*

*LUP Policy 9-3: All new development permitted shall comply with all other policies of the Plan. (New development means any project for which a Coastal Permit is required under Section 30106, 30250, 30252, 30600, and 30608 of the Coastal Act which has not received such permit as of the date of certification of this Plan).*

In addition, The City's LUP requires that development be sited and designed so as to prevent impacts that could degrade sensitive habitats.

*LUP Policy 3-3: (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 sensitive habitats. All uses shall be compatible with the maintenance of biologic productivity of such areas.*

### **Public Participation**

The City of Half Moon Bay Planning Commission conducted duly noticed public hearings on March 22, 2016 and April 26, 2016. The City Council considered all written and oral testimony presented in its consideration of the IP amendments. Notice of the subject amendment has been distributed to all known interested parties.

### **Analysis**

Half Moon Bay's LCP requires that allowable uses in zones meet all the development standards set out in the LUP, comply with all other policies in the LUP, and the LCP prohibits development that would have significant impacts on sensitive habitat areas. The proposed IP amendment would add definitions for small and large family day cares and allow those uses to occur incidental to permitted uses in all residential, commercial (C-D, C-R and C-VS), and mobile home districts. In other words, small and large day care facilities would not be added as an independently allowed use. Rather, these small and large day care facilities could only be sited in residences or commercial facilities that would already be allowed in these zones.

The addition of small family day care (up to 8 children) as an incidental use in residential zones would not result in significant adverse impacts to coastal resources, including because the existing LCP would continue to govern the appropriateness of residential development in the City's coastal zone, and family childcare could only be permitted in residences that are themselves consistent with the LCP. In other words, small family day care would not be added independently as a principally permitted use. Rather, these facilities could only be sited in residential structures that meet all other applicable provisions of the LCP.

If a *new* residential development is proposed to include a small family day care use in any of the above zoning districts, development of the new residential structure would have to conform to all applicable LCP requirements regarding coastal resource protection (including protection of agriculture, environmentally sensitive habitat, visual resources, the priority use requirements of the zoning district, etc.). For example, if a person or persons proposed to construct a new residence on agricultural land that would include a small family day care use, the proposed residential development would be required to comply with the LCP's certified agricultural policies and zoning code requirements, which recognize agriculture as a priority land use, require the preservation of agricultural uses on agricultural lands, and limit residential development accordingly. As is currently the case, any such residential development on agricultural land use would also be a conditional use, thus making any decision on such a residential project appealable to the Coastal Commission.

The proposed amendment would also add large family day care use (9-14 children) as an incidental use in residential zones. As with small family day care, the addition of large family day care would not result in significant adverse impacts to coastal resources. A large family day care use could only be permitted if it were located in an existing or proposed residential use in a residential zoning district that meets all other applicable provisions of the LCP.

Further, the proposed amendments propose use regulations that limit the use of more intense large family day cares in residential areas, such as limiting the concentration of these facilities, requiring onsite parking and passenger loading spots, requiring that the facilities adhere to the Municipal Noise Ordinance (Municipal Code Chapter 9.23), requiring screening of these facilities' outdoor areas, requiring the operator inhabit these facilities full-time (in residential zones), and requiring the facilities meet fire and building codes and state licensing schemes. Please see **Exhibit B** for full text of the proposed amendment.

When and if a new use for small or large family day care is proposed in these residential or commercial zones, such use will be incidental to an already permitted development. Such development would have been permitted as an allowable use in the zone through a CDP, which assured that it complied with relevant resource protection standards in the LCP through a finding that the development conformed to the required resource protection provisions in the LCP, including that it does not impact sensitive habitat areas. The existing policies in the LCP would continue to protect all relevant coastal resources where these incidental uses would be allowed.

In conclusion, the proposed amendment will add incidental permitted day care uses in the residential and commercial zoning districts of the City without detriment to coastal resources protected in the City's LCP. Furthermore, impacts from specific projects emanating from the

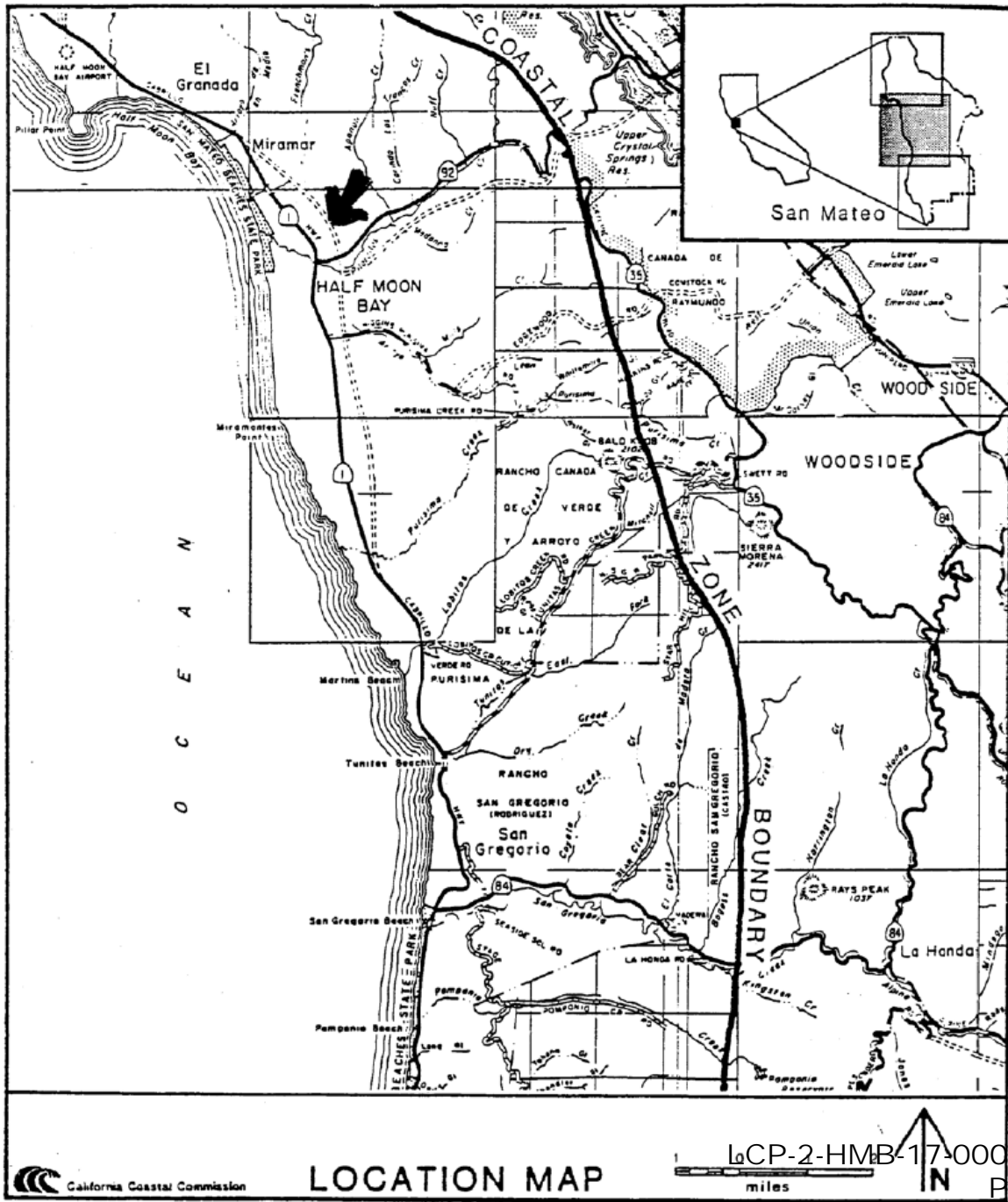
expanded allowable uses in these zones will be addressed during the City's coastal development permit review process, ensuring consistency with all applicable LCP provisions. For the reasons discussed above, the proposed IP amendment can be found consistent with and adequate to carry out the certified LUP.

### **C. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The Coastal Commission's review and development process for LCPs and LCP amendments has been certified by the Secretary of Resources as being the functional equivalent of the environmental review required by CEQA. Specifically, Section 21080.9 of the California Public Resources Code – within CEQA – exempts 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 LCP amendments. 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 or LCP amendment.

Half Moon Bay, acting as lead CEQA agency, determined that the proposed LCP amendment was categorically exempt from the requirements of Section 15061(b)(3) of the CEQA Guidelines [no significant effect on the environment]. This staff report has discussed the relevant coastal resource issues with the proposal, and concludes that the proposed LCP amendment is not expected to result in any significant adverse impact on the environment. The Commission did not receive any additional public comments. All above findings are incorporated herein in their entirety by reference.

As such, there are no additional feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse environmental effects which approval of the amendment would have on the environment within the meaning of CEQA. Thus, the proposed amendment will not result in any significant environmental effects for which feasible mitigation measures have not been employed consistent with CEQA Section 21080.5(d)(2)(A).



**ORDINANCE NO. C-2016-03**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY AMENDING SECTION 18.020.040 ADDING DEFINITIONS FOR LARGE FAMILY DAY CARE, SMALL FAMILY DAY CARE AND GENERAL DAY CARE, AMENDING SECTION 18.03.030 USE CLASSIFICATIONS B., C., D., J., AND K. AND REPLACING WITH NEW USE CLASSIFICATIONS B. LARGE FAMILY DAY CARE, C. SMALL FAMILY DAY CARE, D. GENERAL DAY CARE, J. SUPPORTIVE HOUSING, AND K. TRANSITIONAL HOUSING, ADD SMALL FAMILY DAY CARE AND LARGE FAMILY DAY CARE TO PERMITTED USES IN TABLE A-1 OF SECTION 18.06.020, ADD SUBSECTION L. (LARGE FAMILY DAY CARE USE REGULATIONS) TO SECTION 18.06.025, ADD LARGE FAMILY DAY CARE AND SMALL FAMILY DAY CARE AS PERMITTED USES IN THE C-D AND C-R ZONING DISTRICTS (TABLE 18.07.020A), ADD LARGE FAMILY DAY CARE AND SMALL FAMILY DAY CARE AS PERMITTED USES IN THE C-VS AND C-G ZONING DISTRICTS (TABLE 18.08.020A) AND MODIFY SECTION 18.17.020 D. 3 ADDING REFERENCES TO SMALL FAMILY DAY CARE AND LARGE FAMILY DAY CARE.**

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

**WHEREAS**, the City of Half Moon Bay Planning Commission, as the Advisory Body to the City Council, conducted a duly noticed public hearings on March 22, 2016 and April 26, 2016 at which time all those in attendance desiring to be heard were given an opportunity to speak; and

**WHEREAS**, following the close of the public hearing on April 26, 2016, 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**, State Law requires Large Family Day Care to be considered a residential use subject to only those restrictions that apply to other residential dwellings of the same type in the same zone; and

**WHEREAS**, the City Council recognizes the importance of bringing zoning regulations into compliance with State law; and

**WHEREAS**, the City Council finds that the proposed amendments are exempt from the California Environmental Quality Act as the amendments are being proposed in response to changes in State law; and

**WHEREAS**, the City Council considered all written and oral testimony presented in its consideration of the amendments; and



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

**WHEREAS**, the proposed Zoning Ordinance text amendments are consistent with the City's General Plan/Local Coastal Plan and Coastal Implementation Program, and 2015-2023 Housing Element; and

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

**Section 1.** Add the following "Definitions" in Section 18.02.040 as follows:

Large Family Day Care means a home that regularly provides care, protection, and supervision for 9 to 14 children under 18 years of age in the provider's own home (including children under the age of 10 years who reside at the home) for periods of less than 24 hours per day while the parents or guardians are away.

Small Family Day Care means a home that regularly provides care, protection, and supervision for 8 or fewer children under 18 years of age in the provider's own home (including children under the age of 10 years who reside at the home) for periods of less than 24 hours per day while the parents or guardians are away.

General Day Care means non-medical care and supervision, other than family day care, for children or adults for periods of less than 24 hours per day, including nursery schools, preschools, and day care centers for children or adults licensed by the state of California.

**Section 2.** Delete and Replace use classifications in Section 18.03.030 as follows:

~~B. Day Care, Large Family. Nonmedical care and supervision of seven to twelve persons, inclusive, on a less than twenty-four hour basis. This classification includes nursery schools, preschools, and day care centers for children and adults licensed by the state of California.~~

B. Large Family Day Care means a home that regularly provides care, protection, and supervision for 9 to 14 children under 18 years of age in the provider's own home (including children under the age of 10 years who reside at the home) for periods of less than 24 hours per day while the parents or guardians are away.

~~C. Day Care, Limited. Nonmedical care and supervision of six or fewer persons on a less than twenty-four hour basis. This classification includes nursery schools, preschools, and day care centers for children and adults licensed by the state of California.~~

C. Small Family Day Care means a home that regularly provides care, protection, and supervision for 8 or fewer children under 18 years of age in the provider's own home (including children under the age of 10 years who reside at the home) for periods of less than 24 hours per day while the parents or guardians are away.

~~D. Day Care, General. Provision of nonmedical care for seven or more persons on a less than twenty-four hour basis. This classification includes nursery schools, preschools and day care centers for children or adults.~~

D. General Day Care means non-medical care and supervision, other than family day care, for children or adults for periods of less than 24 hours per day, including nursery schools, preschools, and day care centers for children or adults licensed by the state of California.

~~F. Residential Care, Limited. Twenty-four-hour nonmedical care for six or fewer persons in need of personal services, supervision, protection, or assistance essential for sustaining the activities of daily living. This classification includes only those services and facilities licensed by the state of California.~~

(J) - Supportive Housing means housing with no limit on length of stay, that is occupied by the target population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community.

~~K. Residential Care, General. Twenty-four-hour nonmedical care for seven or more persons, including wards of the juvenile court, in need of personal services, supervision, protection, or assistance essential for sustaining the activities of daily living. This classification includes only those services and facilities licensed by the state of California.~~

(K) - Transitional Housing means buildings configured as rental housing developments, but operated under program requirements that require the termination of assistance and recirculating of the assisted unit to another eligible program recipient at a predetermined future point in time that shall be no less than six (6) months from the beginning of the assistance."

**Section 3.** Modify the Residential Use Regulations, Section 18.06.020 as follows:

Table A-1	
SCHEDULE OF RESIDENTIAL USES	
Residential Uses	Allowed by Zoning
Single-family	All R Districts
Two-family	R-2, R-3
Multifamily	R-3
Small Family Day Care	All R
<del>Day Care, Limited</del> <u>Large Family Day Care</u>	All R

**Section 4.** Add subsection "L." (Large Family Day Care Use Regulations) to Chapter 18.06.025 as follows:

L. Large family day care is allowed incidental to a residential use in all residential zoning districts subject to a determination by the Community Development Director that the large family day care conforms to all of the following:

1. Concentration of Uses. No more than one large family day care shall be permitted within 300 linear feet of the property line of any existing large family day care.
2. Parking. On-site parking beyond that required for the residential use shall not be required.
3. Passenger Loading. In addition to available on-street loading, a minimum of one passenger loading space shall be provided on the site during pick-up and drop-off periods.
4. Noise. Operation of a large family day care shall conform to the noise limitations of Municipal Code Chapter 9.23.
5. Screening of Outdoor Play Areas. A solid fence in conformance with the requirements of this Chapter shall be provided to screen outdoor play areas located in the rear yard.
6. Residency. The operator of a large family day care must be a full-time resident of the dwelling unit in which the day care is located.
7. Garage. No portion of a garage providing "required" parking shall be utilized for the day care.
8. Fire and Building Code Requirements. Large family day care shall conform to the requirements of the State Fire Marshall.
9. State and Other Licensing. Large family day care shall be State licensed and operated according to all applicable State and local regulations.

**Section 5.** Modify Table 18.07.020A for Commercial-Downtown and Commercial-Residential districts and and 18.08.020A for Commercial-Visitor Serving and Commercial-General districts to include Small and Large Family Day Care as permitted residential uses as follows:

Key	Residential Uses	C-D Zoning	C-R Zoning
D-1	Group Residential	UP	UP
D-2	Large Family Day Care	<del>UPOK</del>	<del>UPOK</del>
D-3	<del>Limited Day Care</del> <u>Small Family Day Care</u>	<del>UPOK</del>	<del>UPOK</del>
D-4	Limited Residential Care	UP	UP
D-5	Multi-Family Residential	UP	UPCC
D-6	Single-Family Residential	UP	OK

Key	Residential Uses	C-VS Zoning	C-G Zoning
D-1	Group Residential	NO	OK
D-2	Large Family Day Care	<del>NOOK</del>	OK
D-3	<del>Limited Day Care</del> <u>Small Family Day Care</u>	<del>NOOK</del>	OK
D-4	Limited Residential Care	OK	OK
D-5	Multi-Family Residential	NO	UP
D-6	Single-Family Residential	UP	UP

**Section 6.** Modify the Mobile Home Park Zoning District Standards, Section 18.17.020 D. 3. as follows:

3. ~~Day care, limited residential,~~ Small Family Day Care and Large Family Day Care subject to the regulations set forth at Section 18.06.025(GJ).

**Section 7. Effective Date.** This ordinance shall be in full force and effect from and after the thirtieth (30<sup>th</sup>) day following its final passage.

**INTRODUCED** at a regular meeting of the City Council of the City of Half Moon Bay, California, held on the 18<sup>th</sup> day of October, 2016.

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Half Moon Bay, California, held on the 1<sup>st</sup> day of November, 2016, by the following vote:

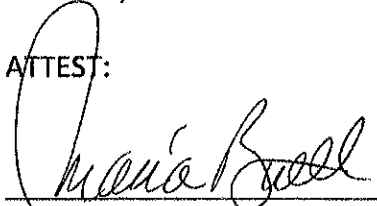
AYES, Councilmembers: Fraser, Kowalczyk, Muller, Penrose, and Ruddock

NOES, Councilmembers:

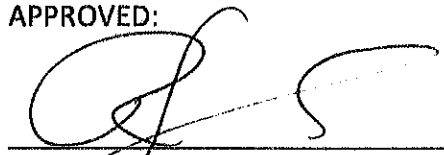
ABSENT, Councilmembers:

ABSTAIN, Councilmembers:

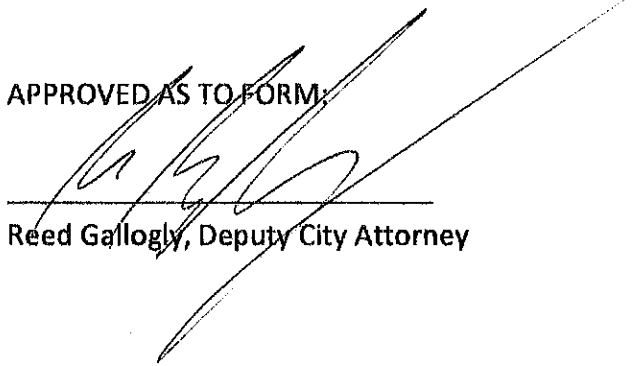
ATTEST:

  
 \_\_\_\_\_  
 Maria Buell, Deputy City Clerk

APPROVED:

  
 \_\_\_\_\_  
 Rick Kowalczyk, Mayor

APPROVED AS TO FORM:

A large, stylized handwritten signature in black ink, written over a horizontal line. The signature is slanted upwards to the right and appears to be the name 'Reed Gallogly'.

Reed Gallogly, Deputy City Attorney