



**CITY COUNCIL AGENDA
REGULAR MEETING
CITY OF HALF MOON BAY**

TUESDAY, NOVEMBER 5, 2019

**Adcock Community Senior Center, 535 Kelly
Avenue, Half Moon Bay, California 94019**

**Harvey Rarback, Mayor
Adam Eisen, Vice Mayor
Robert Brownstone, Councilmember
Deborah Penrose, Councilmember
Debbie Ruddock, Councilmember**

7:00 PM

This agenda contains a brief description of each item to be considered. Those wishing to address the City Council on any matter not listed on the Agenda, but within the jurisdiction of the City Council to resolve, may come forward to the podium during the Public Forum portion of the Agenda and will have a maximum of three minutes to discuss their item. Those wishing to speak on a Public Hearing matter will be called forward at the appropriate time during the Public Hearing consideration.

Please Note: Anyone wishing to present materials to the City Council, please submit seven copies to the City Clerk.

Copies of written documentation relating to each item of business on the Agenda are on file in the Office of the City Clerk at City Hall and the Half Moon Bay Library where they are available for public inspection. If requested, the agenda shall be available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132.) Information may be obtained by calling 650-726-8271.

In compliance with the Americans with Disabilities Act, special assistance for participation in this meeting can be obtained by contacting the City Clerk's Office at 650-726-8271. A 48-hour notification will enable the City to make reasonable accommodations to ensure accessibility to this meeting (28 CFR 35.102-35.104 ADA Title II).

<http://hmbcity.com/>

MEETING WILL CONCLUDE BY 11:00 PM UNLESS OTHERWISE EXTENDED BY COUNCIL VOTE

ROLL CALL / PLEDGE OF ALLEGIANCE
SCOUT TROOP 263 FLAG CEREMONY

PUBLIC FORUM

APPROVAL OF AGENDA

PROCLAMATIONS AND PRESENTATIONS
HALF MOON BAY LIBRARY ANNUAL REPORT
SHERIFFS DEPARTMENT PUMPKIN FESTIVAL REPORT

MAYOR'S ANNOUNCEMENTS OF COMMUNITY ACTIVITIES AND COMMUNITY SERVICE

REPORT OUT FROM RECENT CLOSED SESSION MEETINGS

CITY MANAGER UPDATES TO COUNCIL

1. CONSENT CALENDAR

1.A WAIVE READING OF RESOLUTIONS AND ORDINANCES

1.B AMENDMENT NO. 1 TO AGREEMENT WITH MARK THOMAS AND COMPANY, INC. FOR CLOSED CIRCUIT TELEVISION VIDEO (CCTV) OF SEWER HOT SPOTS

Staff Recommendation: Adopt a resolution authorizing the City Manager to execute Amendment No. 1 to the Agreement with Mark Thomas and Company Inc. for closed-circuit television video of sewer hot spots in Half Moon Bay in the amount of \$14,174 (Total contract cost of \$44,074).

[STAFF REPORT](#)

[RESOLUTION](#)

[ATTACHMENT 2](#)

2. ORDINANCES AND PUBLIC HEARINGS

2.A ADOPTION OF THE 2019 CALIFORNIA BUILDING STANDARDS CODE

Staff Recommendation: Conduct a public hearing, and: 1) adopt a resolution establishing the "Need for Local Modifications to the California Building Standards Code" and direct staff to provide the signed resolution to the California Building Standards Commission; and 2) waive first reading and introduce an ordinance amending Chapter 14.04 of the Half Moon Bay Municipal Code, adopting by reference the 2019 California Building Standards Code and local amendments, in accordance with California Government Code Title 5, Division 1, Part 1, as published by Building Standards Bulletin 09-02.

[STAFF REPORT](#)

[RESOLUTION](#)

[ORDINANCE](#)

2.B APPEAL OF ACTING TAX ADMINISTRATOR NOTICE OF DETERMINATION OF PAST DUE TRANSIENT OCCUPANCY TAXES - 1430 CABRILLO HIGHWAY N, HALF MOON BAY, CA 94019 (CHRIS VOISARD)

Staff Recommendation: By motion: 1) adopt a Resolution denying the appeal and upholding the Acting Tax Administrator’s Notice of Determination of past due Transient Occupancy Taxes; and 2) direct staff to take all actions necessary to finalize the denial of the appeal, requiring the property owner to pay \$9,000 in transient occupancy taxes accrued from January 1, 2015 through March 31, 2018, and amending the lien recorded against the property to \$9,000.

[STAFF REPORT](#)

[RESOLUTION](#)

[ATTACHMENT 2](#)

[ATTACHMENT 3](#)

[ATTACHMENT 4](#)

[ATTACHMENT 5](#)

[ATTACHMENT 6](#)

[ATTACHMENT 7](#)

[ATTACHMENT 8](#)

[ATTACHMENT 9](#)

3. RESOLUTIONS AND STAFF REPORTS

3.A HIGHWAY 1 SOUTH PROJECT AGREEMENTS WITH SMCTA AND PG&E

Staff Recommendation: Adopt a resolution authorizing the City Manager to: 1) execute a funding agreement with San Mateo County Transportation Authority (SMCTA) to accept Measure A funds in the amount of \$3,200,000 for the construction of Highway 1 Safety and Operational Improvements South project (CIP Project No. 523); and 2) execute an agreement with PG&E for the undergrounding of overhead power and communication lines in the amount of \$383,338.18; and 3) authorize the Administrative Services Director to transfer \$190,000 from within the current adopted 2019-2020 Capital Budget to cover the negotiated final estimate of costs for utility undergrounding.

[STAFF REPORT](#)

[RESOLUTION](#)

3.B SUSTAINABILITY PROGRAM UPDATE

Staff Recommendation: Receive and accept report on the sustainability program.

[STAFF REPORT](#)

3.C TRANSPORTATION ACTION AND ADAPTATION PROGRAM (TAAP)

Staff Recommendation: Receive and accept report on the Transportation Action and Adaptation Program (TAAP).

[STAFF REPORT](#)

FOR FUTURE DISCUSSION / POSSIBLE AGENDA ITEMS

CITY COUNCIL REPORTS

ADJOURNMENT

BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: **November 5, 2019**

TO: Honorable Mayor and City Council

VIA: Bob Nisbet, City Manager

FROM: John Doughty, Public Works Director
Maz Bozorginia, City Engineer

TITLE: AMENDMENT NO. 1 TO AGREEMENT WITH MARK THOMAS AND COMPANY, INC. FOR CLOSED CIRCUIT TELEVISION VIDEO (CCTV) OF SEWER HOT SPOTS

RECOMMENDATION:

Adopt a resolution authorizing the City Manager to execute Amendment No. 1 to the Agreement with Mark Thomas and Company Inc. for closed-circuit television video of sewer hot spots in Half Moon Bay in the amount of \$14,174 (Total contract cost of \$44,074).

FISCAL IMPACT:

The City's Annual Operating Budget includes funding for the sewer enterprise related expenses. CCTV work was anticipated and budgeted in FY 2019-20.

STRATEGIC ELEMENT:

This project fulfills the Infrastructure and Environment, and Healthy Community and Safety elements of the adopted Strategic Plan.

BACKGROUND/DISCUSSION:

On April 26, 2019, the City entered into a contract with Mark Thomas Company for Closed Circuit Television of all Hot Spot sewer segments in the City. The amount of the contract was \$29,900 and within the City Manager's signing authority. MTCO notified staff in August that they were having issues with several segments of the Hot Spots where either they experienced high water, heavy grease build-up or debris in the line. MTCO attempted to CCTV all segments but were unable due to existing conditions.

On October 10, 2019, MTCO submitted a letter outlining the issues with the remaining Hot Spot segments, expected additional costs and processes for completing the work. MTCO is requesting an additional \$14,174 to complete CCTV work.

On October 15, 2019, MTCO presented their FY 2018-19 Annual Report on Sewer Collection System Maintenance efforts. This presentation included still shots of Hot Spot conditions.

Mark Thomas and Company agreed to commence work on the CCTV project with little background information on historical cleaning and existing conditions. Staff and MTCO agreed, at the time of the initial contract given the unknowns, that a subsequent amendment might be necessary. The City purposely chose to CCTV Hot Spot segments prior to cleaning in an effort to gather information on conditions prior to cleaning and to gauge the effectiveness of Hot Spot cleaning to date. Traditionally, CCTV is completed following cleaning.

City staff has worked with MTCO and personally observed the conditions and issues identified in by the firm in conversations and by correspondence. CCTV work is critical to the City's documentation of Hot Spots and identifying best practices for reducing the frequency of cleaning, methods of cleaning and options to expanding education and enforcement related to sources of Fats, Oils and Grease (FOG). These efforts are part of the City's ongoing efforts to reduce the potential for sanitary sewer spills and environmental impacts of those events. As such, staff recommends approval of Amendment No. 1 to the agreement with MTCO for additional CCTV work on City Hot Spots.

ATTACHMENTS:

1. Resolution
2. MTCO Letter of October 10, 2019

Resolution No. C-2019-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH MARK THOMAS AND COMPANY, INC. FOR COMPLETION OF CLOSED CIRCUIT TELEVISION VIDEO FOR CITY HOT SPOTS

WHEREAS, Mark Thomas and Company, Inc. (MTCO) has provided sewer collection system services under a separate agreement with the City; and

WHEREAS, on April 26, 2019 the City executed an agreement with Mark Thomas Company, Inc. for \$29,900; and

WHEREAS, the contractor has identified twelve sewer line segments that they were unable to complete CCTV due to high water, heavy grease or debris; and

WHEREAS, Mark Thomas and Company, Inc. has requested additional funds to complete the CCTV of the twelve segments for an additional \$14,174; and

WHEREAS, the 2019-20 operating budget includes funding for CCTV and related maintenance; and

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Half Moon Bay hereby authorizes the City Manager to execute Amendment No. 1 with Mark Thomas and Company, Inc. for an additional \$14,174 for additional Closed Circuit Television Video services for Hot Spots in the City.

I, the undersigned, hereby certify that the forgoing Resolution was duly passed and adopted on the 5th day of November 2019 by the City Council of Half Moon Bay by the following vote:

AYES, Councilmembers:

AYES, Councilmembers:

ABSENT, Councilmembers:

ABSTAIN, Councilmembers:

ATTEST:

APPROVED:

Jessica Blair, City Clerk

Harvey Rarback, Mayor



MARK THOMAS

November 1, 2019

John Doughty
City of Half Moon Bay
501 Main Street
Half Moon Bay, CA 94019

RE: Contract Variance for CCTV Inspection of Sewer Pipelines

Dear John:

We have completed our preliminary effort at performing closed-circuit television (CCTV) inspection of the City of Half Moon Bay's sewer segments that require more frequent cleaning ("hotspots"). As you know, CCTV inspection is used to identify, quantify, and evaluate structural defects in sewer pipe segments, and this is typically done shortly after cleaning has been performed. Alternatively, CCTV inspection can be performed when a pipe segment is due to be cleaned to evaluate how grease, roots, and debris have accumulated since the last cleaning. This technique allows one to further understand the necessity for the cleaning and evaluate the cleaning frequency and effectiveness.

For the inspection undertaken for the City of Half Moon Bay, we inspected the pipes when they were due to be cleaned to the extent feasible. As we have discussed, this led to some challenges that prevented the CCTV inspection from being completed. The table below provides details on the pipe segments that could not be cleaned during the first attempt, along with a description of the issue that was encountered. On August 28, 2019 we used a method of CCTV inspection concurrent with cleaning the sewer pipe segment using a cutter, allowing the cleaning technician to see the real time results of the cleaning. This technique was invaluable to the cleaning of the hot spot and confirmed that hydrojetting was not effectively cleaning the segment.



▶ October 10, 2019

Pipe Name	Size	Material	Issue
H03023-H03017	6	PVC	Heavy Grease
H24002-H24001	8	VCP	Heavy Grease
H13015-H12008	6	PVC	Heavy Grease
H10010-H10009	6	VCP	Heavy Grease
H25045-H25044	8	VCP	Debris
H10009-H10008	8	VCP	Debris
H16011-H16010	8	VCP	Debris
H07008-H07007	10	VCP	Debris
H16022-H16021	8	VCP	High Water Level
H16015-H16014	6	VCP	High Water Level
H16011-H16010	8	VCP	High Water Level
H12008-H13015	6	VCP	High Water Level/Intruding Tap

Through August, Mark Thomas has incurred labor costs of \$37,234, which exceeds the project budget (\$29,900) by \$7,334. We propose using the method of performing CCTV inspection concurrent with cleaning using a cutter for the seven remaining pipe segments that had heavy grease or debris. For the four segments that had high water level, we will use a combination of inspection during low flow periods and/or plugging the upstream manholes to prevent flow in the pipe and use of the push camera where necessary. I expect that completing the work will require an additional \$6,840; this translates to a total project variance not to exceed \$14,174 for the Mark Thomas CCTV contract.

Please let me know if you have any questions or if I can provide further assistance.

Sincerely,
MARK THOMAS

Benjamin T. Porter, P.E.
Senior Associate



▶ October 10, 2019



(408) 253-7863
20863 STEVENS CREEK BOULEVARD, SUITE 100
CUPERTINO, CA 95014

MARKTHOMAS.COM

BUSINESS OF THE CITY OF HALF MOON BAY

CITY COUNCIL AGENDA REPORT

For meeting of: **November 5, 2019**

TO: Honorable Mayor and City Council

VIA: Bob Nisbet, City Manager

FROM: Jill Ekas, Community Development Director
Benjamin Corrales, Permit Technician

TITLE: ADOPTION OF THE 2019 CALIFORNIA BUILDING STANDARDS CODE

RECOMMENDATION:

Conduct a public hearing, and: 1) adopt a resolution establishing the "Need for Local Modifications to the California Building Standards Code" and direct staff to provide the signed resolution to the California Building Standards Commission; and 2) waive first reading and introduce an ordinance amending Chapter 14.04 of the Half Moon Bay Municipal Code, adopting by reference the 2019 California Building Standards Code and local amendments, in accordance with California Government Code Title 5, Division 1, Part 1, as published by Building Standards Bulletin 09-02.

FISCAL IMPACT:

There is no direct fiscal impact associated with this action. Building Division staff have attended training sessions to prepare for implementation of the updated building standards. The training expenses are covered by the Community Development Department budget.

STRATEGIC PLAN:

The proposed ordinance supports all of the strategic elements: Infrastructure and Environment, Healthy Communities and Public Safety, Fiscal Sustainability, and Inclusive Governance.

BACKGROUND:

The State's Health and Safety Code (Section 17958) mandates that the California Building Standards Commission adopt and publish the California Building Standards Code, Title 24 of the California Code of Regulations, every three years. Further, each City and County are required to adopt the new codes and to formally notify the CSBC of their intention to adopt local modifications to the Codes.

In late 2016, the City adopted the 2016 California Building Standards Code and they became effective in January 2017. The adoption included local modifications pertaining to grading

regulations and undergrounding certain utilities in conjunction with development.

DISCUSSION:

The 2019 Edition of the California Code of Regulations Title 24 becomes effective on January 1, 2020. The list below identifies the model codes upon which the 2019 Title 24 is based, the California Building Standards Code (CBSC) / Reference Model Code:

2019 California Building Code / 2015 International Building Code (ICC)
2019 California Residential Code / 2015 International Residential Code (ICC)
2019 California Green Building Standards Code
2019 California Fire Code / 2015 International Fire Code (ICC)
2019 California Plumbing Code / 2015 Uniform Plumbing Code (IAPMO)
2019 California Mechanical Code / 2015 Uniform Mechanical Code (IAPMO)
2019 California Electrical Code / 2014 National Electrical Code (NFPA)

The construction codes to be adopted by reference include the following:

2019 California Building Code, Volumes 1 and 2, Title 24 Part 2
2019 California Residential Code, Title 24, Part 2.5
2019 California Green Building Standards Code, Title 24 Part 11
2019 California Fire Code, Title 24 Part 9
2019 California Plumbing Code, Title 24, Part 5 and all appendices
2019 California Mechanical Code, Title 24, Part 4 and all appendices
2019 California Electrical Code, Title 24, Part 3
2019 California Energy Code, Title 24 Part 6
2019 California Administrative Code, Title 24, Part 1
2019 California Referenced Standards Code Title 24, Part 12
1997 Uniform Code for the Abatement of Dangerous Buildings

Significant Code Updates

Updates from the 2016 to the 2019 CBSC include numerous technical revisions as is standard in the triennial update of these complex volumes of standards. For example, the California Fire Code, Title 24, Part 9, will now require roofing materials to have a class B or better fire rating. This does not result in any new requirement for Half Moon Bay because the City and the Coastside Fire Protection District already require class B roofing as part of their locally adopted standards.

Of particular note are updates to the California Energy Code, Title 24, Part 6. Beginning in 2020, new single-family homes will be required, with very few exceptions, to have photo-voltaic systems (solar panels). Garages for single-family development will need to be pre-wired for electric vehicle (EV) charging stations. For multi-family development, 10 percent of the total parking spaces will need to be pre-wired as EV charging stalls. These significant updates will save energy and reduce greenhouse gas emissions associated with new development throughout the state. Fire safety is also addressed in amendments to the California Fire Code, Title 24, Part 9; such as through new requirements for closing devices for doors between garages and habitable

space in dwelling units. Also, gaps between garage doors and the surrounding frame must be further protected against the intrusion of embers.

Reach Codes

Cities and counties may adopt provisions that target reductions in greenhouse gas emissions to a greater extent than required by the 2019 CBSC. These local building energy codes “reach” beyond the state minimum requirements for energy conservation in building design and construction, and are referred to as reach codes. Concurrently with the mandated 2019 CBSC updates, a number of jurisdictions throughout the state are considering such reach codes which focus on reducing the use of systems powered by natural gas. In San Mateo County, seven jurisdictions (six cities and San Mateo County) have or are scheduled to adopt some form of a reach code along with the 2019 CBSC update. Three cities have decided to wait while the 2019 update is implemented and observe how reach codes are working in other jurisdictions. The remaining ten San Mateo County cities are not moving forward with reach codes at the present time. Reach codes may include:

- Prescriptive Codes: Require one or more specific energy efficiency measures
- Performance Codes: Require a building to perform more efficiently based on accepted computer modelling and allow trade-offs between energy efficiency measures

It is important to point out that of the seven San Mateo County jurisdictions adopting reach codes, only three *require* electric systems; the other four reach codes indicate that electric systems are *preferred*. Of the three jurisdictions requiring electric systems, only one requires electric for all of systems (Menlo Park). Alternately, for San Mateo County’s reach code, electric furnaces, hot water heaters and dryers are required; but not electric cooktops.

City staff from multiple disciplines have been studying opportunities for a Half Moon Bay reach code. At this time, we recommend waiting six to twelve months to allow for the following: completion of the Climate Action and Adaptation Plan which is in development; community outreach; and early implementation of the 2019 CBSC while tracking the success and/or unintended consequences of reach codes going into effect in other jurisdictions.

Local Amendments

State law requires that all local amendments to building standards in the CBSC be filed with the California Building Standards Commission. When filed, the amendments must be accompanied by local findings identifying the local climatic, geological or topographical conditions necessitating the changes. Both the City and Coastside Fire Protection District have adopted local amendments in the past and will continue to do so to address specific safety requirements that are especially influenced by the City’s coastal setting.

City Amendments and Findings: With respect to the 2019 CBSC code update for the City of Half Moon Bay, staff finds that previously adopted local provisions are needed to address local conditions. These conditions necessitate the adoption of more stringent building standards than those found in the CBSC. This update also corrects a grading threshold which should be 50

cubic yards, instead of 500 cubic yards. This standard occurs in multiple locations and is consistently corrected throughout the ordinance.

Climatic: The City is located on a coastal plain and as such is affected greatly by ocean changes. High winds are a factor in design considerations with expected three second gusts in excess of 90 miles per hour. Conditions are such as to require additional structural provisions for wind loading as well as provisions for electrical utility undergrounding. The city has an average annual rainfall of 27 inches and all storm water flows to the ocean. It is therefore necessary that the City provide special provisions to protect the environment, public safety, and comply with the regional storm water permit.

Topographical: The City has many areas that are in the Tsunami Inundation Area and is also bordered by wildland areas. These conditions require the City to take the necessary precautions to protect the public from likely events of floods or wildland urban interface fires. In addition, the area has a highly expansive clay type soil that requires modifications to foundation and drainage design. Some areas of the City have a high water table and necessitate special drainage considerations to protect the facility from flooding as well as providing for storm water runoff to the ocean.

Geological: The City is located in seismic zone D. The San Andreas Fault, as well as faults that are not fully charted, affect the seismicity risks of the City. In the event of a major earthquake the City would in all likelihood be cut off from the rest of the Peninsula Cities. It is deemed reasonable that provisions be made to assure that the most conservative measures are designed into structures to protect the facilities, both residential and commercial to provide time for emergency personnel and equipment to reach the coast and provide assistance.

Fire District Amendments and Findings: The Coastside Fire Protection District adopted local modifications on October 23, 2019. These revisions were adopted by the Board of Directors as part of Fire Code Ordinance 2019-03. Because the Fire District modifications are applicable to the City of Half Moon Bay, staff recommends that they also be included in the City Municipal Code to ensure that residents and builders are aware of these local modifications.

Several of the local modifications made by the Fire District are especially relevant to the City. One change is a new formula that the District will use to determine when fire sprinkler systems are required for substantially remodeled structures. The current method is based on construction cost and has rarely resulted in fire sprinkler systems being required for even very significantly remodeled and expanded structures. The new formula is similar to those used by other jurisdictions and will result in requiring more projects to include sprinkler systems when large investments are being made.

The following findings were adopted by Coastside Fire Protection District for the 2019 code updates and are provided for the City's use in ensuring code consistency:

Climatic: The Coastside Fire Protection District is located within a coastal region. The District is

subject to extensive periods of dense coastal fog as well as an average rainfall of twenty-five (25) inches per year. These adverse weather conditions create severe hazardous road conditions as well as mud and rockslides along the main access roads within, as well as into, the District from the surrounding area. Due to the periods of heavy fog and rainfall, along with repeated flooding conditions and road closures, the ability of the Fire Protection District to provide immediate emergency response is often delayed. These same adverse climatic conditions often result in a large number of vehicular accidents that place extreme restraints on the availability of emergency response to perform emergency rescue, first aid, hazardous materials control and firefighting. The climatic conditions often result in a substantial or total lack of ability of the Fire Protection District to respond immediately to other types of emergency situations that occur. Examples of these emergency conditions may be a structure fire, brush fire, hazardous material incident medical call. The mutual aid agreements established with adjoining fire protection agencies, might not be possible due to adverse climatic conditions having restricted or totally blocked access into the District.

Geological: The Coastside Fire Protection District is located within a high activity seismic Zone 4. The San Andreas Fault, as well as faults that are not fully charted, are within immediate boundaries of the District. The seismic geological conditions present a very severe potential for multiple fires, major breakage of water mains, major breakage of natural gas mains, multiple electrical power failures, multiple collapsed structures, large number of calls for emergency medical aid, all of which may occur simultaneously during a seismic event. Most of the structures within the hilly terrain have water pumping systems used for fire suppression water delivery as well as water storage tanks. Most of the pumping systems are dependent on electrical power for operation. Such electrical power may not be available during a seismic event. Water storage in the Point Montara zone of the District is deficient in volume. Water storage tanks used for the storage of required fire suppression water may also collapse in such an event forcing the additional needs to transport water via additional pieces of fire apparatus which will place a significant restraint on the ability of the District to provide the required emergency services.

Topographical: The District is composed of areas that are considered by the State Fire Hazard Severity Zone mapping system to be of High and Very High fire hazard. Much of the District is hilly terrain covered with highly combustible natural vegetation including the presence of many groves of eucalyptus trees. The structures within the areas of hilly terrain have very limited fire access due to narrow roadways with steep grades and poor road surface conditions such as gravel. The presence of many existing structures within the high and very high fire hazard and wildland areas provides for a severe potential of a structure fire spreading into a wildland fire condition.

Conclusion

Staff recommends that City Council adopt the resolution making findings in support of local amendments to the 2019 CBSC, and introducing an ordinance to adopt the 2019 CBSC with the local amendments. The second reading will be brought back to Council at its next meeting on November 19, 2019 and the ordinance will take effect on January 1, 2020. Staff further recommends that Council direct staff to consider options for a reach code as a component of the

forthcoming Climate Action and Adaptation Plan.

ATTACHMENTS:

1. Resolution determining the “Need for Local Modifications to the California Building Standards Code”
2. Ordinance amending Chapter 14.04 of the Half Moon Bay Municipal Code

Resolution No. C-2019-____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY
DETERMINING THE NEED FOR LOCAL MODIFICATIONS TO THE CALIFORNIA BUILDING
STANDARDS CODE**

WHEREAS, Title 24 of the California Code of Regulations, also known as the California Building Standards Code (CBSC), contains construction standards applicable to local jurisdictions throughout the state including the City of Half Moon Bay ("City"); and

WHEREAS, the City is adopting the 2019 triennial CBSC code update to become effective on January 1, 2020; and

WHEREAS, when reasonably necessary due to local climatic, geological, or tropical conditions, Health and Safety Code Sections 17958.5 and 18941.5 provide for local jurisdictions to establish more restrictive building standards than those set forth in the CBSC; and

WHEREAS, before making local modifications to the CBSC, Health and Safety Code Sections 17958.5 and 18941.5 require the local jurisdiction to make express findings that such changes are reasonably necessary due to local climatic, geological or topographical conditions; and

WHEREAS, the City Council has determined that there is a need to establish building standards that are more restrictive than those adopted by the State of California in the 2019 CBSC to address the problems, concerns and future direction by which the City can establish and maintain an environment which will afford an appropriate level of fire and life safety to all who live and work within its boundary; and

WHEREAS, these local amendments have been evaluated and recognized by the City as tools for addressing local building construction requirements in the City, which are aimed at establishing and maintaining an environment that will afford the City a high level of fire and life safety to all those who work and live within the City's boundaries; and

WHEREAS, in making this determination, the City Council has made the following findings with respect to local climatic, geological, and topographical conditions:

Climatic: The City is located on a coastal plain and as such is affected greatly by ocean changes. High winds are a factor in design considerations with expected three second gusts in excess of 90 miles per hour. Conditions are such as to require additional structural provisions for wind loading as well as provisions for electrical utility undergrounding. The city has an average annual rainfall of 27 inches and all storm water flows to the ocean. It is therefore necessary that the City provide special provisions to protect the environment and comply with the regional storm water permit.

Topographical: The City has many areas that are in the Tsunami Inundation Area and is also bordered by wildland areas. These conditions require the City to take the necessary precautions to protect the public from likely events of floods or wildland urban interface fires. In addition, the area has a highly expansive clay type soil that requires modifications to foundation and drainage design. Some areas of the City have a high water table and necessitate special drainage considerations to protect the facility from flooding as well as providing for storm water runoff to the ocean.

Geological: The City is located in seismic zone D. The San Andreas Fault, as well as faults that are not fully charted and affect the seismicity risks of the City. In the event of a major earthquake the City would in all likelihood be cut off from the rest of the Peninsula Cities. It is deemed reasonable that provisions be made to assure that the most conservative measures are designed into structures to protect the facilities, both residential and commercial to provide time for emergency personnel and equipment to reach the coast and provide assistance.

AND WHEREAS, the City Council further finds the following, consistent with findings made by the Coastside County Fire Protection District on October 23, 2019 when the District adopted local modifications to the 2019 CBSC:

Climatic: The Coastside Fire Protection District is located within a coastal region. The District is subject to extensive periods of dense coastal fog as well as an average rainfall of twenty-five (25) inches per year. These adverse weather conditions create severe hazardous road conditions as well as mud and rockslides along the main access roads within, as well as into, the District from the surrounding area. Due to the periods of heavy fog and rainfall, along with repeated flooding conditions and road closures, the ability of the Fire Protection District to provide immediate emergency response is often delayed. These same adverse climatic conditions often result in a large number of vehicular accidents that place extreme restraints on the availability of emergency response to perform emergency rescue, first aid, hazardous materials control and firefighting. The climatic conditions often result in a substantial or total lack of ability of the Fire Protection District to respond immediately to other types of emergency situations that occur. Examples of these emergency conditions may be a structure fire, brush fire, hazardous material incident medical call. The mutual aid agreements established with adjoining fire protection agencies, might not be possible due to adverse climatic conditions having restricted or totally blocked access into the District.

Geological: The Coastside Fire Protection District is located within a high activity seismic Zone 4. The San Andreas Fault, as well as faults that are not fully charted, are within immediate boundaries of the District. The seismic geological conditions present a very severe potential for multiple fires, major breakage of water mains, major breakage of natural gas mains, multiple electrical power failures, multiple collapsed structures, large number of calls for emergency medical aid, all of which may occur simultaneously during a seismic event. Most of the structures within the hilly terrain have water pumping

systems used for fire suppression water delivery as well as water storage tanks. Most of the pumping systems are dependent on electrical power for operation. Such electrical power may not be available during a seismic event. Water storage in the Point Montara zone of the District is deficient in volume. Water storage tanks used for the storage of required fire suppression water may also collapse in such an event forcing the additional needs to transport water via additional pieces of fire apparatus which will place a significant restraint on the ability of the District to provide the required emergency services.

Topographical: The District is composed of areas that are considered by the State Fire Hazard Severity Zone mapping system to be of High and Very High fire hazard. Much of the District is hilly terrain covered with highly combustible natural vegetation including the presence of many groves of eucalyptus trees. The structures within the areas of hilly terrain have very limited fire access due to narrow roadways with steep grades and poor road surface conditions such as gravel. The presence of many existing structures within the high and very high fire hazard and wildland areas provides for a severe potential of a structure fire spreading into a wildland fire condition.

AND WHEREAS, once adopted the City is required to file its local amendments and findings with the California Building Standards Commission in accordance with Health and Safety Code Section 17958.7.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Half Moon Bay is adopting the 2019 CBSC to take effect on January 1, 2020 with local amendments to the 2019 California Building Code and the 2019 California Fire Code; and

BE IT FURTHER RESOLVED that the City Council has directed that a copy of this Resolution and the Half Moon Bay Ordinance be filed with the California Building Standards Commission in accordance with Health and Safety Code Section 17958.7.

I, the undersigned, hereby certify that the foregoing Resolution was duly passed and adopted on the 5th day of November 2019 by the City Council of Half Moon Bay by the following vote:

- AYES, Councilmembers:
- NOES, Councilmembers:
- ABSENT, Councilmembers:
- ABSTAIN, Councilmembers:

ATTEST:

APPROVED:

Jessica Blair, City Clerk

Harvey Rarback, Mayor

ORDINANCE NO. C-2019-XX

AN ORDINANCE OF THE CITY OF HALF MOON BAY AMENDING THE EXISTING CHAPTER 14.04, BUILDING STANDARDS TO THE HALF MOON BAY MUNICIPAL CODE, TO ADOPT BY REFERENCE: 2019 CALIFORNIA BUILDING CODE, VOLUMES 1 AND 2, TITLE 24 PART 2; 2019 CALIFORNIA RESIDENTIAL CODE, TITLE 24 PART 2.5; 2019 CALIFORNIA GREEN BUILDING STANDARDS CODE, TITLE 24 PART 11; 2019 CALIFORNIA FIRE CODE TITLE 24 PART 9; 2019 CALIFORNIA PLUMBING CODE, TITLE 24 PART 5; 2019 CALIFORNIA MECHANICAL CODE, TITLE 24 PART 4; 2019 CALIFORNIA ELECTRICAL CODE, TITLE 24 PART 3; 2019 CALIFORNIA ENERGY CODE, TITLE 24 PART 6; 2019 CALIFORNIA ADMINISTRATIVE CODE, TITLE 24 PART 1; 2019 CALIFORNIA REFERENCED STANDARDS CODE TITLE 24 PART 12; 1997 UNIFORM ABATEMENT OF DANGEROUS BUILDINGS CODE.

The City Council of the City of Half Moon Bay does ordain as follows:

Section 1: Chapter 14.04 Building Standards of the Half Moon Bay Municipal code is hereby amended to read as follows:

Building Standards

14.04.010 Intent and Purpose

It is the intent of the City to adopt by reference the ~~2016-2019~~ California Code Series of regulations for the purpose of establishing minimum standards to safeguard and protect the health, safety and welfare of the public by regulating the design, construction, quality of materials, use and occupancy and the location of all builds and structures within the city.

14.04.020 Building Code

Those certain Codes and Standards known as the ~~2016-2019~~ California Building Code, Part 2, Volumes 1 and 2, and by reference the 2015 International Building Code published by the International Code Council, and Appendix Chapters C (Group U Agricultural Buildings) G (Flood Resistant Construction) H (Signs) I (Patio Covers) J (Grading) as amended:

Appendix J Grading, is amended as follows:

- a. Section J103.1, Permits Required, is amended by adding the following:

Notwithstanding the provisions of Section J 103.2 exemptions, a grading permit shall be required for all excavation and grading involving more than ~~500-50~~ cubic yards of material; grading and excavating will exceed an area greater than 5000 square feet; or grading or excavating has a potential to obstruct a natural or manmade drainage course.

- b. Section J 103.1.2, Engineered Grading Requirements, is added to read as follows:
- A. If more than ~~500~~50 yards of material are to be removed from the site, the following information must be included in the application materials submitted to the City: The names, addresses and telephone numbers of all persons owning property where the materials is to be deposited: the specific locations of the deposit site; the haul route or routes to be followed; and the estimated times and dates the materials are to be transported.
 8. If more than ~~500~~50 yards of material are to be transported to the site, the following information must be included in the application submitted to the City:
 1. A statement as to the source and type of materials to be transported to the site
 2. The haul route or routes to be followed
 3. The estimated times and dates the materials are to be transported
 4. The name, address and phone number of the person to have effective control of the work, including a telephone number for contact in the event of an emergency.
- c. Section J104.1 Submittal Requirements, is added to read as follows:
- A. If more than ~~500~~50 yards of material are to be removed from the site, the following information must be included in the application materials submitted to the City: The names, addresses and telephone numbers of all persons owning property where the material is to be deposited: the specific locations of the deposit site; the haul route or routes to be followed; and the estimated times and dates the materials are to be transported.
 - B. If more than ~~500~~50 yards of material are to be transported to the site, the following information must be included in the application submitted to the City:
 1. A statement as to the source and type of materials to be transported to the site
 - The haul route or routes to be followed
 - The estimated times and dates the materials are to be transported.

-The name, address and phone number of the person to have effective control of the work, including a telephone number for contact in the event of an emergency.

- d. A new Section J107.7, Grading and Filing of Flood Plain Areas, is added as follows: No grading shall occur and no fill material shall be placed within 100 feet of the edge of the low flow channel in a flood plain area. Minor grading or filling may be allowed in a flood plan area for agricultural purposes if in the opinion of the City Engineer the grading or fill material will not adversely affect the drainage in the flood plain area.

14.04.030 Mechanical Code

Those certain Codes and Standards known as the ~~2016-2019~~ California Mechanical Code, Part 4, and by reference the 2015 Uniform Mechanical Code published by the International Code Council, and all appendices thereto, are hereby adopted by reference without amendment.

14.04.040 Energy Code

Those certain Codes and Standards known as the ~~2016-2019~~ California Energy Code, Part 6, published by the California Building Standards Commission is hereby adopted by reference without amendment.

14.04.050 Referenced Standards Code

Those certain Codes and Standards known as the ~~2016-2019~~ California Referenced Standards Code, Part 12 published by the California building Standards Commission is hereby adopted by reference without amendment.

14.04.060 Plumbing code

Those certain Codes and Standards known as the ~~2016-2019~~ California Plumbing Code, Part 5, and by reference the 2015 Uniform Plumbing Code published by the International Association of Plumbing and Mechanical Officials, and all appendices thereto, are hereby adopted by reference without amendment.

14.04.070 Electrical Code

Those certain Codes and Standards known as the ~~2016-2019~~ California Electrical Code, Part 3, is hereby amended as follows:

Article 100 Definition of Electrical Service Add Underground electrical service shall be provided in all new construction, additions of more than 25% of the existing floor area, and

remodels where the estimated cost of construction is 50% or more of the assessed valuation of the building. Underground service shall be installed in accordance with the most recent addition of the Pacific Gas and Electric Company Electric and Gas Service Requirement Section 5 Electric Service Underground.

14.04.080 Administrative Code

Those certain Codes and Standards known as the ~~2016-2019~~ California Administrative Code, Part 1, published by the California Building Standards Commission is hereby adopted without amendment.

14.04.090 Existing Buildings Code

Those certain Codes and Standards known as the ~~2016-2019~~ California Existing Building Code, Part 10, and by reference the 2015 International Existing Building Code published by the International Code Council, is hereby adopted without amendment.

14.04.100 Historical Building Code

Those certain Codes and Standards known as the ~~2016-2019~~ California Historical Building Code, Part 8, published by the California Building Standards Commission is hereby adopted without amendment.

14.04.110 Fire Code

Those certain Codes and Standards known as the ~~2016-2019~~ California Fire Code, Part 9, and by reference the 2015 International Fire Code published by the International Code Council, and all appendices thereto, are hereby adopted as amended.

The Fire Code is amended as follows:

A. Establishment of the Bureau of Fire Prevention. The Bureau of Fire Prevention is hereby established and shall operate under the supervision of the Chief of the Coastsides Fire Protection District or the person or persons authorized by the Chief of the Coastsides Fire Protection District.

B. Definitions.

1. Wherever the words "authority having jurisdiction or jurisdiction" are used, it shall be held to mean the Coastsides Fire Protection District.
2. Wherever the words "fire department" are used, it shall be held to mean the Coastsides Fire Protection District.

3. Wherever the words “Chief or Chief of the Bureau of Fire Prevention” are used, they shall be held to mean the Chief of the Coastside Fire Protection District or the person or persons authorized by the Chief of the Coastside Fire Protection District.
 4. Wherever the word “Administrator” is used, it shall be held to mean the Board of Directors of the Coastside Fire Protection District.
 5. Wherever the term “District Counsel” is used in the Fire Code, it shall be held to mean the Attorney for the Coastside Fire Protection District.
- C.** Establishment of Limits within the Coastside Fire Protection District in Which Storage and Use of Explosives and Blasting Agents Is to Be Prohibited. The storage and use of explosives and blasting agents are prohibited within the boundaries of the Coastside Fire Protection District.

Exception: The Chief of the Coastside Fire Protection District or the person or persons authorized by the Chief of the Coastside Fire Protection District, may issue a permit to store or use explosives and blasting agents after due consideration has been given to the potential hazards to life, and property and compliance to the requirements established by the California State Fire Marshal for the Storage and Use of Explosives.

- D.** Establishment of Limits within the Coastside Fire Protection District in Which Storage of Flammable/Combustible Liquids in Outside Above-Ground Tanks Is to Be Prohibited.

The Chief shall have the authority to permit or deny each site-specific design and/or installation of above ground flammable/combustible liquids tanks within the established boundaries of the Coastside Fire Protection District.

- E.** Establishment of Limits within the Coastside Fire Protection District in Which Storage of Liquefied Petroleum Gases Is to Be Prohibited.

The Chief shall have the authority to permit or deny each site-specific design and/or installation for the storage of Liquefied Petroleum Gases within the established boundaries of the Coastside Fire Protection District.

- F.** Establishment of Limits within the Coastside Fire Protection District in Which the Storage of Compressed Natural Gas Is to Be Prohibited.

The Chief shall have the authority to permit or deny each site-specific design and/or installation for the storage of Compressed Natural Gas within the established boundaries of the Coastside Fire Protection District.

- G.** Establishment of minimum roofing classification for all new buildings constructed or re-roofed within the Coastside Fire Protection District.

All roof installations regulated by California Building Code Chapter 15 and Appendix Chapter 15 shall comply with CBC Section 1505, but in no case shall be listed as less than a minimum of a Class B roofing assembly.

The Chief shall have the authority to inspect all such roofing systems during construction and/or require certification from the installer that the roof system does meet these requirements.

- H. Amendments and Deletions** to the California Fire Code as Published by and Printed by the International Code Council. The California Fire Code is amended and changed as follows:

Section 101 is adopted in its entirety.

Section 101.1 is amended and changed to read as follows:

101.1 Title. These regulations shall be known as the Fire Code of the Coastside Fire Protection District, hereafter referred to as “this code”

Section 101.2.1 is amended and changed to read as follows:

101.2.1 APPENDIX CHAPTERS. Appendix chapters, which are not specifically adopted, may be used in whole or in part by the Coastside Fire Protection District as guides toward enforcement of the provisions of this ordinance.

Section 104.1 is adopted in its entirety.

Section 104.1.1 is added to read as follows:

104.1.1 Fire Department Personnel and Public-Peace Officers. The Chief and members of the fire prevention bureau and other designated representatives as designated by the Chief shall have the powers of a public officer in performing their duties under this code and shall have the power to issue notices of violation or citations for violation of this code and any other ordinances of the Coastside Fire Protection District. Individuals designated as “public-peace officers” shall assume those duties upon successful completion of a PC 832 course of instruction.

Division II, Section 104.3 is adopted in its entirety.

Division II, Section 104.3.1 is adopted in its entirety.

Division II, Section 104.5 is adopted in its entirety.

Division II, Section 104.9 is adopted in its entirety.

Division II, Section 104.9.1 is adopted in its entirety.

Division II, Section 104.9.2 is adopted in its entirety.

Division II, Section 104.10 is adopted in its entirety.

Division II, Section 104.10.1 is adopted in its entirety.

Division II, Section 104.11 is adopted in its entirety.

Division II, Section 104.11.1 is adopted in its entirety.

Division II, Section 104.11.2 is adopted in its entirety.

Division II, Section 104.11.3 is adopted in its entirety.

Section 105.6.5.1 is added to read as follows:

105.6.5.1 Special Event. An operational permit is required to conduct a special event either inside or outside of a structure. Special events include but are not limited to the following types of activity: crafts faire, festivals, historical celebrations, etc.

Section 106.2.3 is added to read as follows:

106.2.3 Authority to Inspect. The Chief or other designated representatives shall inspect, as often as necessary, buildings and premises, including such other hazards or appliances designated by the Chief for the purpose of ascertaining and causing to be corrected any conditions which would reasonably tend to cause fire or contribute to its spread, or any violation of the purpose or provisions of this code and of any other law or standard affecting fire safety.

Section ~~108~~109 is added and changed to read as follows:

~~108.1~~109.1 Board of Appeals Established. In order to hear and decide appeals of orders, decisions or determinations made by the fire code official relative to the application and interpretation of this code, there shall be and is hereby created a Board of Appeals. Any person who is aggrieved within the meaning of this paragraph by an action of an authorized representative of the District may appeal the action to the Fire District's Board of Directors. The appeal must be in writing, must fully describe the action sought to be appealed and must be filed with the Clerk of the District Board within 30 days of

the date of the action appealed. The Board of Directors shall render all decisions and findings in writing to the appellant with a duplicate copy to the fire code official. The decision rendered by the Board of Directors of the Coastside Fire District is final.

108.2109.2 Limitations on Authority. A person shall be deemed to be aggrieved within the meaning of this Section if the person is the applicant or the permittee or is otherwise directly affected by the action in question. An application for appeal shall be based on a claim that the intent of this code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not fully apply or an equivalent method of protection or safety is proposed. The action in question may also involve the approval or disapproval of a permit application submitted to the District, the grant or denial of a permit, or a decision concerning the interpretation, construction, operation or enforcement of the District's Fire Prevention Code. The Board shall have no authority to waive requirements of this code.

108.3109.3 Qualifications. The Board of Appeals shall consist of the Fire District Board of Directors. The Fire Chief shall be an ex officio member of said Board but shall have no vote on any matter before the Board.

Section 109.4110.4 is amended and changed to read as follows:

109.4110.4 Violation Penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the Fire Code official, or of a permit or certificate used under provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not less than \$250 dollars or more than \$2,500 or imprisonment for not less than 180 days or both in accordance with Section 19 of the California Penal Code. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Notwithstanding any other provision of this code, whenever violation of any section contained in this code is punishable as a misdemeanor, the prosecuting attorney having jurisdiction to prosecute said misdemeanor, may specify that the offense is an infraction and proceed with prosecution as an infraction, unless the defendant, at the time of his arraignment or plea, objects to the offense being made an infraction, in which event the complaint shall be amended to charge a misdemeanor and the case shall proceed on a misdemeanor complaint.

The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or

defects; and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.

- (1) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.
- (2) Due to the potential danger of the hazardous materials regulated under the International/California Fire Code, any person, firm, or corporation who violates any of the provisions of the International/California Fire Code, shall be liable for civil penalties not exceeding \$250 dollars per day for the first ten days; and \$2,500 dollars per day for the next 20 days; and \$5,000 dollars for each day after twenty. This shall apply to each violation.
- (3) In addition to the penalties set out in this Code, any condition caused or permitted to exist in violation of any of the provisions of this Code shall be deemed a public nuisance and may be summarily abated as such, and each day such condition continues shall be regarded as a new separate offense. The Coastside Fire Protection District shall also be permitted the right of recovering those funds, used to mitigate continuous, unabated hazards, which present a clear and present danger. The cost recovery fee shall be based on the actual hourly rate for the Coastside Fire Protection District staff, used in gaining compliance for those in violation.
- (4) Fines and cost recovery fees will be accessed to the property owners tax roles after thirty (30) days of the violations notice, or after complication of the appeal process.

Section ~~111.4112.4~~ is amended and changed to read as follows:

~~111.4112.4~~ Failure to Comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than \$250 dollars or more than \$2,500.

Section ~~202200~~ - add the following terms to read as follows:

~~ADMINISTRATOR is the Board of Directors of the Coastside Fire Protection District.~~

AIR REACTIVE is any liquid, solid or gas, which, when combined with air, a reaction occurs that forms a hazardous condition. (See also, “pyrophoric”)

ALL WEATHER SURFACE shall be a minimum of 6 inches of compacted Class II base rock and 3 inches of asphaltic concrete for grades up to 15%. From 15% to 20% an

engineered surface such as rough grooved concrete is required. In no circumstances shall the grade exceed 20%.

AUTHORIZED REPRESENTATIVES shall be those persons determined by the Chief of the Coastside Fire Protection District to act as the Chiefs' agent.

BRIDGE A bridge shall be defined as a structure designed to carry a roadway over a depression or obstacle

BUILDING CODE is the California Building Code, ~~2016-2019~~ edition as may be amended by the City of Half Moon Bay.

~~**DRIVEWAY** a vehicular access that serves no more than two (2) buildings, with no more than three dwelling units on a single parcel, and any number of accessory buildings.~~

ELECTRICAL CODE is California Electrical Code, ~~2016-2019~~ edition.

EXECUTIVE BODY is the Board of Directors for the Coastside Fire Protection District.

FIRE DEPARTMENT is the Coastside Fire Protection District.

JURISDICTION is the Coastside Fire Protection District.

JURISDICTIONAL AREA is the boundaries established for the Coastside Fire Protection District including the City of Half Moon Bay and unincorporated areas of San Mateo County including Miramar, El Granada, Princeton, Moss Beach and Montara.

LIQUID TIGHT is the ability of a material to retain a liquid being contained and prevent the passage of such liquid.

MECHANICAL CODE is the California Mechanical Code, ~~2016-2019~~ edition.

PLUMBING CODE is the California Plumbing Code, ~~2016-2019~~ edition.

STAGE is a space within a building utilized for entertainment or presentations, which includes overhead hanging curtains, drops, scenery or stage effects other than lighting and sound.

STREET is any thoroughfare or public way not less than 20 feet in width which has been dedicated or deeded to the public for public use and required as a means of fire access.

TRAFFIC CALMING DEVICES are design elements of fire apparatus access roads such as street alignment, installation of barriers, and other physical measures intended to reduce traffic and cut-through volumes, and slow vehicle speeds.

WASTE OIL is a Class III-B waste liquid resulting from the use of Class III-B combustible liquids such as motor oil, hydraulic oil, lubricating oil, brake fluids and transmission fluids.

Chapter 3, Section 303 is adopted in its entirety.

Section 303.3.1 is added to read as follows:

303.3.1 Fuel Cylinders for Asphalt Roofing Kettles. All fuel cylinders, used in conjunction with asphalt roofing kettles or related equipment, shall be adequately secured to prevent overturning.

Section 304.1.2.1 is added to read as follows:

304.1.2.1 Clearance of Brush, Vegetative Growth and Combustible Material from Lots. All lots shall be cleared of brush, vegetative growth and combustible material upon written notification by the Coastside Fire Protection District.

Section 304.1.2.2 is added to read as follows:

304.1.2.2 Clearance of Brush, Vegetative Growth from Structure Area.

Any person owning, leasing, controlling, operating or maintaining any building or structure in, upon or adjoining any hazardous fire area or any such area within the jurisdictional boundary of the Coastside Fire Protection District, shall upon written notification remove and clear such brush, vegetative growth from the area of the building or structure, as prescribed within the written notice.

Section 304.1.2.3 is added to read as follows:

304.1.2.3 Fire Breaks. The Coastside Fire Protection District may require the installation of “fire breaks” around or within parcels of property where combustible weeds, crops, brush or other combustible materials are present. The specific width and length of the “fire breaks” will be determined by the Coastside Fire Protection District. The following conditions will be included as part of the determining factors regarding the width and length of the “fire breaks”:

1. Height and width of combustible material present
2. Prevailing weather conditions
3. Topography of site
4. Available fire apparatus access

5. Fire protection systems available on-site
6. Relationship of structures within the given parcel to the combustible material or adjacent parcels where structures would become exposed to the presence of the combustible material

Specifications and guidelines for compliance with applicable sections of the ordinance shall be found in the Coastside Fire District ~~“Standard Detail & Specification”~~ titled ~~“Vegetation Management”~~, ~~“Fire Prevention Bureau Standards”~~ titled ~~“Weed and Rubbish Abatement Program.”~~

Section 304.1.2.4 is added to read as follows:

304.1.2.4 Weed Abatement. Due to heavy growth of fuels, unmaintained lots are a hazard to the surrounding properties. Coastside Fire Protection District staff shall carry out weed abatement program activities throughout the Coastside Fire Protection District.

Section 304.1.2.5 is added to read as follows:

304.1.2.5 Declaration of Hazardous Fire Areas. The State of California through the California Department of Forestry and Fire Protection has identified and released for action HIGH and VERY HIGH FIRE HAZARD SEVERITY ZONES in Local Response Areas. The Board of Directors of the Coastside Fire Protection District hereby declares both of these zones as HAZARDOUS FIRE AREAS which shall require compliance with Section 4291 of the California Public Resources Code as updated by Section 5182 of the Government Code and Sections 304.1.2.1, 304.1.2.2, 304.1.2.3 and 304.1.2.4 of the Coastside Fire Protection District Ordinance No. 2013-03.

Chapter 3, Section 305 is adopted in its entirety.

Chapter 3, Section 307 is adopted in its entirety.

Chapter 3, Section 308 is adopted in its entirety.

Chapter 3, Section 310 is adopted in its entirety.

Chapter 3, Section 311 is adopted in its entirety.

Chapter 5, Section 503 is adopted in its entirety.

~~Section 503.1.1 an additional Exception is added:~~

~~503.1.1 Driveways to one (1) or two (2) single family resident.~~

Section 503.2.4.1 is added to read as follows:

503.2.4.1 Turning Radius. Inside and outside turning radius for fire access roads will be based upon the capability of the fire apparatus used by the Coastside Fire Protection District. Turning radius design approval must be obtained from the Coastside Fire Protection District.

Section 503.2.6 is amended to read as follows:

503.2.6 Bridges and elevated surfaces. Where a bridge or an elevated surface is part of a fire apparatus access road, the bridge shall be constructed and maintained in accordance with AASHTO **HS-20 (25 ton)**. Bridges and elevated surfaces shall be designed for a live load sufficient to carry the imposed loads of fire apparatus. Vehicle load limits shall be posted at both entrances to bridges. Where elevated surfaces designed for emergency vehicle use are adjacent to surfaces which are not designed for such use, approved barriers, approved signs or both shall be installed and maintained.

Section 503.3.1 is added to read as follows:

503.3.1 Fire Access Lane Markings. Curbs along fire access lanes shall be painted traffic red. Such curbs shall have the words "FIRE LANE" stenciled each Seventy-Five feet on both the face and top edge of the curbs. The stenciled letters shall be a minimum of three inches in height and have a minimum stroke of one-half inch. The lettering shall be white in color. Fire access lanes not having curbs shall either be provided with a twelve inch wide painted red stripe along the edge or provided with signs as described in Section 503.4.1 along the fire access lane at a maximum spacing of seventy-five feet. Fire lanes utilizing the painted stripe shall have stenciled on the red stripe the words "FIRE LANE" each seventy-five feet. The stenciled letters shall be a minimum of three inches in height and have a minimum stroke of one-half inch. The lettering shall be white in color.

Section 503.4.1 is amended to read as follows:

503.4.1 Traffic Calming Devices. Traffic calming devices are prohibited unless approved by the fire code official. Traffic calming devices shall not be installed on designated fire apparatus response routes. When approved, traffic calming devices shall be installed in accordance with the Coastside Fire District's "Traffic Calming Devices" Standard Detail and Specification.

Section 503.4.2 is added to read as follows:

503.4.2 Prohibited Parking. If in the judgment of the Coastside Fire Protection District it is necessary to prohibit vehicular parking, or other materials or articles, along private fire access lanes in order to prevent obstruction of the required width of the fire access lane, signs shall be posted, as appropriate or as indicated in Section D103.6 with the addition of the following lettering near the bottom of the sign: (C.V.C.22500.1)

Section 503.4.3 is added to read as follows:

503.4.3 Roadway Spikes. The installation of roadway traffic control spikes is prohibited within fire access lanes unless prior approval is given by the Coastside Fire Protection District.

Section 505.1.1 is added to read as follows:

505.1.1 Premises Identification. New residential buildings shall have **internally illuminated** address numbers contrasting with the background so as to be seen from the public way fronting the building. Residential address numbers shall be at least six feet above the finished surface of the driveway. Where buildings are located remotely to the public roadway, additional signage at the driveway/roadway entrance leading to the building and/or on each individual building shall be required by the Coastside Fire Protection District. This remote signage shall consist of a 6 inch by 18 inch green reflective metal sign with 3 inch reflective Numbers/ Letters similar to Hy-Ko 911 or equivalent.

Section 505.1.2 is added to read as follows:

505.1.2 Multiple Tenant Structures. Multiple tenant buildings, using the same street address numbers, shall have suite or unit identification posted as required by the Coastside Fire Protection District.

Section 505.1.3 is added to read as follows:

505.1.3 Commercial/Industrial Size and Stroke of Numbers. Building address numbers shall be either internally or externally illuminated and contrasting with the background so as to be seen from the public way fronting the building.

Building address number heights shall be sized in accordance with the table noted below. The number stroke shall be 1/2-inch or larger.

<u>Distance from Road</u>	<u>Address No. Size</u>
0-50 feet	6-inch

50-100 feet	8-inch
100-150 feet	10-inch
150 + feet	12-inch
with a corresponding increase in stroke width.	

Section 505.1.4 is added to read as follows:

505.1.4 Rear Addressing When required by the Chief, approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the fire apparatus road at the back of the property. Number stroke and size will comply with Section 505.1 for residential buildings and 505.1.3 for commercial buildings.

Section 505.1.5 is added to read as follows:

505.1.5 Suite/Unit Identification. Buildings containing separate suite and/or unit identification shall have the suite or unit identification clearly posted with assigned letters or numbers having a minimum height of four inches and a minimum stroke of 3/8 inch. Assigned letters or numbers shall be of contrasting color to the background and located between 5 feet and 6 feet off the finished floor. Directional address numbers or letters shall be provided.

Section 505.1.6 is added to read as follows:

505.1.6 Directories. Complexes with multiple buildings may be required by the Coastside Fire Protection District to provide one or more of the following: a directory, a premise map or directional signage. Location, size and color of such elements will be determined by the Coastside Fire Protection District on a site-specific basis.

Section 505.2.1 is added to read as follows:

505.2.1 Construction Site. Approved street or road signs and address numbers of the construction site shall be installed prior to combustible construction materials being placed on the site.

Chapter 5, Section 506 is adopted in its entirety.

Section 506.1.3 is added to read as follows:

506.1.3 Key Box. When required by the Coastside Fire Protection District, a Key Box of the size and type designated shall be mounted on the building near the main entrance

and shall be located a minimum of 60 inches and not higher than 72 inches above the finished floor, in a location approved by the fire code official. Additional Key boxes may be required at rear entrances to buildings and Key padlocks may be required at any access gates as specified by the fire code official.

Section 506.1.4 added to read as follows:

506.1.4 Key Switch. When required by the Coastside Fire Protection District, a Key Switch shall be installed at every electric gate system used for fire access as specified by the Coastside Fire Protection District and Key padlocks may be required at any access gates by the fire code official.

Section 507.2.2.1 is added to read as follows:

507.2.2.1 Suburban and Rural Water Supplies. In areas where public and/or private fire mains are not available for the provision of the required fire flow, the Chief may develop a standard which requires a water supply for firefighting be provided. In developing this standard, the Chief may be guided by NFPA Standards and Appendix C - California Fire Code ~~2016-2019~~ edition.

Section 507.2.2.2 is added to read as follows:

507.2.2.2 Storage of Suburban and Rural Water Supplies. In calculating the water supply available to meet the minimum fire flow required in Section 507.1, swimming pools, ponds and underground cisterns shall not be considered as a primary water source.

Section 900.1 is added to read as follows:

900.1 Fire Department Access and Water Supply shall be required for existing buildings and structures as follows:

1. Fire Department access and water supply shall be required when one or more additions, alterations or repairs, or combination thereof, in a one-year period exceed more than 75% of the existing gross building area;

Exceptions:

1. Any exemption otherwise allowable under the Fire Code as determined by the Fire Code Official.

2. Exterior improvements and work not requiring permits as provided in the Building Code.

3. Detached Group U occupancies or detached carports less than 1000 square feet.

4. Work requiring only a mechanical, electrical, plumbing and/or demolition permit.

Section 901.11 is added to read as follows:

901.11 Modifications. When residential sprinkler systems as set forth in this Ordinance are provided, exceptions to, or reductions in, Building Code requirements based on the installation of an automatic fire extinguishing system are not allowed.

Section 903.1.2 is amended and changed to read as follows:

903.1.2 All Occupancies and Facilities. The following requirements shall apply to all new buildings or structures which require a building permit issued by the City of Half Moon Bay or the County of San Mateo:

1. Except as otherwise provided by this Section, or as provided under Section 903.3 of the latest adopted edition of the California Fire Code, automatic fire sprinkler systems shall be installed and maintained in every new building or structure of any type, use, occupancy or size which requires a building permit issued by the City of Half Moon Bay or the County of San Mateo.
2. The term “ automatic fire sprinkler system” as used in this Section means an integrated system of underground and overhead piping, including a water supply such as a gravity tank, fire pump, reservoir, pressure tank or connection by underground piping to a fire main, which system complies in all respects with the requirements for such systems contained in standards issued by the National Fire Protection Association based upon the occupancy classification or other standards approved by the California State Fire Marshals’ office and approved by the Chief on a case-by-case basis.

The following structures are exempt from the requirements of this Section:

1. Agricultural Buildings. For the purposes of this Section, an “Agricultural building” is defined as a non-residential structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products. “Agricultural building” includes a place of employment where agricultural products are processed, treated or packaged. “Agricultural buildings” shall include greenhouses.
2. Commercial Structures not exceeding 1,000 square feet in area.
3. Mausoleums of Type 1 construction, as defined by the California Building Code, which do not contain offices, chapels or other places where the public assembles on a regular basis.

~~4. Open air parking garages of Type 1 construction as defined by the California Building Code, which do not contain offices, stores or other places of public occupancy for purposes other than parking vehicles.~~

~~54. Car wash structures where no offices or waiting rooms are attached.~~

The requirements of this Section are intended to represent minimum standards for new construction. Further, any requirements of the California Building Code, the California Fire Code or the State Building Standards Code, which is more restrictive, specifies higher standards or mandates specific locations within a structure for automatic sprinkler systems shall be applicable.

~~Notwithstanding Section 903.2 of the California Fire Code, no existing residential building or structure shall be required to conform with the requirements of this Section, unless the remodel, alterations, or repairs to the existing building or structure exceed 50% of the estimated valuation of such building or structure within any 60-month period, or are three or more stories in height above the fire department access level.~~

903.2 AUTOMATIC SPRINKLER SYSTEMS.

Section 903.2.1 is added to read as follows:

903.2.1 Existing buildings or structures. An automatic sprinkler system shall be provided in existing buildings and structures where required in Chapter 11 of the California Fire Code or when improvements are conducted in accordance with this section.

Section 903.6.1 is added to read as follows:

903.6.1 Where required. All existing buildings and structures, except for Group R-3 One- and Two-Family Dwellings, shall be provided with an automatic fire sprinkler system when any of the following conditions occur:

- (A) Where the gross floor area of a proposed alteration, addition, or combination of alterations and additions and the gross floor area of any alterations, additions, or combination of alterations and additions meets the definition of a “substantial alteration”.
- (B) When a change in occupancy classification, as defined within the Building Code, results in an increased fire hazard or risk due to business operations and/or number of occupants permitted in the building.
- (C) When a basement that is 250 square feet or larger or a basement of any size that includes a bedroom/sleeping room is constructed as part of an existing occupancy, a

fire sprinkler system shall be provided throughout the basement and the rest of the building or structure.

(D) All existing one- and two-family dwellings, buildings and/or structures shall be provided with an automatic fire sprinkler system when any of the following conditions occur:

1. Where a Building Safety Score, as calculated per item A, is less than 17.

A. Building Safety Score Equation

i. Stories = (Number of allowed stories = 3) – (Proposed stories) x 7 (Construction factor) = X

ii. Area equation = (Allowable area = 3,600) – (proposed area) x .005 = Y

iii. X + Y = Building Safety Score

iv. Minimum score = 17 (Scores below 17 require automatic sprinkler systems)

v. Fire Hazard Severity Zone: LRA & SRA Adjustment (– 5)

1. Alterations that create additional bedrooms as defined herein, greater than four (4), within the existing conditioned space.

2. Additions and or alterations that create a two-family dwelling where a one- family dwelling existed.

3. Automatic sprinklers shall be installed in any one- and two-family garage, carport or breezeway attached to any structure for which an automatic sprinkler system is required. A detached one- and two-family garage, not containing any habitable space, 1,000 square feet or more shall require the installation of an NFPA-13D automatic fire sprinkler system.

4. The addition of a second story to a one- or two-family dwelling, where a second story did not previously exist, regardless of a Building Safety Score result.

5. Additions, alterations or modifications to any existing structure containing automatic fire sprinklers shall require the extension or modification of the fire sprinkler system throughout the added, altered, or modified areas. Plans for the installation, extension or modification of an automatic fire sprinkler system shall be submitted to the Planning and Building Department of San Mateo County or the City of Half Moon Bay for review and approval by the appropriate fire agency. Additions, alterations, and/or remodels to an existing dwelling previously equipped with automatic fire sprinklers shall require the submittal of five sets of sprinkler plans and three sets of hydraulic calculations. All components of the existing system shall be

6. submitted for review in order to determine compliance with the applicable standards.

7. All automatic fire sprinkler systems shall comply with the currently enforced edition of NFPA-13, NFPA-13D, NFPA-13R and any additional County specifications, or modifications imposed by supplemental rules and regulations adopted by the County of San Mateo or the City of Half Moon Bay.

8. The installation of an automatic fire sprinkler system may be required by the Building Official when an alteration, addition or change in use or occupancy of a building or portion of a building thereof increases the hazard of fire or threat to life and safety.

The following sections are amended by changing California Fire Code requirements to 1,000 square feet for fire sprinkler installation, as follows:

903.2.1.1	Group A-1.	Change 12,000 square feet to 1,000 square feet.
903.2.1.2	Group A-2.	Change 5,000 square feet to 1,000 square feet.
903.2.1.3	Group A-3.	Change 12,000 square feet to 1,000 square feet.
903.2.1.4	Group A-4.	Change 12,000 square feet to 1,000 square feet.
903.2.3	Group E.	Change 12,000 square feet to 1,000 square feet.
903.2.4	Group F- <u>1</u> .	Change 12,000 square feet to 1,000 square feet.
903.2.4.1	Woodworking operations	Change 2,500 square feet in area to 1,000 square feet.
903.2.7-1	Group M.	Change 12,000 square feet to 1,000 square feet.
903.2.7-3	Group M.	Change 24,000 square feet to 1,000 square feet.
903.2.9-1	Group S-1.	Change 12,000 square feet to 1,000 square feet.
903.2.9-3	Group S-1.	Change 24,000 square feet to 1,000 square feet.
903.2.9-4	Group S-1.	Change 5,000 square feet to 1,000 square feet.
903.2.9-5	Group S-1.	Change 2,500 square feet to 1,000 square feet.
903.2.9.1-1	Repair Garages	Change 10,000 square feet to 1,000 square feet.
903.2.9.1-2	Repair Garages	Change 12,000 square feet to 1,000 square feet.
903.2.9.1-4	Repair Garages	Change 5,000 square feet to 1,000 square feet.
903.2.9.2	Bulk Storage of Tires	Change 20,000 cubic feet to 1,000 cubic feet.
903.2.10-1	Group S-2 enclosed parking garages.	Change 12,000 square feet to 1,000 square feet.

903.2.10.1 Commercial parking. Change 5,000 square feet to 1,000 square feet.
garages

Section 903.2.8.1.1 is added to read as follows:

Section 903.2.8.1.1 Automatic sprinkler systems installed in Group R-3, occupancies shall conform to the following standards in addition to NFPA Standard 13D, currently adopted edition:

1. Automatic sprinkler system coverage shall be provided throughout the residence to include all bathrooms, garages, and any area used for storage.
2. An exterior bell shall be mounted in a location to be audible from the street upon activation of the required flow switch.
3. An interior horn strobe shall be mounted in a central location audible from the master bedroom upon activation of the required flow switch.
4. A sprinkler head shall be mounted on a metal sprig above any attic access openings and where required by the AHJ.
5. An inspector's test valve shall be mounted to flow from the most remote area of the system in an accessible location.
6. All group R, Division 3 occupancies shall require an automatic sprinkler system regardless of square footage, -0- Square feet.
7. Accessory Dwelling Units shall conform to the California State Fire Marshal's Information Bulletin 17-001.

Section 903.7. is added to read as follows:

903.7 Partial Systems. Unless approved in writing by the fire code official, automatic fire sprinkler systems that only protect a portion of the building shall not be allowed.

Section 905.5.3. is amended and changed to read as follows:

905.5.3 Class II System 1 1/2-inch hose. A minimum *1 ½ inch (37.5 mm)* hose shall be allowed to be used for hose stations in light-hazard occupancies where investigated and listed for this service and where approved by the fire code official.

Section 907.2.11.2.4 is added to read as follows:

907.2.11.2.4. Smoke Detection for Existing Group R Division 3 Occupancies. All existing Group R Division 3 Occupancies shall be provided with an approved smoke detection system meeting the requirements of 907.2.11.2 throughout the structure when any of the following occurs:

1. When alteration, repairs, structural changes or additions occur, within a twelve-month period and the value of such work is in excess of \$1,000.00.
2. When property is occupied by other than the property owner and rental or lease income is derived.
3. When existing property is sold an inspection of the installed smoke detection system for compliance with the Fire Code shall be completed by the Coastside Fire Protection District prior to close of escrow.

Installation of the smoke detection system shall be reviewed and approved by the Coastside Fire Protection District prior to installation and inspected prior to final sign-off on occupancy.

Section 907.8.5.1 is added to read as follows:

907.8.5.1 Fire Department Response to False Alarms. Any building owner or owner's agent who fails to properly maintain and service any smoke detector or fire alarm system, water flow detection alarm or fire sprinkler tamper alarm, after being notified that service or maintenance is required, will be subject to the payment of costs related to any false alarm response by the fire department.

Section 907.8.5.2 is added to read as follows:

907.8.5.2 Making False Report. It shall be unlawful for a person to give, signal or transmit a false alarm. A false report may include signals from a fire alarm system, including signals caused during fire alarm maintenance without prior Fire District notification. Making a false report shall be liable to a fine as set forth in the Fire District fee schedule.

Section 907.10.1 is added to read as follows:

907.10.1 Alarm Panel Clearance. A working space of not less than 30 inches (762 mm) in width, 36 inches (914 mm) in depth and 78 inches (1981 mm) in height shall be provided in front of fire protection equipment including, but not limited to: fire sprinkler control valves, fire department connections, hose connections, risers, hood system manual pull stations, fire alarm control panels, fire pumps and specialized fire protection storage tanks (dry chemical, foam, CO₂, clean agent). Where the fire protection equipment is wider than 30 inches, (762 mm), the working space shall not be less than the width of the equipment. No storage of any materials shall be located within the designated working space. Direct access to the working space shall be provided from aisles or access roadways. Modifications to working space dimensions shall be approved by the fire code official.

Section 912.2.1.1 is added to read as follows:

912.2.1.1 Painting of Fire Protection Equipment and Hydrants. When required by the Chief, fire-protection equipment and fire hydrants shall be painted a color specified by the Coastside Fire Protection District.

Section 912.5.1 is added to read as follows:

912.5.1 Identification. Fire department connections to sprinkler systems and/or standpipe systems shall clearly identify the building served as required by the Coastside Fire Protection District.

Section 1003.3.4.1 is added to read as follows:

1003.3.4.1 Seismic Restraint for Storage Shelving. All storage shelving shall be provided with adequate seismic restraint as required by Chapter 16 of the California Building Code. Storage shelving not required to have seismic restraint by the Building Code may be required to be secured to prevent obstruction of the means of egress as determined by the Coastside Fire Protection District.

Section 1103.5.5. is adopted to read as follows:

1103.5.5 Occupancy Classification Change to Existing Buildings. An automatic fire sprinkler system shall be installed throughout all existing buildings when a change of occupancy classification occurs and when the existing total floor area is 2,500 or more square feet or three or more stories in height above fire department access at grade.

EXCEPTIONS:

1. When in the opinion of the Chief, the change of occupancy classification did not result in a significant increase in the level of life safety or fire safety of the occupancy, the Chief may waive the requirement for automatic fire sprinkler system installation.

~~Section 1103.5.6. is adopted to read as follows:~~

~~**1103.5.6 Additions to Existing Buildings.** An automatic fire sprinkler system shall be installed throughout all existing buildings when an addition to the building occurs and the new floor area is 1,000 or more square feet, or three or more stories in height above fire department access at grade.~~

Section 3301.2.1 is added to read as follows:

3301.2.1 Permits. Permits shall be required as set forth in Section 105 and regulated in accordance with this section.

Section 6101.3 is amended and changed to read as follows:

Section 6101.3 Construction Documents. Where a single LP-gas container is 500 gallons (1893 L) or more in water capacity or the aggregate water capacity of LP-gas containers is more than 2,000 gallons (7570 L), the installer shall submit construction documents for such installation.

Appendix D is adopted ~~in its entirety and~~ as amended.

D103.4.1 is added to read as follows:

D103.4.1 The fire department reserves the right to use all or portions of City/County right of way for access and/or turnarounds.

D103.6.3 is added to read as follows:

D103.6.3 Fire Apparatus Access Roads 36 feet and greater shall allow parking on both sides.

Section D103.6.4 is added to read as follows:

D103.6.4 Prohibited Parking Signs. A sign of a size, type and design approved by the Coastside Fire Protection District shall be located on the right side of the fire access lane within the first twenty-five feet of the entry. The sign shall be permanently mounted with the bottom of the sign to be a minimum of six feet above the adjacent grade but not at a height greater than ten feet.

Section D103.6.5 is added to read as follows:

D103.6.5 Maintenance and Installation of Fire Access Signs. It shall be unlawful for the owner, lessee or person in charge of private property to fail to install and maintain required fire access lane signs and/or markings after having been given notice by the Coastside Fire Protection District.

Section D103.6.6 is added to read as follows:

D103.6.6 Unlawful Parking. It shall be unlawful for any person to park or leave standing an unattended motor vehicle within a fire access lane having signage and/or markings as described in Sections 503 and D103.6.

Section D103.7 is added to read as follows:

D103.7 Traffic Signal Control Devices. When a government agency requires an Encroachment Permit at any intersection and new or existing traffic signals are involved, the traffic signals shall be provided with a traffic signal control device that is operated from the fire apparatus.

Appendix N is adopted in its entirety.

Coastside Fire Protection District Fire Prevention Bureau Standards are adopted as listed below:

Number / Title

DI-005 Residential Sprinkler Requirements

DI-006 Commercial Sprinkler Requirements

DI-007 Solar Photovoltaic Systems

DI-008 Alternate Means or Methods

DI-010 Tenant Improvement Submittals

DI-011 Speed Humps

DI-012 Generators

DI-013 Addressing/Street Signs

FPE-001 Standard Hydrants

FPE-002 Fire Lanes and Fire Department Connections

FPE-005 Rural Water Supplies

FPE-006 Fire Watch Requirements

FPE-007 False Alarm Response Policy

FPE-007A False Alarm Response Report

FPE-008 Fire Standby Record

PI-004 Model Rocketry

PI-006 Requirements for Final-Residential

PI-007 Requirements for Final-Commercial

PI-008 Special Events, Fairs, Outdoor Cooking

PI-009 Tents & Awnings

PI-010 Educational Facility Requirements

PI-011 Haunted Houses

PI-012 Portable Gas Heaters

R-001 Roads & Turnarounds

R-002 Turnout Construction

14.04.120 Green Building Standards Code

Those certain Codes and Standards known as the ~~2016~~—2019 California Green Building Standards Code, Part 11, published by the California Building Standards Commission is hereby adopted without amendment.

14.04.130 Residential Code

Those certain Codes and Standards known as the ~~2016~~—2019 California Residential Code, Part 2.5, and by reference the 2015 International Residential Code published by the International Code Council, and Appendix Chapters H (Patio Covers) and J (Existing Buildings), Appendix K (Sound Transmission) and V (Swimming Pool Safety Act) are hereby adopted by reference without amendment.

14.04.140 Abatement of Dangerous Buildings

Those certain Codes and Standards known as the 1997 Uniform Code for the Abatement of Dangerous Buildings are hereby adopted by reference without amendment.

14.04.150 Penalties

Any person who violated any of the provisions of this Chapter or the codes, standards and regulations adopted by reference and amended herein, or fails to comply therewith, or who violates or fails to comply with any order made thereunder, or who builds in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, shall severally for each and every such violation and noncompliance, respectively, be guilty of a misdemeanor in accordance with Chapter 1.14 of the Municipal code. The imposition of one penalty for any violation shall not excuse the

violation or permit to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

Severability. If any words, phrases, provisions or sections of this Chapter are either determined by a Court of competent jurisdiction to be void, invalid, unenforceable, or preempted by state or federal law then such words, phrases, provisions, or sections shall be severed from this Chapter, and all the remaining words, phrases, provisions, and sections of this Chapter shall remain in full force and effect; provided however, that the severing of such words, phrases , provision, and sections does not frustrate the purposes of any of the remaining sections of the chapter.

Effective Date. Pursuant to Section 36937 of the Government code of the State of California, this ordinance shall take effect and be in full force and effect January 1, 2020.

Publication. The City Clerk shall cause this ordinance to be published and posted in accordance with the requirements of Section 36933 of the Government Code of the State of California.

INTRODUCED at a regular meeting of the City Council of the City of Half Moon Bay, California, held on the 5th day of November, 2019.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Half Moon Bay, California, held on the 19th day of November, 2019, by the following vote:

AYES,

NOES,

ABSENT,

ABSTAIN,

ATTEST:

APPROVED:

Jessica Blair, City Clerk

Harvey Rarback, Mayor

APPROVED AS TO FORM:

Catherine Engberg, City Attorney

BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: **November 5, 2019**

TO: Honorable Mayor and City Council

FROM: Bob Nisbet, City Manager

VIA: Matthew Chidester, Deputy City Manager

TITLE: **APPEAL OF ACTING TAX ADMINISTRATOR NOTICE OF DETERMINATION OF PAST DUE TRANSIENT OCCUPANCY TAXES - 1430 CABRILLO HIGHWAY N, HALF MOON BAY, CA 94019 (CHRIS VOISARD)**

RECOMMENDATION:

By motion: 1) adopt a Resolution denying the appeal and upholding the Acting Tax Administrator’s Notice of Determination of past due Transient Occupancy Taxes; and 2) direct staff to take all actions necessary to finalize the denial of the appeal, requiring the property owner to pay \$9,000 in transient occupancy taxes accrued from January 1, 2015 through March 31, 2018, and amending the lien recorded against the property to \$9,000.

FISCAL IMPACT:

These recommended actions would entitle the City to collect \$9,000 in accrued transient occupancy taxes, penalties and interest.

STRATEGIC ELEMENT:

This action supports the *Fiscal Sustainability and Healthy Communities and Public Safety* elements of the Strategic Plan.

BACKGROUND:

The term ‘short-term rental’ (STR) pertains to the rental of existing residential units to occupants on a short-term basis. Offerings range from a shared bedroom or common area to the entire housing unit. The duration of each rental varies but generally are less than 30 days and are most often only for a few days. STRs are advertised on internet websites, such as AirBnB, VRBO, and HomeAway. In Half Moon Bay, the largest number of advertisements are on the AirBnB platform.

Section 3.12.030 of the City’s Municipal Code requires that the operator of a hotel or campground within the City shall collect a Transient Occupancy Tax (TOT) “in the amount of twelve percent of the rent charged by the operator...per day”. The Code’s definition for a Hotel includes a home or apartment, in whole or part, offered as an STR.

Since Spring 2017, the City has attempted to collect past-due TOT from Chris Voisard, the owner of the property located at 1430 Cabrillo Highway North. Through its consultant, the City sent compliance notices to the property owner on May 1, 2017, July 10, 2017, and August 18, 2017, which would have extended an amnesty program for any past tax liability in exchange for registering the property and collecting TOT on a going forward basis. After receiving no response, on May 10, 2018, the City provided the property owner with an Estimate of Tax Due, for STR activities which took place between the statutory period of January 1, 2015 and March 31, 2018.¹ The Estimate of Tax Due was \$12,658, which included delinquent taxes, penalties and interest. On June 27, 2018, the City provided a Notice of Property Lien in the amount of \$12,658, and on December 10, 2018, a lien was recorded against the property.

In total, during the period between May 1, 2017 and December 10, 2018, five notices were sent to the property owner, with no response. Following the recording of the lien, the City mailed a notice of the certificate of tax lien, and in January 2019, the property owner contacted the City claiming, among other things, that the estimated taxes due were not accurate. The City requested on multiple occasions that the property owner provide adequate documentation to support her claims. Instead, records for a different time period were provided, and requests for additional documentation were ignored. On April 23, 2019, the City Manager, as the Acting Tax Administrator for the City of Half Moon Bay, provided a written settlement and final determination in the amount of \$9,000. The adjustment of the final determination was offered as an acknowledgement of the property owner's confusion regarding the requirement of TOT collection on her property when used as an STR.

On June 13, 2019, the City received a letter from the property owner appealing the City's final Determination and requesting a hearing with the City Council in accordance with Section 3.12.100 of the Municipal Code. She subsequently provided additional information in support of her appeal. On August 20, 2019, the Appeal Hearing was held, and the City Council continued the item to a future meeting, asking the property owner to provide the previously requested documentation of her claims that that the calculation of estimated taxes due for the period January 1, 2015 through March 31, 2018 was incorrect. As of the publication of this staff report, no such documentation has been provided. On September 8, 2019, the City received a letter from the property owner requesting that the lien against her property be removed.

DISCUSSION:

The property owner's September 8 letter does not provide any new information regarding her tax liability. Regarding her statement that she did not receive the Notice of Property Lien, that Notice was sent on July 27, 2018 (see Attachment 4).

It is recommended that the appeal be denied. Staff believes that the final determination of \$9,000 represents a fair and reasonable resolution and recommends that the Council uphold that

¹ The statute of limitations for instituting an action to collect TOT is four years. See Revenue and Taxation Code, § 7283.51.

determination. Additionally, the lien was recorded in the amount of the original tax estimate of \$12,658, and staff recommends amending the lien to reflect the lower Final Determination amount of \$9,000.

As of November 1, 2019, the property continues to be listed as an available STR on the AirBnB. The City entered into a Voluntary Collection Agreement with AirBnB, effective May 1, 2019, whereby AirBnB collects any TOT due at the time of booking and remits these amounts directly to the City. The AirBnB agreement began collecting TOT from the property owner on May 1, 2019, but does not collect or remit any previous or delinquent TOT. The City has not received TOT filings or payments for taxes due for the period between April 1, 2018 and April 30, 2019, and reserves the right to collect payment for that period as well, through a separate process.

ATTACHMENTS:

1. Resolution denying the appeal and upholding the Acting Tax Administrator's Notice of Determination of past due transient occupancy taxes - 1430 Cabrillo Highway N, Half Moon Bay, CA 94019
2. HMB Code Chapter 3.12 Transient Occupancy Tax
3. Notices of Non-Compliance, sent to the property owner between May 1, 2017 and May 10, 2018 (4)
4. Notice of Property Lien, sent to the property owner on July 27, 2018
5. Lien recorded by City against the property located at 1430 Cabrillo Highway North, Half Moon Bay, on December 10, 2018
6. Notice of final Determination dated April 23, 2019
7. Appeal Letter dated June 13, 2019
8. Materials provided by Property Owner in support of Appeal
9. Letter from property owner dated September 8, 2019

Resolution No. C-2019-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY DENYING THE APPEAL AND UPHOLDING THE ACTING TAX ADMINISTRATOR’S NOTICE OF DETERMINATION OF PAST DUE TRANSIENT OCCUPANCY TAXES - 1430 CABRILLO HIGHWAY N, HALF MOON BAY, CA 94019

WHEREAS, Section 3.12.030 of the City’s Municipal Code requires that the operator of a hotel or campground within the City shall collect a Transient Occupancy Tax (TOT) “in the amount of twelve percent of the rent charged by the operator...per day” and the Code’s definition for a Hotel includes a home or apartment, in whole or part, offered as a Short Term Rental (STR); and

WHEREAS, the property located at 1430 Cabrillo Highway North, Half Moon Bay (Property) was identified as being advertised as an STR during the period beginning January 1, 2016, which Property is owned by Chris Voisard; and

WHEREAS, after multiple unsuccessful attempts to contact Ms. Voisard and bring the property into compliance, the City estimated the taxes owed including penalties and fees and recorded a \$12,568 lien on the Property; and

WHEREAS, the City Manager as the Acting Tax Administrator offered a settlement of \$9,000 and on April 23, 2019 provided Ms. Voisard a Final Determination letter to that effect; and

WHEREAS, on June 13, 2019, Ms. Voisard sent the City a letter appealing the final Determination, on August 20, 2019, in accordance with Section 3.12.100 of the Municipal Code, the City Council heard Ms. Voisard’s appeal at their regular meeting, and during the hearing continued the item to a future meeting; and

WHEREAS, on November 5, 2019, in accordance with Section 3.12.100 of the Municipal Code, the City Council heard Ms. Voisard’s appeal at their regular meeting.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Half Moon Bay hereby denies the appeal and upholds the Acting Tax Administrator’s Notice of Determination of past due Transient Occupancy Taxes of \$9,000, and directs staff to take all actions necessary to finalize the denial of the appeal, including amending the lien recorded against the property to \$9,000.

I, the undersigned, hereby certify that the foregoing Resolution was duly passed and adopted on the 5th day of November 2019 by the City Council of Half Moon Bay by the following vote:

AYES, Councilmembers:

NOES, Councilmembers:

ABSENT, Councilmembers:

ABSTAIN, Councilmembers:

ATTEST:

APPROVED:

Jessica Blair, City Clerk

Harvey Rarback, Mayor

Chapter 3.12
TRANSIENT OCCUPANCY TAX*

Sections:

- 3.12.010 Short title.**
- 3.12.020 Definitions.**
- 3.12.030 Tax imposed.**
- 3.12.040 Exemptions.**
- 3.12.050 Operator's duties.**
- 3.12.060 Hotel registration.**
- 3.12.070 Reporting and remitting--Taxes to be held in trust.**
- 3.12.080 Penalties and interest.**
- 3.12.090 Determination of delinquent tax by tax administrator--Administrative hearing procedure.**
- 3.12.100 Appeal to city council.**
- 3.12.110 Records.**
- 3.12.120 Refunds and credit--Procedure.**
- 3.12.130 Actions to collect.**
- 3.12.140 Lien--Recording certificate.**
- 3.12.150 Warrant for collection of tax.**
- 3.12.160 Seizure and sale.**
- 3.12.170 Successor's and assignee's responsibility.**
- 3.12.180 Penalty for violations.**

* For the statutory provisions authorizing cities to impose a tax on transients who occupy room space within the city limits, see Rev. and Tax. Code §§7280 and 7281.

3.12.010 Short title.

This chapter shall be known as the “uniform transient occupancy tax ordinance” of the city. (Ord. C-2-12 §2(part), 2012: Ord. 7-65 §1, 1965).

3.12.020 Definitions.

Except where the context otherwise requires, the definitions given in this section govern the construction of this chapter:

A. “Hotel” means any structure or facility, or any portion of any structure or facility, which is occupied or intended or designed for occupancy by transients for dwelling, lodging or sleeping purposes, and includes any hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home or house trailer at a fixed location, campground or other similar structure or facility, or portion thereof, wherein overnight accommodations are offered for hire.

B. “Occupancy” means the use or possession, or the right to the use or possession, of any room or rooms or portion thereof in any hotel for dwelling, lodging or sleeping purposes.

C. “Operator” means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee or any other capacity. Where the operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an operator for the purposes of this chapter and shall have the same duties and liabilities as his principal. Any and all persons or entities qualifying as an operator must be in compliance with the provisions of this chapter, and are subject to joint and several liability if any are not in compliance.

D. “Person” means any individual, firm, partnership, joint venture, association, social club, fraternal organization, joint stock company, corporation, estate, trust, business trust, receiver, trustee, syndicate or any other group or combination acting as a unit.

E. “Rent” means the consideration charged, whether or not received, for the occupancy of space in a hotel, valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash, credits and property and services of any kind or nature, without any deduction therefrom whatsoever.

F. “Tax administrator” means the finance officer.

G. “Transient” means any individual who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license or other agreement for a period of thirty consecutive calendar days or less, counting portions of calendar days as full days. Any such individual so occupying space in a hotel is

deemed to be a transient until the period of thirty days has expired unless there is an agreement in writing between the operator and the occupant providing for a period of occupancy longer than thirty days, or rent has been paid in advance for a period of more than thirty days. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the ordinance codified in this chapter may be considered. (Ord. C-2-12 §2(part), 2012: Ord. 15-78 §1, 1979; Ord. 7-65 §2, 1965).

3.12.030 Tax imposed.

For the privilege of occupancy in any hotel or campground each transient is subject to and shall pay a tax in the amount of twelve percent of the rent charged by the operator, or fifty cents per day, whichever is greater. The tax constitutes a debt owed by the transient to the city which is extinguished only by the payment by the operator to the city. The transient shall pay the tax to the operator of the hotel or campground at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax is due upon the transient's ceasing to occupy space in the hotel or campground. If for any reason the tax due is not paid to the operator of the hotel or campground, the tax administrator may require that such tax be paid directly to the tax administrator. (Ord. C-2-12 §2(part), 2012: Ord. 5-08 §1, 2009; Ord. 15-90 §1, 1990; Ord. 13-84 §1, 1984; Ord. 11-78 §1, 1978: Ord. 4-75 §1, 1975: Ord. 7-65 §3, 1965).

3.12.040 Exemptions.

No tax shall be imposed upon:

- A. Any person as to whom, or any occupancy as to which, it is beyond the power of the city to impose the tax herein provided;
- B. Any federal officer or employee when on official business;
- C. Any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

No exemption shall be granted except upon a claim therefor, made at the time rent is collected and under penalty of perjury, upon a form prescribed by the tax administrator. (Ord. C-2-12 §2(part), 2012: Ord. 7-96 §1, 1996; Ord. 7-65 §4, 1965).

3.12.050 Operator's duties.

Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the

rent, or that, if added, any part will be refunded except in the manner hereinafter provided. (Ord. C-2-12 §2(part), 2012: Ord. 7-65 §5, 1965).

3.12.060 Hotel registration.

Within thirty days after the effective date of the ordinance codified in this chapter, or within thirty days after commencing business, whichever is later, each operator of any hotel renting occupancy to transients shall register said hotel with the tax administrator and obtain from him a “transient occupancy registration certificate” to be at all times posted in a conspicuous place on the premises. Said certificate shall, among other things, state the following:

- A. The name of the operator;
- B. The address of the hotel;
- C. The date upon which the certificate was issued;
- D.

This Transient Occupancy Registration Certificate signifies that the person named on the face hereof has fulfilled the requirements of the Uniform Transient Occupancy Tax Ordinance by registering with the Tax Administrator for the purpose of collecting from transients the Transient Occupancy Tax and remitting said tax to the Tax Administrator. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, nor to operate a hotel without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of this city. This certificate does not constitute a permit.

- E. An operator of a hotel who commences operation of a hotel after a sale, assignment or other transfer of the hotel to that operator shall also comply with Section 3.12.140 in addition to registering the hotel as required by this section. (Ord. C-2-12 §2(part), 2012: Ord. 7-65 §6, 1965).

3.12.070 Reporting and remitting--Taxes to be held in trust.

- A. Each operator shall, on or before the close of city business on the last city business day of each month, or at the close of any shorter reporting period which may be established by the tax administrator, make a return to the tax administrator, on forms provided by the tax administrator, of the total rents charged and received and the amount of tax collected for transient occupancies during the immediately preceding calendar month, or shorter reporting period. At the time the return is filed, the full amount of the tax collected shall be remitted to the tax administrator. The tax administrator may establish shorter reporting periods for any certificate holder if he deems it necessary in order to ensure collection of the tax and he may require further information in the return. When the last day for filing the transient occupancy tax return falls upon a Saturday or Sunday, such act may be performed upon the next

business day with the same effect as if it had been performed upon the day appointed. Returns and payments are due immediately upon cessation of business for any reason.

B. All taxes collected by operators, pursuant to this chapter, shall be held in trust for the account of the city until payment thereof is made to the tax administrator.

C. The tax administrator may require an operator to furnish additional information or provide adequate security as necessary to ensure collection of any taxes due or to become due, and to remit taxes on a shorter reporting period. An operator shall thereafter report and remit all taxes due under the terms and conditions prescribed by the tax administrator. (Ord. C-2-12 §2(part), 2012: Ord. 7-65 §7, 1965).

3.12.080 Penalties and interest.

A. Original Delinquency. Any operator who fails to remit any tax imposed by this chapter, within the time required, shall pay a penalty of ten percent of the amount of the tax in addition to the amount of the tax.

B. Continued Delinquency. Any operator who fails to remit any delinquent remittance on or before a period of thirty days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of ten percent of the amount of the tax in addition to the amount of the tax and the ten percent penalty first imposed.

C. Fraud. If the tax administrator determines that the nonpayment of any remittance due under this chapter is due to fraud, intentional disregard or an intent to evade compliance with this chapter, a penalty of twenty-five percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsections A and B of this section.

D. Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one-half of one percent per month, or fraction thereof, on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.

E. Penalties Merged with Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax herein required to be paid. (Ord. C-2-12 §2(part), 2012: Ord. 7-65 §8, 1965).

3.12.090 Determination of delinquent tax by tax administrator--Administrative hearing procedure.

A. If any operator fails or refuses to collect said tax and to make, within the time provided in this chapter, any report and remittance of said tax or any portion thereof required by this chapter, the tax administrator shall proceed in such manner as he

deems best to obtain facts and information on which to base his estimate of the tax due. As soon as the tax administrator procures such facts and information as he is able to obtain upon which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter. In case such determination is made, the tax administrator shall give a notice of the amount so assessed by serving it personally or by depositing it in the United States mail, postage prepaid, addressed to the operator so assessed at his last known place of address.

B. Such operator may, within ten calendar days after the serving or mailing of such notice, make application in writing to the tax administrator for a hearing on the amount assessed. If a written application by the operator for a hearing is not made by mail or personal service within the time prescribed, the tax, interest and penalties, if any, determined by the tax administrator, shall become final and conclusive and immediately due and payable.

C. If a written application is made by the operator for a hearing, the tax administrator shall give not less than ten calendar days' written notice in the manner prescribed herein to the operator to show cause at a time and place fixed in said notice why said amount specified therein should not be fixed for such tax, interest and penalties. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed.

D. After the hearing the tax administrator shall determine the proper tax to be remitted and shall, within thirty calendar days thereafter, give written notice to the person, in the manner prescribed herein, of such determination and the amount of such tax, interest and penalties. The amount determined to be due shall be payable after fifteen calendar days unless an appeal is taken as provided in Section 3.12.100. (Ord. C-2-12 §2(part), 2012: Ord. 7-65 §9, 1965).

3.12.100 Appeal to city council.

Any operator aggrieved by any decision of the tax administrator with respect to the amount of such tax, interest and penalties, if any, may appeal to the council in accordance with the requirements of Chapter 1.25. The findings of the council shall be final and conclusive and shall be served upon the appellant in the manner prescribed above for service of notice of hearing. Any amount found to be due shall be immediately due and payable upon the service of notice. (Ord. C-2-12 §2(part), 2012: Ord. C-7-08 §2, 2008: Ord. 7-65 §10, 1965).

3.12.110 Records.

It shall be the duty of every operator liable for the collection and payment to the city of any tax imposed by this chapter to keep and preserve, for a period of three years, all records as may be necessary to determine the amount of such tax as the operator may have been liable for the collection of and payment to the city, which records the tax administrator shall have the right to inspect at all reasonable times. (Ord. C-2-12 §2(part), 2012: Ord. 7-65 §11, 1965).

3.12.120 Refunds and credit--Procedure.

A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the city under this chapter, it may be refunded as provided in subsections B and C of this section, provided a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the tax administrator within three years of the date of payment. The claim shall be on forms furnished by the tax administrator.

B. An operator may claim a refund or take as credit against taxes collected and remitted the amount overpaid, paid more than once or erroneously or illegally collected or received when it is established in a manner prescribed by the tax administrator that the person from whom the tax has been collected was not a transient; provided, however, that neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the transient or credited to rent subsequently payable by the transient to the operator.

C. A transient may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the city by filing a claim in the manner provided in subsection A of this section, but only when the tax was paid by the transient directly to the tax administrator, or when the transient having paid the tax to the operator establishes to the satisfaction of the tax administrator that the transient has been unable to obtain a refund from the operator who collected the tax.

D. No refund shall be paid under the provisions of this section unless the claimant establishes his right thereto by written records showing entitlement thereto. (Ord. C-2-12 §2(part), 2012: Ord. 7-65 §12, 1965).

3.12.130 Actions to collect.

Any tax required to be paid by any transient, under the provisions of this chapter, is deemed a debt owed by the transient to the city. Any such tax collected by an operator, which has not been paid to the city, is deemed a debt owed by the operator to the city. Any person owing money to the city under the provisions of this chapter is liable to an action brought in the name of the city, or the recovery of such amount, and for attorneys' fees and costs incurred in the enforcement of this chapter. (Ord. C-2-12 §2(part), 2012: Ord. 7-65 §13, 1965).

3.12.140 Lien--Recording certificate.

If any amount required to be paid to the city under the ordinance codified in this chapter is not paid when due, the tax administrator, upon expiration of the second delinquency period referenced in Section 3.12.080(B), may within four years after the amount is due record in the office(s) of the county recorder(s) of any county in the state of California a certificate specifying the amount of tax, penalties and interest due, the name and address of the operator liable for the same and the fact that the tax administrator has complied with all provisions of this chapter in the determination of the amount required to be paid. From the time of the recording, the amount required to be paid together with penalties and interest shall constitute a lien upon any and all real property in any county in the state of California owned by the operator or thereafter acquired by the operator. The lien shall have the force, effect and priority of a judgment lien and shall continue for ten years from the time of filing of the certificate unless sooner released or otherwise discharged. (Ord. C-2-12 §2(part), 2012).

3.12.150 Warrant for collection of tax.

At any time after any operator is delinquent in the payment of any amount herein required to be paid off after recording a certificate of lien under Section 3.12.140, the tax administrator may issue a warrant directed to any sheriff or marshal for the enforcement of any liens and for the collection of any amount required to be paid to the city under this chapter. The warrant shall have the same effect as a writ of execution, and be executed in the same manner and with the same effect as a levy and sale pursuant to a writ of execution. The tax administrator may pay or advance to the sheriff or marshal such fees, commissions and expenses for services as are provided by law for similar services pursuant to a writ of execution. (Ord. C-2-12 §2 (part), 2012).

3.12.160 Seizure and sale.

At any time after any operator is delinquent in the payment of any amount or after recording of a certificate of lien, the tax administrator may forthwith collect the amount in the following manner: The director of finance shall seize any property, real or personal, of the operator and sell the property, or a sufficient part of it, at public auction to pay the amount due together with any penalties and interest imposed for the delinquency and any costs incurred on account of the seizure and sale. Any seizure made to collect occupancy taxes due shall be only of property of the operator not exempt from execution under the provisions of the California Code of Civil Procedure. (Ord. C-2-12 §2(part), 2012).

3.12.170 Successor's and assignee's responsibility.

A. If any operator, while liable for any amount under this chapter, sells, assigns or otherwise transfers the hotel or quits the hotel, whether voluntarily or involuntarily, the

operator's subsequent successor, assign or other transferee, or other person or entity attempting to obtain ownership of the hotel, shall notify the tax administrator of the date of transfer at least thirty days prior to the date of the sale or, if the agreement to sell, transfer, or otherwise dispose of the hotel was made less than thirty days prior to the date of transfer, notice shall be provided immediately.

B. The successor operator, assign, purchaser, transferee, or other person or entity who obtains ownership of the hotel shall satisfy any transient occupancy tax liability associated with the property owed to the city. Failure to do so for the benefit of the city will result in being personally liable to the city for the full amount of the tax liability, which includes interest and penalties.

C. The successor operator, assign, purchaser, transferee, or other person or entity who obtains ownership of the hotel shall be deemed to have complied with the requirements of this section if that person or entity complies with the requirements of California Revenue and Taxation Code Section 7283.5 by withholding from the purchase price an amount sufficient to cover the tax liability, or by otherwise paying the tax liability until the tax administrator provides a "transient occupancy tax clearance certificate" showing that the tax liability has been paid in full and stating that no tax liability is due through the date of transfer.

D. The tax administrator, within ninety days of receiving a written request from a successor operator, assign, purchaser, transferee, or other person or entity who obtains or attempts to obtain ownership of the hotel, may issue a "transient occupancy tax clearance certificate" stating either the amount of tax liability due and owing for the property, or stating that there is no tax liability due and owing for the property. The tax administrator may also request financial records from the current or former owner or operator to conduct an audit of the transient occupancy tax that may be due and owing. After completing the audit within ninety days after the date that the records were made available, the tax administrator may issue a tax clearance certificate within thirty days of completing the audit, stating the amount of the tax liability owed, if any. If the city determines that the records provided for an audit are insufficient, the tax administrator may rely on the facts and information available to estimate any transient occupancy tax liability associated with the property. The tax administrator may issue a tax clearance certificate stating the amount of the tax liability, if any, based on such facts and information available. The tax clearance certificate shall serve as conclusive evidence of the tax liability associated with the property as of the date specified on the certificate. (Ord. C-2-12 §2(part), 2012).

3.12.180 Penalty for violations.

A. Any operator or other person or entity violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punishable by a fine of not

more than one thousand dollars or by imprisonment in the county jail for a period of not more than six months or by both fine and imprisonment, in addition to the penalties provided for in this chapter and code. The city attorney shall have discretion to prosecute any such violation of this chapter as an infraction.

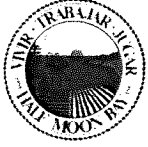
B. Any operator or other person who fails or refuses to register as required in Section 3.12.060, or to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the tax administrator, or who renders a false or fraudulent return or claim, is guilty of a misdemeanor, and is punishable as stated in subsection A of this section, in addition to being subject to the other penalties provided for in this chapter and code. Any person required to make, render, sign or verify any report or claim who makes any false or fraudulent report or claim with intent to defeat or evade the determination of any amount due required by this chapter to be made is guilty of a misdemeanor and is punishable as stated in subsection A of this section, in addition to the penalties provided for in this chapter and code.

C. Any person convicted of an infraction for violation of this chapter is punishable by:

1. A fine not exceeding one hundred dollars for a first violation;
2. A fine not exceeding two hundred dollars for a second violation of the same ordinance within one year; or
3. A fine not exceeding five hundred dollars for each additional violation of the same ordinance within one year.

D. Any operator or other person or entity violating any of the provisions of this chapter may also be subject to civil penalties and the administrative enforcement process under Chapter 4.16.

E. All remedies prescribed by this chapter or code, or any other provisions of law, and the use of one or more remedies by the city are cumulative, and shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter. (Ord. C-2-12 §2(part), 2012).



TOT Processing Center
8839 N Cedar Ave, #212
Fresno, CA 93720

May 1, 2017

NOTICE OF NON-COMPLIANCE

[REDACTED]
1430 CABRILLO HWY N
HALF MOON BAY, CA 94019-1407

Dear [REDACTED],

It has recently come to the attention of the City that you may be leasing/renting your property on a short-term basis as a vacation rental or similar activity. As a lodging provider, property owners are required to follow local laws regarding this activity as well as collect the City's Transient Occupancy Tax from guests.

City records indicate you are not currently registered and reporting Transient Occupancy Taxes to the City. Local law requires you to file and pay these taxes and provides for severe penalties for non-compliance. However, the City is currently offering a conditional amnesty to any homeowners that register prior to the expiration of the amnesty period.

To qualify for the conditional amnesty program, you must contact our office and complete the registration process before May 12, 2017. Our tax specialists are available to assist you and will guide you through the registration process. Once registered, you will receive an information packet and instructions on how to properly file and remit your tax payments.

For general support, questions regarding the process, and to register with the City, please contact the Support Center toll free number at (888) 602-0239. You may also visit the City website for more details at halfmoonbay.hdlgov.com.

Best Regards,

City of Half Moon Bay
Transient Occupancy Tax Division



TOT Processing Center
8839 N Cedar Ave, #212
Fresno, CA 93720

July 10, 2017

SECOND NOTICE OF NON-COMPLIANCE

[REDACTED]
1430 CABRILLO HWY N
HALF MOON BAY, CA 94019-1407

Dear [REDACTED],

This letter serves as your second notice regarding your vacation rental located at:

1430 CABRILLO HWY N

It has come to the attention of the City that you may be leasing/renting your property on a short-term basis as a vacation rental or similar activity. As a lodging provider, property owners are required to follow local laws regarding this activity as well as collect the City's Transient Occupancy Tax from guests.

City records indicate you are not currently registered and reporting Transient Occupancy Taxes to the City. Local law requires you to file and pay these taxes quarterly and provides for severe penalties for non-compliance. However, the City is currently offering a conditional amnesty to any homeowners that register prior to the expiration of the amnesty period.

Please contact us immediately to find out if you qualify for the conditional amnesty program.

Our tax specialists are available to assist you, and will guide you through the registration process. Once registered, you will receive information and instructions on how to properly file and remit your tax payments.

For general support, questions regarding the process, and to register with the City, please contact the Support Center toll free number at (888) 602-0239.

Best Regards,

City of Half Moon Bay
Transient Occupancy Tax Division



TOT Processing Center
8839 N Cedar Ave, #212
Fresno, CA 93720

August 18, 2017

FINAL NOTICE OF NON-COMPLIANCE

██████████
1430 CABRILLO HWY N
HALF MOON BAY, CA 94019-1407

Dear ██████████

This letter serves as your final notice regarding your vacation rental located at:

1430 CABRILLO HWY N

It has come to the attention of the City of Half Moon Bay that you may be leasing, renting, or advertising your property for vacation rental or similar activity on a short-term basis. As a lodging provider, property owners are required to follow local laws regarding this activity as well as collect the City's Transient Occupancy Tax (TOT) from guests.

City records indicate you are not currently registered and reporting Transient Occupancy Taxes to the City. **Local law requires you to file and pay these taxes quarterly and provides for severe penalties for non-compliance. According to the City's municipal code, section 3.12.180, those to fail or refuse to register and file TOT as required may be charged with a misdemeanor, fined, or jailed.** However, the City is currently offering a conditional amnesty to any homeowners that register prior to the expiration of the amnesty period.

Please contact us immediately to find out if you qualify for the conditional amnesty program. Failure to become compliant within 30 days may result in additional enforcement actions.

Our tax specialists are available to assist you, and will guide you through the registration process. Once registered, you will receive information and instructions on how to properly file and remit your tax payments.

For general support, questions regarding the process, and to register with the City, please contact the Support Center toll free number at (888) 602-0235.

Best Regards,

City of Half Moon Bay
Transient Occupancy Tax Division



TOT Processing Center
8839 N Cedar Ave, #212
Fresno, CA 93720

May 10, 2018

4th NOTICE OF NON-COMPLIANCE ESTIMATE OF TAX DUE

CHRIS VOISARD
1430 CABRILLO HWY N
HALF MOON BAY, CA 94019-1407
02405792

Attention CHRIS VOISARD,

The City has recently initiated work on a Short-Term Rental (STR) ordinance for addressing the possible impacts on rental business through zoning code regulations. As part of the study, we have identified a number of properties that fall into a STR category, which prompted a personal outreach to each property owners over the last few months. Property owners are required to follow local laws regarding short-term rental activity and collect City's Transient Occupancy Tax (TOT) from guests.

Our records indicate you are, or have been, leasing, renting, or advertising your property for vacation rental or similar activity on a short-term basis. We have attempted to contact you and sent multiple notices of non-compliance regarding your failure to register and comply with local TOT law. The City also extended an amnesty program for any past tax liability that might have applied to your rental property, as was mentioned in compliance notices sent to your attention on May 1, 2017, July 10, 2017, and August 18, 2017.

Since we have not heard back from you, the City has estimated the tax amount due and payable for the statutory period between 1/1/2015 and 3/31/2018, pursuant to Section 3.12.090 of the Municipal Code. The estimated amount is based on several factors, which include average quarterly filing from all existing STRs, square footage of your property, and current home value.

This letter serves as the fourth notice of non-compliance from the City of Half Moon Bay. The City estimates that the owner of the property located at, 1430 CABRILLO HWY N, owes the following amounts in delinquent TOT, penalties, and interest, due to failure to comply with Chapter 3.12 of the City's Municipal Code (attached).

Delinquent TOT	\$9711
Penalties	\$1868
Interest	\$1079
Total	\$12658

Within ten calendar days of the serving or mailing of this notice, the property owner may contact the City's Transient Occupancy Tax service provider if he/she has any questions regarding the estimated amount.

If the property owner fails to contact the City's Transient Occupancy Tax service provider within ten calendar days of the serving or mailing of this notice, the assessed estimated amount will become final and due immediately.

If you have questions about this notice, please contact the City's Transient Occupancy Tax service provider at (650) 443-9050 or support@HdLgov.com.

We appreciate your timely attention to this matter.

Sincerely,

Ryan George
City of Half Moon Bay
Transient Occupancy Tax Division

Enclosures:

City of Half Moon Bay Municipal Code, Section 3.12
Prior notices for TOT assessments

998108

STR LETTER 5: NOTICE OF LIEN



TOT Processing Center
8839 N Cedar Ave. #212
Fresno, CA 93720

July 27, 2018

NOTICE OF PROPERTY LIEN

CHRIS VOISARD
1430 CABRILLO HWY N
HALF MOON BAY, CA 94019-1407
02405792

Attention CHRIS VOISARD,

The purpose of this letter is to inform you that the City of Half Moon Bay is initiating the process of recording a lien against your property located at 1430 CABRILLO HWY N, pursuant to Chapter 3.12 of the City's municipal code, regarding Transient Occupancy Tax (TOT). The amount of the lien is \$12,657.91.

Our records indicate you are, or have been, leasing, renting, or advertising your property for vacation rental or similar activity on a short-term basis. We have attempted to contact you and sent multiple notices of non-compliance regarding your failure to register and comply with local TOT law. The City also extended an amnesty program for any past tax liability that might have applied to your rental property, as was mentioned in compliance notices sent to your attention on May 1, 2017, July 10, 2017, and August 18, 2017.

Due to your failure to respond to the City's notices, the City has assessed the tax amount due and payable for the statutory period between 1/1/2015 and 3/31/2018. You were sent a notice of assessment on 5/9/2018 and given the opportunity to respond with the actual Short-Term Rental amount for the period. Because you did not respond to the notice of assessment, the City is moving forward with the lien process.

If you have questions about this notice, please contact the City's Transient Occupancy Tax service provider at (650) 443-9050 or support@Hdl.gov.

Sincerely,

Ryan George
City of Half Moon Bay
Transient Occupancy Tax Division



CITY OF HALF MOON BAY

501 Main Street
Half Moon Bay, CA 94019

April 23, 2019

Chris Voisard
1430 Cabrillo Highway N.
Half Moon Bay, CA 94019-1407

Dear Ms. Voisard:

As the Acting Tax Administrator for the City of Half Moon Bay, and in accordance with Section 3.12.090(A) of the City Municipal Code, the final determination of your delinquent Transient Occupancy Tax (TOT) is \$9,000.

This amount is your reported tax amount from April 2017 through April 8, 2019, plus estimated unpaid tax for the year 2016 through April 2017, plus applicable penalties and interest, less a fair and equitable credit. The credit was provided based on your meeting with me on February 21, 2019 and your comments that the initial letters you received from the City by way of our collection consultant, HdL Companies, were unclear regarding the requirement for you to be assessed TOT.

Also based on our follow-up email communications, I am willing to allow you to pay that amount in 12 monthly installments. Each payment is due on the 1st day of each month. Please remit the first payment for \$750 on May 1, 2019. Following receipt of your final monthly payment and/or payment in full of \$9,000, the City will remove the lien from your property.

Sincerely,

Robert Nisbet
City Manager and Acting Tax Administrator
City of Half Moon Bay

CITY OF HALF MOON BAY

June 13, 2019

JUN 13 2019

OFFICE OF THE CITY CLERK

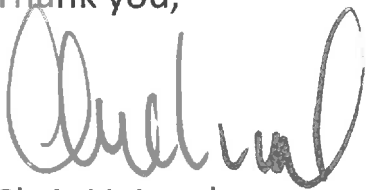
Chris Voisard
1430 N Cabrillo Hwy
Half Moon Bay, CA 94019

Half Moon Bay City Council
City Hall
501 Main St.
Half Moon Bay, CA 94019

Dear Council Members,

This letter serves to appeal the \$12,657.91 lien placed against me by the City. Please let me know how to proceed.

Thank you,

A handwritten signature in black ink, appearing to read "Chris Voisard", written in a cursive style.

Chris Voisard

Dear City Council Members,

This letter is to support my appeal scheduled for the City Council meeting on August 20th.

I am a (near... since 5th grade) life-long resident of the coast and have lived in my house for over 40 years. I am a single school teacher and mother, have taught many children on the coast, have served, volunteered at, and supported many coast side events, and served on the Parks and Recreation committee. As background information, I have never been delinquent or ignored a bill, including a student loan that I should have received amnesty for, and have an almost perfect credit score.

When I found myself in the situation of being unemployed, I started Airbnb'ing my house on the weekends to supplement my unemployment insurance, staying at friends and family's houses.

I was a confused, shocked, and puzzled when I started receiving the bizarre letters from HdL stamped "Notice of Non-Compliance". These letters had all the characteristics of a fraudulent debt collector, or a scam, such as pushing me to respond immediately, posing as a government official, an illegitimate return address (in Fresno, to seem 'tax-official') asking me for information that they should already have, and threatening me with severe penalties. So I did what Bank of America and others recommend when red flags are present, and did not respond to the Diamond Bar, CA software company.

But when the harassing and bullying letters kept coming, and I started receiving emails and phone calls on my personal cell phone, I started doing some research.

4th Amendment right to privacy

My first concern was how this company obtained my personal information, with all the talk of privacy of information, passwords, etc. Airbnb guarantees our privacy as far as name and address unless a reservation is confirmed. When I asked the callers how they found my number they refused to answer. Later, when I asked Bob Nesbit, the City Manager he said, "Oh, you're easy to find, Chris. I drove by your house myself." And still later when I asked a City Council member, she assured me that Airbnb gave the City the information, which is not true. Lastly, the City Attorney told me that HdL monitors STRs and uses public record information like county property files to link the advertisements to the property owners. The 4th amendment reads: *The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.* The HdL surveillance online was no different than breaking into my house and looking through my personal papers and demanding money.

HdL

I don't see how the connections they make are possible, but I did find this: HdL was shut down for 6 months back in 1985 because sales and use tax could not be given to an independent contractor. HdL lobbied to get AB1161 passed to allow them to verify the State Board's tax records to find allocations of large corporations doing business in a city. This was well before the Internet, and I'm sure the privileges granted to them were in no way intended to spy on and harass individual citizens, but yet, that is the direction their business has headed, and I hope that they are soon stopped. HdL uses a business model similar to the mafia, a middleman that is not needed, making cities offers they can't refuse, dabbling in illegal activity like marijuana, fraudulently claiming to be a government authority, while writing policy and extorting money from citizens, skimming money off the top. Although the City has said twice that they did this service performed for the City for free (once in the HMB Review, and once in the letter from the lawyer that made no sense) according to the Transient Occupancy Tax Operations Management Services contract signed by the City they have been getting \$500 per year, per lodging provider. Let's say there are 100 lodging providers, over the two years HdL was campaigning, that would be \$100,000 dollars taken from the citizens and put into the pocket of this fast growing company that has tentacles all over California. For anyone to believe that this service was done gratis is ludicrous to me.

Collecting Transient Occupancy Tax

None of this spying and harassing would be necessary had the City collected the money from the only people who can collect the money from the transients, that being Airbnb. But while the City was grappling whether or not they wanted to make Airbnb legal, they decided to try and take 12% of the hosts income, since there is no way for us to collect the tax as the ordinance is written:

3.12.030 Tax imposed.

For the privilege of occupancy in any hotel or campground each transient is subject to and shall pay a tax in the amount of twelve percent of the rent charged by the operator, or fifty cents per day, whichever is greater. The tax constitutes a debt owed by the transient to the city, which is extinguished only by the payment by the operator to the city.

3.12.050 Operator's duties.

Each operator shall collect the tax imposed by this chapter to the same extent and at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator. No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent, or that, if added, any part will be refunded except in the manner hereinafter provided.

Your lawyer suggested raising my rates by 12% and then paying the City, but this would raise my income, and I would be responsible for paying federal and state taxes on that money. It also does not state to the transient that the tax was being charged. It would not be collecting the money from the transients, or giving them a receipt, and I would have no way of telling them since the ordinance says that I would not be able to tell them that the tax was being absorbed by me.

While receiving these letters from HdL, and after looking at the City ordinance, I reached out to Airbnb to ask them if they had ever heard of HdL and how I could collect the taxes manually. They said:

There are two ways you can manually collect occupancy taxes from guests:

- You can collect from guests in-person during check-in
- You can collect from guests by using the [Resolution Center](#) after check-in

In each case, it's important that you inform guests of the exact tax amount prior to booking. Hosts that need to collect occupancy taxes in person should only collect it upon arrival. We're unable to assist with manual collection.

Lien on Property

When HdL sent a letter saying that the City was going to put a lien on my property for \$12,657.91 I went back to my original thinking that these letters were a scam. The letter said that the amount was based on the square footage of my house and other short-term rentals, which had nothing to do with 12% of what I earned. I thought if any of this were legitimate I would hear from the City. I never did until I got a copy of the lien placed on my property for that amount. A lawyer told me it is illegal to place a lien on property without notice, and when I told this to Bob Nesbit, he sent me a Notice after the fact saying that the amount owed is now a mysterious \$9,000 even. This prompted me to finally reveal my income from Airbnb (which I do not believe is any of the City's business) to show that *had I been able to collect the tax* the amount would be \$6700. At one point I was considering trying to pay this, but as I did more research, and discovered that there was no way for me to legally collect this, I believe this was a money grab by the City, and not valid.

Conclusion:

All over the world, cities with millions and billions of dollars are battling it out with Airbnb a billion dollar corporation to come to agreements, both sides with armies of lawyers. In our city, before an agreement was reached, the City decided to take the money from the citizens incomes by spying on us online, and bullying us into to paying. Now, the City has reached an agreement, and Airbnb is collecting the taxes, as they should have in the first place.

I don't know why the City Council decided on such measures, but it is very hurtful and sad to think my local government, where I have grown up, would behave in this way.

Perhaps it was because of the hotel owners who were running scared, but are now happily advertising on Airbnb themselves. I am giving many of you the benefit of the doubt by thinking you did not know HdL was going to do, since the contract with them for this operation states, "*City shall not have the right to control them means by which Consultant accomplishes services rendered pursuant to this Agreement*". I don't propose to know what it's like to do your job having never done it (I get annoyed when people say I have it easy being a teacher) but I do urge you to read the fine print before entering into contracts! (I.e. the Poplar St /Cypress tree controversy going on right now.) I have lost sleep over the past two years feeling the injustice of this situation.

When the City (I believe) put in the paper "HMB goes after Airbnb operators who dodge tax" I was shocked and hurt at the insinuations and down right lies in that article. If nothing nefarious were taking place there would be no need for such propaganda. I called the writer of the article who refused to talk to me, and had many long discussions with Clay. I thought we had an independent journal in the Review; I don't want to think our government is a control government using surveillance and propaganda to control its citizens. Please rethink this direction.

When I tried to resolve this lien with Bob Nisbet he called me "offensive and dishonest". I suppose offensive is a subjective term, but I am not dishonest. However, I believe the City has been less than forthright in the way they handled this matter. \$6K, \$9K, and \$12K, are all massive amounts of money to me, but worse is the injustice of this situation of being harassed, bullied, and spied on for renting out my own house, which is not fun, and a lot of work, but I did what I had to do to pay the bills. I ask you to remove this lien from my property, and I believe if you were truly being honest, and doing the right thing, you would give the money back to the citizens that paid via HdL, and you would reveal to the public how much money was paid to HdL for these services. That would restore my faith in this government.

Sincerely,

Chris Voisard

A large, stylized handwritten signature in black ink, appearing to read 'Chris Voisard', written over the typed name.

May 13, 2019

Chris Voisard

1430 No. Cabrillo Hwy

Half Moon Bay, CA 94019

Re: Lien Against Property Located at 1430 Cabrillo Highway North

Dear Ms. Voisard:

I am writing in response to your recent email seeking clarification about the \$12,657.91 Lien

I question how the City of Half Moon Bay can put a lien on my property with a completely fictionalized and estimated amount, about half of what I would have generated for the City in TOT, had there been a legitimate collection method.

placed on your property located at 1430 Cabrillo Highway N by the City of Half Moon Bay (City). In particular, you inquired as to how homeowners should collect the transient occupancy tax (TOT) from transients and why the City did not ask Airbnb to collect the TOT from the outset.

As explained in the Notices of Non-Compliance dated May 1, 2017, July 10, 2017, August 18, 2017, and May 10, 2018 (attached), the Half Moon Bay Municipal Code requires property owners engaged in short-term rental activity to collect TOT from guests. This practice is common among cities. Indeed, Airbnb specifically encourages hosts to contact their local municipalities when registering their property as a short-term rental to find out what taxes should be charged. (See, e.g., <https://www.airbnb.com/help/article/376/what-legal-and-regulatoryissues-should-i-consider-before-hosting-on-airbnb>.)

At the time I listed my house on Airbnb in 2015 there were no regulations in Half Moon Bay regarding short-term rentals. The city ordinance regarding STR's was amended by HdL and was not voted on or made public by the City except through the HdL notices.

The City offered a number of resources to aid you in achieving TOT compliance. In each of the first three Notices from 2017, the City explained the possibility of conditional amnesty

I don't understand how there can amnesty on an ordinance that didn't exist, as far as STR's nor how I could collect from transients retroactively. *The City never contacted me.* I only received letters from HdL Companies, a software company in southern California, misrepresenting themselves as the City of Half Moon Bay, and making threats under color of law and official right. If they were a debt collector, they did not identify themselves as such.

for any homeowners that registered prior to the expiration of the amnesty period, and urged you to contact the City to find out if you might qualify. The City also offered the assistance of tax specialists to guide you through the registration and tax-related processes. Lastly, the City provided you with a toll free number to call for general

support or clarification. Short term rental operators were thus able to address questions with a phone call to the City's hotline or a meeting with the City's tax experts.

The only toll free numbers led me to the software company HdL.

There are a number of ways for a host to collect the required occupancy tax. For instance, you could increase your overnight Airbnb listing price by twelve percent (12%) to cover the tax.

Increasing my listing price would not comply with the city's ordinance that states "the amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator." This also means that as an "operator" I would be absorbing the tax also not allowed by the ordinance. Increasing my overnight price would amount to paying the City a personal income tax, not collecting a tax paid for by transients. This would artificially inflate my income and price and cause me to owe state and federal taxes on the amount, as well as TOT on top of the TOT.

Airbnb also provides resources and other suggestions to aid hosts in collecting occupancy taxes as part of a listing. (See <https://www.airbnb.com/help/article/2523/how-do-i-add-occupancytaxes-to-my-listings>.) This website changed about the same time that the City decided to allow Airbnb to collect the TOT tax. The only way to collect the tax was "manually" as states on Airbnb web page:

<https://www.airbnb.com/help/article/2496/how-does-manual-occupancy-tax-collection-and-payment-work>

These methods of asking for the tax in person or afterwards would still not comply with the part of the ordinance that states that the tax must be collected "to the same extent and at the same time as the rent is collected from every transient." The only person or entity that could do that is Airbnb who collects the rent from the guests.

Again, if you had questions about how to achieve compliance with the law, you could have reached out to the City for assistance using the hotline that was provided to you.

Again, I was not going to engage with a company fraudulently representing themselves, and threatening me with severe penalties.

As of May 1, 2019, the City has entered an agreement with Airbnb in which Airbnb will collect the transient occupancy tax directly. However, prior to this agreement and during the period which you were first contacted regarding your non-compliance, hosts of short term occupancy rentals were tasked with collecting the TOT themselves. Electing to have hosts collect the tax and then pay it to the City was entirely lawful and within the City's discretion. A number of local jurisdictions have recently negotiated such agreements.

It would be lawful if there had been a way to collect the TOT from the guests while still staying in compliance or the ordinance. Airbnb only offered the 'TOT tool' to hosts beginning around May 1st, so yes, now I'm sure cities are now asking for hosts to collect.

At this point, you may 1) coordinate with the City Manager to resolve your debt and the City will release the lien on your property, or 2) appeal this matter to the Half Moon Bay City Council.

I plan to appeal.

Finally, you asked how your personal information obtained, and how much HdL was paid for these services. Generally, HdL monitors short-term rental advertisements on websites like homeaway.com, Flipkey, and Airbnb, and uses public record information (county property files, for instance) to link advertisements to property owners. When a property owner fails to respond to TOT compliance letters, HdL performs a skip tracing search, using various public websites to obtain contact information.

I believe (as does the ACLU) that this is an invasion of privacy targeting a certain profile of citizens in our city. The law regarding invasion of privacy includes "a right to privacy from government surveillance into an area where a person has a reasonable expectation of privacy." Although one council member told me that Airbnb provided the information, they did not. County property files are not intended for surveillance of private citizens, and skip-tracing services generally aren't hired unless a verified amount of debt has occurred. This Surveillance State is now being pushed back by an ordinance in San Francisco. The City of Half Moon Bay was not transparent on how they procured my private information. I believe my 4th amendment rights were violated.

This skip tracing exercise yielded your blog, which lists your contact information and a link to your STR ad. The blog and the ad are still active today. HdL is contracted to administer and ensure compliance with TOT ordinance. While the current contract provides for compensation relating to regular hotel/motel TOT, it is silent on the STR and therefore no compensation has been paid for this service.

According to the contract with HdL, signed by the City, authorizing HdL to handle TOT collection for Half Moon Bay: "HdL's compensation for performing Operations Management Services related to transient occupancy tax is a fixed fee of \$500 per lodging provider property per year." According to the ordinance a home is a short-term rental, and no differentiation between hotels and STR's are in the ordinance, nor in the contract signed with HdL. Since HdL was performing its operations for two years, this would be \$1000 per property. Is this correct?

A future amendment to the contract will address compensation for the services relating to TOT from STR.

Did the contractor perform these services with no agreement to compensation in advance? That isn't evident on the contracts.

Sincerely,

Chris Voisard

Sincerely,

Catherine C. Engberg

City Attorney

cc: Bob Nisbet, City Manager

Recording requested by:
City of Half Moon Bay
Tax Administrator/Director of Finance

When recorded mail to:

507-B PURISSIMA STREET
HALF MOON BAY, CA 94019

2018-095806

8:32 am 12/10/18 CT Fee: NO FEE

Count of Pages 1

Recorded in Official Records

County of San Mateo

Mark Church

Assessor-County Clerk-Recorder



SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

CITY OF HALF MOON BAY, COUNTY OF SAN MATEO
OFFICE OF TAX ADMINISTRATOR

CERTIFICATE OF LIEN FOR DELINQUENT TRANSIENT OCCUPANCY TAX DUE

(Filed pursuant to Cal. Revenue and Taxation Code Section 2191.3, 2191.4, Half Moon Bay Municipal Code Section 3.12.140)

THIS IS TO NOTIFY YOU THAT A TAX LIEN HAS BEEN FILED WITH RESPECT TO UNSECURED PROPERTY

I, Robert Nisbet, City Manager and Acting Tax Administrator of the City of Half Moon Bay, State of California, do hereby certify that there is on record in my office unpaid delinquent Unsecured Transient Occupancy Taxes, which are duly assessed, computed and levied for the fiscal years shown, in compliance with the provisions of Division 1, Part 5, of the California Revenue and Taxation Code and Chapter 3.12 of the Half Moon Bay Municipal Code, in the amounts stated herein, together with delinquent penalties and fees levied pursuant to Section 3.12.080 of the Half Moon Bay Municipal Code.

The person or persons named herein are liable to the City of Half Moon Bay for the total unpaid amount as set forth herein:

LOCATION OF PROPERTY: 1430 CABRILLO HWY N
HALF MOON BAY, CA 94019-1407

ASSESSMENT NO. ___001___	FISCAL YEAR 2017-2018
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OWNER NAME: CHRIS VOISARD

LIEN AMOUNT: \$12,658.00

Said address being the last known address of the assessee from and after the time of filing of this certificate, the total amount of unpaid tax and penalty required to be paid by each of the persons named constitutes a lien upon all personal and real property now owned by each of said person or persons, respectively, or that may subsequently be acquired by them, or any of them, before the date on which this lien expires.

The lien amount shown includes delinquent TOT, penalties, and interest. Additional interest will continue to accrue at the rate of one-half of one percent per month as prescribed by law (Half Moon Bay Municipal Code 3.12.080.D) This lien has the force, effect and priority of a judgment for ten (10) years from the time of the recording of this instrument, unless sooner released or otherwise discharged.

Dated: 12/5/18

Robert Nisbet, City Manager/Acting Tax Administrator
CITY OF HALF MOON BAY

The headline, "HMB goes after Airbnb operators who dodge tax", should have read that HMB was finally going to *stop* coming after us operators, and have Airbnb collect the tax like they should have in the first place.

The misleading article made it appear as if the City had lost money because of us tax-avoiding Airbnb operators, but nothing is further from the truth. The money lost to the city was the money that HdL Companies skimmed off the top of their collections. If it is 35% as Mountain View, HdL pocketed over \$70K from the town's citizens, based on the \$133K Airbnb operators *contributed* to the City. The city could have 100% of the taxes if they had asked Airbnb in the first place.

I am speaking as a coastside resident since the 5th grade, a teacher, who has lived in the same house most of my life, and who began occasionally Airbnb'ing my home a few years ago when I found myself unemployed.

Let me explain about TOT or hotel tax, and who pays it. People who rent out their homes *do not pay this tax*. Hotels do not pay this tax. Airbnb does not pay this tax. The *visitors* owe and pay the tax. The big question, is who is collects it.

The HMB Ordinance makes it legally impossible for Airbnb hosts to collect the TOT. It reads, "each operator shall collect the tax ...at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator." We don't collect any money from the renters, Airbnb does. We can't inflate our rates to absorb the TOT tax either because the ordinance says, "No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent." So basically, HdL was extorting money out of us for a tax we didn't owe and was impossible to collect from those who did owe it.

"Read my lips. We want to pay taxes," Airbnb's head of public policy told the nation's mayors in 2016, but Half Moon Bay took a different route. They quietly decided to outsource tax collection to HdL Companies to collect from individuals.

When I first got the weird "Notice of Non Compliance" letter with a The City's logo and a return address of "TOT Processing Center" in Fresno, I thought for sure it was some kind of a scam, but each subsequent letter got more threatening. Each said that it "recently come to the attention of the City that you *may be* leasing or advertising a short term rental." Then I got emails and calls on my cell. I demanded where they got my information since none is listed on the Airbnb website, and they reused to tell me.

The 4th written Notice of Non-Compliance said I owed \$12,658 based on "average filing from all existing short term rentals, the square footage of my property, and the value of

my home," and the first correspondence I got from anybody in Half Moon Bay was a lien notice filed with San Mateo County signed by Bob Nesbit.

I met with Bob Nesbit to try and resolve the matter and talked to him and Matthew Chidester. I showed them my Airbnb records, but have not heard back them to resolve the lien that I fear is ruining my credit.

Some of you against Airbnb may think we deserve to be spied on by HdL, but they also look for people working out of their house, or selling on eBay without a business license. Our cannabis initiatives were HdL's brainchild. Jan Johnston-Tyler of Mountain View said, "This is overreach and it must be stopped. HdL's primary objective is to make money out of fear. How my city, in which I have lived for over 30 years, continues to work with them is unthinkable." I hear ya, Jan. Big Brother, I mean HdL, may be watching you too.

I did a double take when I read the headline, "HMB goes after Airbnb operators who dodge tax". A cold trickle of fear, a familiar feeling I've been living with off and on for the past two years, seeped into me. I was like, *what?* Was it even possible for them to go after us any more than they already had?

A little way into the article, I some felt some relief when I realized the headline was false. HMB was not starting to "go after Airbnb operators", as it implied, but rather, was finally going to *stop* coming after us, and instead ask for the tax to be collected by Airbnb, which, in my opinion, the City should have done in the first place. The City would've been a lot richer, and so would I.

By the time I finished the article, my head was spinning with the biased slant, making it look as if the poor City had lost so much money because of us tax-avoiding Airbnb operators. The subheading was just as misleading: "No estimate on amount the City has lost." I think it would be easy enough to estimate. All the City would have to do is calculate the percentage of the \$133,630 that HdL Companies, the company they outsourced to spy, harass, stalk, confuse, intimidate, scare and shame us in to "compliance" pocketed from the citizens our city.

I am speaking as an Airbnb host, a coastside resident since the 5th grade, who has lived in the same house for over forty years, and the only citizen of HMB that got a \$12K lien slapped against me for questioning and resisting HdL's nefarious tactics. I just refused to believe that Half Moon Bay, the city I love and have lived in, and contributed to for most of my life would treat us this way. But they did.

Before I go on, let me explain about TOT or hotel tax, and who pays it. People who rent out their homes *do not pay this tax*. Hotels do not pay this tax. Airbnb does not pay this tax. The *visitors* owe and pay the tax. The big question, when it comes to short-term home rentals, is who is going to collect it from *them*, and turn it over to the city.

The war over who is culpable for collecting TOT tax is raging all over the country, big time, it's not just us. It has gone up all the way to the Supreme Court. The big guns, Airbnb and the cities, are pointing at each other, aided by their armies of lawyers, but sometimes they turn and point at us, the lowly unarmed host.

Granted, short-term renters fall into a huge spectrum. There are companies that buy up apartment buildings and rent them out on Airbnb causing housing shortages. And then there are people like me, a single, temporarily unemployed school teacher, trying to hold on to my house.

"Read my lips. We want to pay taxes," Chris Lehane, Airbnb's global head of public policy, told the nation's mayors in 2016. In the years since, the home-sharing site has repeated the declaration in press releases, op-eds, emails, and on billboards. Airbnb said in May 2017, "We have continued to expand our efforts to collect and remit hotel, occupancy, and tourist taxes on behalf of our hosts and guests. In the US alone, Airbnb collects and remits taxes in over 250 jurisdictions. In fact, by May 1, 2017, more than half of our listings in the

U.S. will be in communities where we collect and remit taxes, and we are actively working to expand this program."

But it was right around that time, May 2017 that Half Moon Bay took a different route. They quietly decided to outsource to HdL Companies to collect from individuals. In the recent Review article, when Matthew Chidester said that the "city staff isn't equipped to collect TOT from short-term rentals" he is right. The City probably doesn't have the software, ("Discovery" program as HdL calls it), the knowledge or time to spy on people, but HdL does. HdL's brochure states that they increase revenues using a "business friendly education centric approach reducing challenges normally associated with compliance efforts."

My education, as an "entity" that HdL was targeting, began by getting a flimsy photo copy letter in the mail with a The City of Half Moon Bay Logo in black and white with a return address of "TOT Processing Center" in Fresno. The letter was stamped with "Notice of Non-Compliance".

The letter looked like a scam, but it scared me a little. *Was someone trying to stop me from Airbnbing my house? What I was doing was legal, wasn't it? Amnesty? For what? How did they get my name and address?* I looked up the return street address and it was a Mail Boxes Etc. in Fresno. I looked for "TOT Processing" all over state government websites. No such thing. I was relying on Airbnb for survival at the time and did not want to contact anyone in case they were trying to stop me. I ignored the letter.

They waited long enough to send me the "Second Notice of non-compliance" to lull me into a sense of complacency. Then the third notice, each one more threatening, each one more bullying, using scare tactics. None of them said that they had proof I was renting out my house. They all said something like, "It has recently come to the attention of the City that you *may be* leasing or advertising a short term rental." Then I started getting emails, and phone calls on my private cell from George Ryan who said he worked for the City of Half Moon Bay, when I knew no such person worked in our City government. I asked how he got my name and number and where he got the idea that I was renting. He refused to answer. I told him I felt harassed and that this was invading my privacy.

I then reached out to Airbnb several times to see if they knew anything about this HdL company, and I asked them how they ascertain which cities they collect TOT tax for. Airbnb would not answer me either, only saying that they noted my inquiries.

I asked the City for their records on HdL. They sent documents mentioning HdL, but not what they were hired for or what they did.

I looked on the Airbnb community platform, and to my surprise saw dozens and dozens of confused people, mostly from San Mateo, where HdL had launched their campaign the month before. Speculation abounded. Was this a scam? Legit? What's a TOT tax? Who

pays it? Who collects it? Who is HdL? Who is George Ryan? Is Airbnb even legal in San Mateo? Pages and pages of people left confused, and some frightened, and all in the dark.

The 4th written Notice of Non-Compliance gave me an estimate of the tax due. It said that the City has estimated the tax amount payable from 1/1/2015 (over two years before the HdL wrote the ordinance) to the current time as \$12,658. My stomach lurched. The wording still said "our records indicate you are, have been, renting, leasing, or advertising" and that the estimated amount was based on the "average filing from all existing short term rentals, the square footage of my property, and the value of my home." The amount also included a bunch of penalties and interest.

I was like, huh? How can the square footage of my house have anything to do with 12% tax that transients are supposed to be paying to the City? And they still weren't saying I was renting. They said they had records, but where were they? Wouldn't they show them to me if they were demanding money?

The next letter was a Notice of Property Lien. Still not directly accusing me of renting. Just that I may be. Signed by George Ryan.

I talked to other hosts in town. One person told me they spoke to George Ryan and that he said he worked for the City and that he got no commission, only an hourly salary. He was striking deals with hosts. I still thought this HdL company was like a collection agency or something, trying to get what they could get by misrepresenting themselves as the City of Half Moon Bay. I didn't believe they could place a lien on me without producing any records, based on the square footage of my house. Also a lawyer told me the City would have to send me an official Notice of Assessment if they were to ever actually to place a lien.

Well, they never sent the assessment, but they did place the lien. The first correspondence I got from our new City manager, Bob Nesbit, or from anybody the actual city of Half Moon Bay government for that matter, was a lien notice filed with San Mateo County, and signed by him.

Why the Review article mentioned that Marin County was sending letters and threatening liens is puzzling. Why, to show Half Moon Bay wasn't the only one who used HdL?

Let me say, that the Ordinance put on the Half Moon Bay code by HdL made it almost legally impossible for a host to collect the TOT. It read, ""each operator shall collect the tax ...at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator."

We homeowners who contract with Airbnb to rent our homes don't collect any money from the renters, Airbnb does. So many thought we should just inflate our rates to absorb the TOT tax, and then pay the City. Nope. Because the ordinance goes on to say, "No

operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent."

What can a host do? Later, on a forum from Airbnb, it stated that a way to collect the tax from the guests would be to show up at the house after the guests checked in, receipt book in hand, and demand they cough up another 12% of what they already paid online to Airbnb. I don't think that would go over very well. The other thing they suggested, was to ask for the amount in the Airbnb Resolution Center, a place to normally claim damages, after the guests left. I don't think most people would take too kindly to that either. Plus, both those options still wasn't in compliance, since the ordinance states it has to be collected when the guest pays the rent.

When Matthew Chidester was quoted as saying in the article, "It is doubtful anyone paid the TOT tax before HdL was hired." I think he would have been a little more accurate if he had taken out the 'it is doubtful' and just said 'no one'. And maybe technically, Matthew "doesn't know if we will see more revenue," but unless everyone stops renting their homes because of the harassment we've received, or they try to restrict the rentals, then yes, they're definitely going to see more revenue now, like 35% more.

Maybe some of you are thinking, oh well, I don't like Airbnb anyway, "those people" deserve to be spied on by HdL. Well, let me tell you, it could happen to you too. The city refers to HdL as "Business Consultants" but I call them "Revenue Wranglers". When HdL plundered through Mountain View there was a big backlash. There, HdL sent out surveys innocently asking people how many business calls they made from home, and when people answered them honestly, they slapped them with business license fees for the previous four years. HdL sent a warning letter to Gregory Baum there, a 70 year old resident selling western-themed art and antiques at flea markets making very little money. They also told another guy, 82 year old Roy Mize, to get a business license because they saw some gardening pictures online that were from a dummy website. Mize had been retired for 15 years. Mize, like me, was incensed, wondering how they got his information. Jan Johnston-Tyler said, "This is overreach and it must be stopped. HdL's primary objective is to make money out of fear. How my city, in which I have lived for over 30 years, continues to work with them is unthinkable." I hear you Jan. So heed, people, Big Brother, I mean HdL, may be watching you too.

Was anyone else in town confused and kind of outraged when this whole cannabis issue came up? I was. I thought, why is the City talking about pot, when we have traffic and housing problems up the ying-yang? A marijuana *factory* in our town? Stores, farms? What? Guess whose brainchild? Yup. HdL. Cannabis is one of their specialties, where they see pot, they see dollar signs.

If the City had just been honest and up front about what was going on, I would have responded. If HdL had told me that they were hired by our City, instead of saying that they *were* our City, I might have listened more carefully to them. I personally don't believe that contracting out government work is right, though as Bob Nesbit told me,

"every city is doing it." According to Forbes, in an article titled, 'Outsourcing Tax Collection: A Bad Idea We've Seen Before' "... outsourcing had created new problems instead of solving old ones. By introducing a profit motive into the collection function, it led to all sorts of shady behavior by the hired guns."

I met with Bob Nesbit to try and resolve the matter and talked to him and Matthew Chidester for a long while. They said confusing things, like Airbnb was technically illegal in Half Moon Bay, yet they were collecting the tax. I asked him to show me the records they kept saying they had on me, but he didn't have any to produce. He said he had seen my house, had driven by it. It was easy to find my address. Again, that feeling of invasion came over me. I asked him to show me how. He didn't. He repeatedly asked me to produce my records, trying to make me promise to do so, and I eventually did. Since then, I haven't heard back from them, they said they had to check with their lawyers. Although I started out the meeting with Bob saying that my concerns were nothing personal to him, after all, he had just been hired, he ended the meeting by calling me offensive and dishonest. I countered that was exactly what HdL was.



Re: (Case 97305) City of Half Moon Bay - Call Back Required

Business Support <support@hdlgov.com>
To: "chris.laslunas" <chris.laslunas@gmail.com>

Tue, Jun 5, 2018 at 8:34 AM

Hello Chris,

It is not our intent to be intrusive. We reached out to you with letters; and, receiving no response, searched for other means of communication.

The City of Half Moon Bay initiated a Transient Occupancy Tax (TOT) compliance campaign last year. Reaching out to you, as someone renting your property in the City, is part of that campaign.

Please give me a call today, at 650-443-9094, so that I can explain. Your cooperation will make a difference; and the matter is urgent.

Best wishes,

Ryan George
City of Half Moon Bay
TOT Processing Center

-----Original Message-----

From: "chris.laslunas" <chris.laslunas@gmail.com>
Reply-To: "chris.laslunas" <chris.laslunas@gmail.com>
Date: Mon, 4 Jun 2018 15:44:30 -0700
To: "support@hdlgov.com" <support@hdlgov.com>
Subject: Re: City of Half Moon Bay - Call Back Required

>And my email?

>

>Sent from my iPhone

>

>> On Jun 4, 2018, at 3:41 PM, chris.laslunas <chris.laslunas@gmail.com> wrote:

>>

>> I'm wondering where you got my private cell phone number, my name and my address?

>>

>> Sent from my iPhone

>>

>>> On Jun 4, 2018, at 3:38 PM, support@hdlgov.com wrote:

>>>

>>> Hello Chris Voisard,

>>>

>>> I called and spoke to you this morning regarding Transient Occupancy Tax (TOT) for your property located at 1430 Cabrillo HWY LN in the City of Half Moon Bay. You indicated that you would call me back; but I have not heard from you as of yet.

>>>

>>> Please call me at (650) 443-9094 when you receive this email.
>>>
>>> Best wishes,
>>>
>>> Ryan George
>>> City of Half Moon Bay
>>> TOT Processing Center

Chris Voisard <chris.laslunas@gmail.com>
To: Business Support <support@hdlgov.com>

Tue, Jun 5, 2018 at 8:40 AM

My cell number is private and this is intrusive. I don't know where you got the idea that I am renting my property. Where did you obtain this information?

[Quoted text hidden]

Business Support <support@hdlgov.com>
To: Chris Voisard <chris.laslunas@gmail.com>

Wed, Jun 6, 2018 at 9:02 AM

Hello Chris,

Are you the property owner of the following address?

1430 CABRILLO HWY N
HALF MOON BAY, CA 94019-1407

Best regards,

City of Half Moon Bay
TOT Processing Center
support@hdlgov.com

[Quoted text hidden]

Business Support <support@hdlgov.com>
To: Chris Voisard <chris.laslunas@gmail.com>

Tue, Jun 12, 2018 at 10:52 AM

Hello Chris,

The reason we are reaching out to you is to help you resolve a tax matter with the City of Half Moon Bay. It is in your best interest, and the best interest of the City if we are able to cooperate with one another. Please call us at 650-443-9094, so that we can discuss this matter, and bring you up to speed. It could potentially save you thousands of dollars in Transient Occupancy Tax (TOT).

Please see the attached letter we mailed on 5/10/2018 to 1430 Cabrillo HWY N.

If you would like to confirm the legitimacy of this issue, feel free to call the City of Half Moon Bay and ask for Paula Krogh.

We were granted special permission to give you a few days more time. If we do not hear from you by 6/14/2018, we will be forced to move forward with further action.

Best regards,

89

Ryan George
City of Half Moon Bay
TOT Processing Center
support@hdlgov.com

-----Original Message-----

From: "Business Support" <support@hdlgov.com>
Reply-To: "Business Support" <support@hdlgov.com>
Date: Wed, 06 Jun 2018 09:01:51 -07:00
To: "Chris Voisard" <chris.laslunas@gmail.com>
Subject: Re: (Case 97305) City of Half Moon Bay - Call Back Required

[Quoted text hidden]

 **HMB STR Letter Assessment 180510 - 1430 Cabrillo HWY N.pdf**
268K

Chris Voisard <chris.laslunas@gmail.com>
To: Business Support <support@hdlgov.com>

Tue, Jun 12, 2018 at 5:27 PM

I am considering this harassment.

[Quoted text hidden]

support@hdlgov.com

Gmail

Move to Inbox

COMPOSE

City of Half Moon Bay - Call Back Required

- Inbox
- Starred
- Important
- Sent Mail
- Drafts
- All Mail
- Categories

Chris



support@hdlgov.com

Hello Chris Voisard,

I called and spoke to you this morning regarding Transient Occupancy Tax (TOT) for You indicated that you would call me back; but I have not heard from you as of yet.

Please call me at (650) 443-9094 when you receive this email.

Best wishes,

Ryan George
City of Half Moon Bay
TOT Processing Center



chris.laslunas <chris.laslunas@gmail.com>

I'm wondering where you got my private cell phone number, my name and my address

Sent from my iPhone



chris.laslunas <chris.laslunas@gmail.com>

And my email?

Sent from my iPhone

*****CAR-RT LOT**C007
S14 P3
2035
RILEY, MR & MRS E T
105 BALBOA BLVD
HALF MOON BAY CA 94019-1617

Half Moon Bay Review

AND PESCADERO PEBBL

1ST PLACE
General
Excellence
CHRY
2015-2016



COASTSIDER SIGNS PRO SOCCER CONTRACT
AFTER CHANCE MEETING,

Funds and food

TWO FUNDRAISERS WERE DELICIOUS
AFFAIRS, PAGES 5A, 10A

VOLUME 120 NUMBER 49 | \$1

SERVING THE ENTIRE SAN MATEO COASTSIDE SINCE 1898

WWW.HMBREVIEW.COM

[HALF MOON BAY]

HMB goes after Airbnb operators who dodge tax

NO ESTIMATE ON AMOUNT OF MONEY CITY HAS LOST

By LIBBY LEYDEN

The city of Half Moon Bay is tightening its enforcement to collect taxes from short-term

rental owners who use the popular listing service Airbnb. Last week, City Council approved a collection agreement with Airbnb to authorize the website to collect and remit transient occupancy taxes from renting hosts within the city. Prior to the agreement, it was up to the property owner renting a unit to pay the city's 12 percent TOT tax.

"It is impossible to know how much revenue we lost," said City Manager Bob Nisbet. In an effort to hold accountable people renting property as a short-term rental accountable, the city hired HdL Companies in May 2017 as a third party to collect TOT filings. The objective was to identify short-term rentals in the city and offer owners amnesty to

come forward and register to begin filing their TOT returns on a quarterly basis. The company, which the city pays no fees to use, also identifies and contacts unresponsive operators who are delinquent with TOT to fulfill their tax obligations to the city. "It is doubtful anyone paid the TOT tax (before HdL was hired)," said Deputy City Man-

ager Matthew Chidester. From April 2017 to December 2018, the city collected approximately \$133,630 in TOT from short-term rentals, with 71 percent of the taxes coming from rentals that use Airbnb, according to Nisbet. Chidester explained city staff isn't equipped to collect TOT from short-term renters, which is why the city hired the

contractor as a third-party collector. Other cities in the Bay Area have had similar challenges with enforcing tax collection and remittance from online short-term rental websites. In August 2018, Marin County approved an ordinance giving authority to

SEE TAXES

[HALF MOON BAY]

[EDUCATION]

conservation

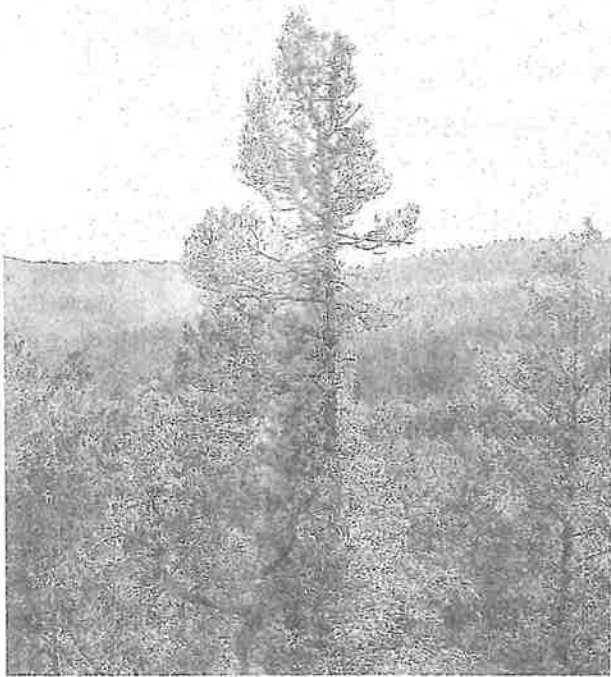


PHOTO COURTESY TEDDY MILLER

between the Peninsula Open Space Trust and landowners.

important habitat economic of timber. great social adding land added. "It's just win project." resident of Big company prioritizes that are tion. Through the Big Creek of timber for sport. said Webb. sides and have of forestland become more being managed available and ac-

Prior to the deal, Webb said, the McCrary family cared for the Gazos Creek property for more than 50 years — but never harvested it for timber.

The site is part of a critical habitat protecting the region's endangered marbled murrelet, along with a host of other species.

"It has some attributes that make it really desirable as a wildlife habitat," said Webb. "And it's right there next to Butano State Park."

Sempervirens Fund, a nonprofit that manages redwood forests in the Santa Cruz Mountains, will care for the Gazos Creek site until it can be formally incorporated into Butano State Park.

Officials valued the combined land deal at \$11.7 million. It was funded by the California State Coastal Conservancy, the Gordon and Betty Moore Foundation, POST, and the McCrary family. ■

[TAXEX]

City lost tax revenues

► CONTINUED FROM PAGE 1A

cord a lien against the owner of any short-term rental property failing to collect and remit the TOT. As with Half Moon Bay, Marin County contracted with a third party to assist in identifying short-term rental hosts. Potential hosts suspected of not remitting tax money were sent letters stating failure to comply within 30 days could result in a tax lien against the property. Marin County has yet to enter into a collection agreement with Airbnb.

The agreement with Airbnb, which will go into effect on May 1, is intended to streamline the process in collecting and remitting taxes. With the agreement, Airbnb will automate the process for rental hosts in Half Moon Bay.

"It certainly is going to be easier and we will have the confidence in knowing Airbnb is collecting from every single person in their system," Chidester said.

Airbnb states on its website it collects and pays certain occupancy taxes on behalf of hosts when a guest pays for booking in limited, specific jurisdictions. Pacifica and Redwood City have similar agreements, while the unincorporated parts of San Mateo County do not. With the agreement the city has the ability to audit Airbnb during any period to ensure there is no breach of its obligations, as well as audit any individual host.

"We do not know yet if having Airbnb collect and remit the taxes is going to mean we will see more revenue," Chidester said. "We just do not know yet."

The city will continue to use HdL Companies to collect taxes from other short-term rental hosts. ■

[STATE]

Track priorities

► CONTINUED FROM PAGE 1A

At last week's City Council meeting, Communications Director and City Clerk Jessica Blair and senior associate for Townsend Public Affairs Inc. Adam Gibbs presented a list of eight principles that were determined to encompass what the city is trying to accomplish. The report also included input from the legislative subcommittee consisting of Mayor Harvey Rarback and Councilwoman Debbie Rudder.

stem not used

[BRIEFS]

Airbnb operators don't owe taxes, visitors do

[LETTER TO]

**SMC Alert wo
flawlessly last**

Dear Editor,

While there has been much criticism of the SMC Alert during the recent major traffic incident, the information provided was helpful and timely. I'd like to commend you for getting the word out during a nightmare traffic incident.

Late Friday night on northbound Highway 101 in Pacifica in which a traffic pole was heavily damaged. The following traffic was down to one lane for several hours, and it was not until the SMC Alert performed flawlessly. Updates from the county came early and often. When it performs the SMC Alert can be a very valuable asset. My thanks to you for being responsible.

Pete Mos

and resolve the matter and talked to him and Matthew Chidester. I showed them my Airbnb records, but have not heard back from them to resolve the lien that I fear is ruining my credit.

Some of you against Airbnb may think we deserve to be spied on by HdL, but they also look for people working out of their home, or selling on eBay without a business license. Our cannabis initiatives were HdL's brainchild. Jan Johnston-Tyler, of Mountain View, said, "This is overreach and it must be stopped. HdL's primary objective is to make money out of fear. How my city, in which I have lived for over 30 years, continues to work with them is unthinkable." I hear ya, Jan. Big Brother, I mean HdL, may be watching you too.

Chris Voisard is a Half Moon Bay resident.

return address of "TOT Processing Center" in Fresno, I thought for sure it was some kind of scam, but each subsequent letter got more threatening. Each said that it had "recently come to the attention of the city that you may be leasing or advertising a short-term rental." Then I got emails and calls on my cell. I demanded to know how they got my information since none is listed on the Airbnb website, and they refused to tell me.

The fourth written Notice of Non-Compliance said I owed \$12,658 based on "average filing from all existing short-term rentals, the square footage of my property, and the value of my home," and the first correspondence I got from anybody in Half Moon Bay was a lien notice filed with San Mateo County, signed by City Manager Bob Nesbit. I met with Nesbit to try

any money from the renters, Airbnb does. We can't inflate our rates to absorb the TOT tax either because the ordinance says, "No operator of a hotel shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the operator, or that it will not be added to the rent." So, basically, HdL was extorting money out of us for a tax we didn't owe and which was impossible to collect from those who did owe it.

"Read my lips. We want to pay taxes," Airbnb's head of public policy told the nation's mayors in 2016, but Half Moon Bay took a different route. It quietly decided to outsource tax collection to HdL Companies to collect from individuals.

When I first got the weird "Notice of Non-Compliance" letter with a city logo and a

grade, a teacher who has lived in the same house most of my life and who began occasionally Airbnb-ing my home a few years ago when I found myself unemployed.

Let me explain about transient occupancy or hotel tax, and who pays it. People who rent out their homes do not pay this tax. Hotels do not pay this tax. Airbnb does not pay this tax. The visitors owe and pay the tax. The big question is, who collects it?

The Half Moon Bay ordinance makes it legally impossible for Airbnb hosts to collect the TOT. It reads, "each operator shall collect the tax ... at the same time as the rent is collected from every transient. The amount of tax shall be separately stated from the amount of the rent charged, and each transient shall receive a receipt for payment from the operator." We don't collect

Last week's Review headline, "HMB goes after Airbnb operators who dodge tax" should have read that Half Moon Bay was finally going to stop coming after us operators and have Airbnb collect the tax as they should have in the first place.

The misleading article made it appear as if the city lost money because of us tax-avoiding Airbnb operators, but nothing is further from the truth. The money lost to the city was the money that HdL Companies skimmed off the top of their collections. If it is 35 percent as in Mountain View, HdL pocketed over \$70,000 from the town's citizens, based on the \$133,000 Airbnb operators contributed to the city. The city could have 100 percent of the taxes if they had asked Airbnb in the first place.

I am speaking as a Coastside resident since the fifth

[GETTING YOUR OPINIONS HEARD]

SUBMITTING LETTERS TO THE EDITOR

The Half Moon Bay Review welcomes letters on topics of local interest. Letters should not exceed 300 words and must be signed with the writer's full name, address and phone number for verification. The Review reserves the right to edit letters.

FAX: 726-7054

E-MAIL: letters@hmbreview.com

MAIL: Half Moon Bay Review, P.O. Box 68, Half Moon Bay, CA 94019

OPEN LINE

The Review's Open Line allows readers to record their comments, criticisms or complaints anonymously via telephone at 726-3668. Comments published as space allows.

COMMENT ON

You can comment on any story in the paper by going to our website and registering.

EXHIBIT A
SCOPE OF SERVICES

1. **Transient Occupancy Tax Operations Management** - HdL will provided Operations Management Services designed to assist City with managing their transient occupancy tax operations, including but not limited to processing of returns, payments, and monitoring activity.
 - 1.1. **Tax Registration Database Management** - HdL will transfer the City's existing databases as they relate to TOT into HdL's internal system. HdL will maintain the data and provide reports to the City.
 - 1.2. **Return Processing** - HdL will process TOT filings within 5 days of submission. Accounts will receive all applicable forms necessary to complete the renewal process.
 - 1.3. **New Account Processing** - HdL will process any new TOT registrations for lodging establishments that change hand or newly offered properties.
 - 1.4. **Payment Posting / Processing** - HdL will process all payments made for new and existing lodging providers. Accounts will be updated with payment information and revenues will be remitted to the City net HdL's fees on no less than a monthly basis.
 - 1.5. **Customer Support Center** - HdL will provide lodging providers with multiple support options for registering, filing returns, making payments and for general inquiries. Lodging providers will be able to access one of our tax specialists Monday-Friday 8:00am to 5:00pm Pacific via phone, email, fax, and the online support center.
 - 1.6. **On-Line Filing & Payment Processing** - HdL will provide a website for lodging providers to make payments online.
 - 1.7. **Compliance Monitoring** - HdL will ensure accurate filings of TOT returns by consistently monitoring returns and providing compliance audits as mutually agreed to by the City and HdL. HdL takes a unique approach in ensuring compliance, educating hoteliers in transient occupancy tax regulations and filing procedures, and maximizing City revenues. HdL's program involves a multi-phase business friendly approach that reduces potential administration costs for the City and provides the City with assurances of future compliance and reporting practices from the City lodging industry.
 - 1.7.1. **Phase 1 - Transient Occupancy Tax Analysis**
 - 1.7.1.1. **Ordinance and Filing Procedure Review** - Analysis of Transient Occupancy tax ordinances and City procedures are conducted to identify possible deficiencies or other administration related issues. Recommendations are made by the audit team for items such as to best practices, form design, and potential ordinance modifications to insure the most effective policies and controls.
 - 1.7.1.2. **Analysis Report** - HdL's audit team will obtain and conduct a review of the most recent 36 months of transient occupancy tax filings. In order to verify and augment the data, the audit team will compile a variety of supplemental information on each property, including number of rooms,



occupancy rate, physical condition, and business dynamics. Data is then further scrutinized in order to identify unusual or suspicious reporting and/or other variables that indicate cause for further review. Information and findings are documented in the analysis report for review with the City.

- 1.7.1.3. **Analysis Review** – Upon completion of the analysis report, meetings are scheduled with the City to review the results as well as identify and recommend lodging providers who require additional investigation or examination to determine their compliance with the City’s ordinance.

1.7.2. Phase 2 – Lodging Provider Audits

- 1.7.2.1. **Audit Notification & Scheduling** – Lodging providers selected by HdL that have been approved by the City are sent a letter and scheduled for a Compliance Analysis Audit. Every effort is made to promote a positive experience for the taxpayer. Businesses will be reminded of the documents required for the audit that were discussed in webinars and previous communications. Lodging providers are afforded the opportunity to schedule flexible appointment times by contacting the Business Support Center or visiting our online support center.
- 1.7.2.2. **Compliance Analysis & Audit** - The HdL audit team reviews the books and records of the lodging provider to determine compliance with transient occupancy tax regulations. HdL validates taxable gross rents, exemptions, bank statements, daily/monthly summaries, and other relevant information for determining compliance. Supporting documentation for relevant items such as exemptions will also be documented for accuracy.
- 1.7.2.3. **Audit & Compliance Report** – Upon completion of the audit and analysis, and prior to additional actions, a compliance report is generated and reviewed with the City. The report indicates specific results of the reviews and recommended actions. Documentation will be included with the report to assist the City and HdL in determining next steps.
- 1.7.2.4. **Deficiency and Commendation Notification** – Upon final review with the City, businesses that are found to have deficiencies are notified of the findings as well as payment and appeal processes. Appointments are also scheduled to review the findings and educate taxpayers on proper filing procedures designed to prevent future errors and deficiencies. Lodging Providers found to be in compliant, are sent a commendation letter thanking them for their cooperation and compliance.
- 1.7.2.5. **Invoicing & Collections** – Lodging providers found to be underreporting are invoiced through the standard City approved collections process identical to the procedures approved for other Programs. Taxpayers will have access to all of the services provided including the Business Support Center and online support systems. Balances are collected and remitted along with supporting documentation to the City through approved remittance processes.

1.8. **Annual Reporting** – In addition to standard monthly reports, HdL will continue to provide the City with annual analysis reports designed to provide key insights in the lodging provider community and the details on reporting of each lodging provider.

EXHIBIT B
APPROVED FEE SCHEDULE



1. Transient Occupancy Tax Operations Management Service

- 1.1. **Compensation** - HdL's compensation for performing Operations Management Services related to transient occupancy tax is a fixed fee of \$500 per lodging provider property per year.
- 1.2. **CPI Adjustment** - Fees for Operations Management Services are adjusted at the beginning of each calendar year by the change in the Consumer Price Index -West Urban (CPI-WU) as reported by the Bureau of Labor Statistics. Each annual adjustment will not be less than two percent (2%) or greater than ten percent (10%).
- 1.3. **Travel Expenses** - Travel and lodging expenses are billed at cost and apply to all meetings; including process, pre-installation, installation, training, and support. HdL is dedicated to conserving public funds, and ensures any travel costs are indeed required and reasonable.

2. Payment

HdL will provide detailed invoices for all work completed. City will submit payment to HdL within 30 days of receiving the invoice.

Chris Voisard
1430 N Cabrillo Hwy
Half Moon Bay, CA 94019

September 8, 2019

Dear City Council Members, Honorable Mayor, City Manager, City Attorney, et al.

For the purposes of this letter, I would like to clarify the following definitions:

- ❖ The City =The City of Half Moon Bay elected government officials and appointees
- ❖ HdL= Hinderlieter de Llamas & Companies, a private, for-profit software company contracted by The City
- ❖ Airbnb = Lodging reservation website that collects payment from guests
- ❖ 'me, I'= Chris Voisard, resident of Half Moon Bay, occasionally contracted by Airbnb to use my home
- ❖ TOT= Transient Occupancy Tax paid by visitors to our city; 12% of lodging price, to be paid at the same time as the visitors pay for lodging

After speaking at the City Council meeting, I realized that we are arguing at cross-purposes. My appeal is that a lien improperly placed on my unsecured property by The City be removed immediately. Discussing other issues muddies the water.

The issues of who owes TOT, who has the ability or authority to collect TOT, the definition of a hotel, how the City Ordinance reads and is interpreted, the questionable practices of HdL, how much the City paid HdL, and how much, if any. money I, or other residents of The City, owe The City in TOT, are all questions that are debatable, and not specifically addressed in the City Ordinances, **however they do not pertain to this particular matter of the improper lien.**

Lien on my unsecured property is improper

- The amount of the lien is fraudulent, fabricated, and unsubstantiated
- The lien is improper because protocol was not followed
- No validation of debt by The City or HdL
- No source records presented to me by the City or HdL
- No itemized bill or assessment was sent to me by the City or HdL
- No due date was sent to me by The City or HdL
- No preliminary 'Notice of Intent to Lien' was sent to me by the City for this amount

- The onus of providing records for the amount of debt lies with the collector and not with me

I am asking that you acknowledge that mistakes were made along the way, and perhaps the City jumped the gun on defining the ordinance culminating in this lien. I ask that it be removed immediately.

If the lien is not removed, I will take the next steps starting with filing and recording a preliminary objection letter with the County of San Mateo Registrar on this lien, in preparation of resolving this matter with a judgment. I will also filing a complaint with San Mateo County against Half Moon Bay for filing a fraudulent lien on my unsecured property, and for the City's refusal to remove it even after acknowledging that the amount is inaccurate and that they have no records substantiating it. I have yet to find another case of a City doing this to one of its residents.

Separately, I am filing a complaint with the Attorney General against HdL Companies for deceptive and unfair debt collection practices including bogus claims of government affiliation, false threats of legal action, and failure to identify as a debt collector.

Please let me know the date of the council meeting that we can finally resolve this issue.

Thank you

Chris Voisard

BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: **November 5, 2019**

TO: Honorable Mayor and City Council

VIA: Bob Nisbet, City Manager

FROM: John Doughty, Public Works Director
Maz Bozorginia, City Engineer

TITLE: HIGHWAY 1 SOUTH PROJECT AGREEMENTS WITH SMCTA AND PG&E

RECOMMENDATION:

Adopt a resolution authorizing the City Manager to: 1) execute a funding agreement with San Mateo County Transportation Authority (SMCTA) to accept Measure A funds in the amount of \$3,200,000 for the construction of Highway 1 Safety and Operational Improvements South project (CIP Project No. 523); and 2) execute an agreement with PG&E for the undergrounding of overhead power and communication lines in the amount of \$383,338.18; and 3) authorize the Administrative Services Director to transfer \$190,000 from within the current adopted 2019-2020 Capital Budget to cover the negotiated final estimate of costs for utility undergrounding.

FISCAL IMPACT:

Upon execution of the of funding agreement and award of a construction contract, the City will receive \$3.2 million in reimbursements from the San Mateo Transportation Authority (SMCTA). The City included \$200,000 in the total project cost estimates for utility undergrounding; based upon the final (City negotiated) PG&E cost estimate, an additional \$190,000 in funding will be transferred from the adopted FY2019-20 CIP Budget.

STRATEGIC ELEMENT:

This recommendation supports the following Elements of the Strategic Plan: Infrastructure and Environment, Healthy Communities and Public Safety, and Inclusive Governance.

BACKGROUND:

Highway 1 is a critical north-south arterial that connects residents to services, shopping, and activities in Half Moon Bay. School-age children utilize the corridor for access to and from their schools. To address the safety and operational issues along Highway 1, the City submitted two separate applications to San Mateo County Transportation Authority (SMCTA) for funding the Highway 1 Safety and Operational Improvements Projects.

On October 4, 2012, the SMCTA awarded the City \$3.5 million (for design, right-of-way, and construction) for each project for a total of \$7 million. These projects have been included in the City's Capital Improvement Program as Highway 1 Safety Operational Improvements - North (CIP Project No. 538) and Highway 1 Safety Operational Improvements -South (CIP Project No. 523).

The Highway 1 South project includes improvements for a new signalized intersection at S. Main Street/Higgins Canyon Rd and Highway 1. The new signal at S. Main and Highway 1 would provide protected turns for automobiles as well as a safe crossing for pedestrian/bicyclists across Highway 1 where the current closest signalized crossings are 0.3 miles to the north and 0.7 miles to the south.

This new signalized intersection will be reconfigured to eliminate a high-speed right turn from northbound Highway 1 and realign the intersection with Higgins Canyon Road. Landscaped highway medians and adjustments in turning lanes will improve safety and aesthetics for this section of Highway 1. Two curved concrete entry structures would welcome the residents and visitors to City of Half Moon Bay and direct traffic to the downtown core area via Main Street.

In additions to the roadway improvements, the existing overhead power and communication lines crossing Highway 1 and Main Street (by the Fire Station) have been designated for undergrounding and coordinated with PG&E and Comcast. This work is planned to be completed in advance of the Highway 1 South construction contract.

On March 6, 2018, following Caltrans' approval of the Permit Engineering and Evaluation Report, and the environmental clearance, the City Council approved the funding agreement with SMCTA in the amount of \$300,000 for the design of the project and awarded the design contract to Mark Thomas and Company.

On November 20, 2018, the City Council received an update regarding preliminary gateway design improvements, including signage and landscaping for the Highway 1 South Project and directed staff to proceed with the final design and the environmental clearance including the Coastal Development Permit for the project.

On November 28, 2018, the Planning Commission adopted the Mitigated Negative Declaration and approved the Coastal Development Permit for the project.

On August 20, 2019, the City Council approved Amendment No. 2 to the Maintenance Agreement with Caltrans to provide for landscaping, cleaning, maintaining and repairing culverts, ditches, drains, structures, fences, curbs and sidewalks installed by the City. Caltrans will continue to maintain and repair the roadbed, traffic control devices, signs and markings.

DISCUSSION:

On September 17, 2019, staff secured the final design approval from Caltrans, thereby satisfying the SMCTA's conditions for the allocation of Measure A funds for the Construction Phase.

On October 3, 2019, following Caltrans' final approval of the project plans and specifications, the SMCTA Board allocated \$3,200,000 of previously- programmed Measure A funds to the construction phase of the Highway 1 South Project.

In November 2018, the City requested PG&E to explore the undergrounding of the existing overhead electric and communication lines crossing Highway 1 and S. Main Street (adjacent to the Fire Station). This undergrounding would eliminate a crossing of Highway 1 (improving safety) and provide unobstructed views to travelers on Highway 1 and enhance views to the new entry monuments from each direction. After completion of the design for the undergrounding, PG&E proposed a cost estimate of \$455,051.76 to complete the project. Further negotiations with PG&E resulted in the reduction of the total undergrounding cost to \$383,338.18. As noted earlier, the City had budgeted \$200,000 based on preliminary cost estimates of PG&E.

Staff had pursued possibility of PG&E paying for the cost of the relocation since the project is within State right of way. However, PG&E determined that since this is a City initiated project with local funds, the City would be responsible for the cost of relocation. Staff also held discussions with PG&E staff for use of Rule 20 funds however, the project did not qualify for this program. The conceptual views of the project are attached to the report (Attachment 1) showing the visual difference between keeping the overhead lines versus undergrounding. While the removal of the power lines will improve the aesthetic, the undergrounding will also remove a Highway 1 powerline crossing and result in undergrounding of other adjacent lines that are located adjacent to open space/agricultural lands which at times can pose a brush fire hazard.

If the City Council decides to proceed with the undergrounding of the utilities and the agreement is approved, PG&E will start the construction of the undergrounding in late 2019 and complete by early 2020, prior to the start of the construction of the Highway 1 South project. The City has met with the adjoining property owner and informed him that the City will seek partial reimbursement for this work as part of any future development.

Following completion of the undergrounding work by PG&E, the City plans to advertise for the construction of Highway 1 South project in early 2020, receive/evaluate bids and award by Spring 2020. The construction is expected to begin in Summer 2020 and complete in approximately 12 months. The construction cost for the Highway 1 South project (excluding the cost of the utilities undergrounding agreement with PG&E) is estimated as follows:

Construction Contract	\$3,264,000
Construction Management and Inspection	\$215,000
Materials Testing	\$75,000
Design Construction Support/Review	\$75,000
Contingencies	\$320,000
Additional Utility Undergrounding	<u>\$190,000</u>

Estimated Total: \$4,139,000

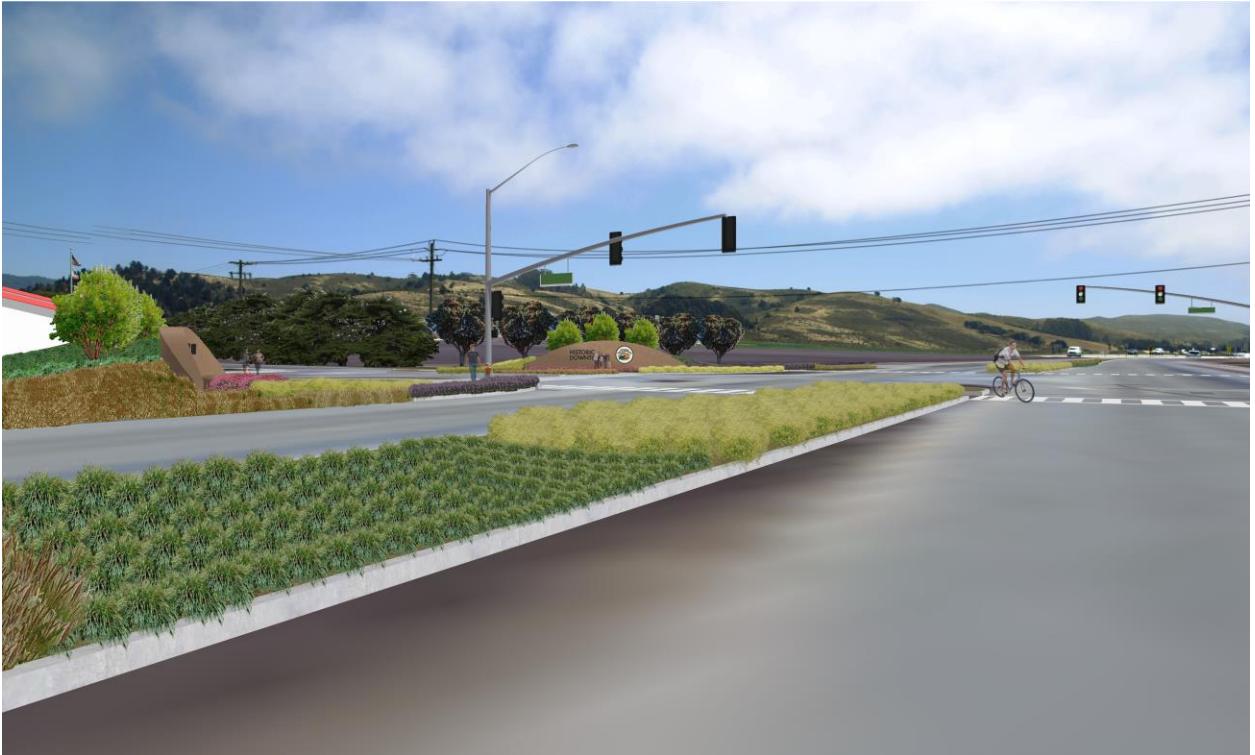
Conclusion:

Approval of the funding Agreement with SMCTA and the construction agreement with PG&E are necessary steps to commencement of the bid and construction of the capital project. With the augmentation of \$190,000 to the Capital Budget for utility undergrounding, there are sufficient funds to proceed to bid of the project. The City Attorney has reviewed and approved as to form the City agreements with PG&E and SMCTA.

ATTACHMENTS:

1. Conceptual Drawings
2. Resolution

Attachment 1 – Conceptual Drawings
Proposed Project (With/Without Overhead Lines)



Proposed Project (With Undergrounding)



RESOLUTION NO. C-2019-_____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HALF MOON BAY AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH SAN MATEO COUNTY TRANSPORTATION AUTHORITY TO ACCEPT MEASURE A FUNDS IN THE AMOUNT OF \$3,200,000 FOR THE CONSTRUCTION PHASE; EXECUTE AN AGREEMENT WITH PG&E FOR THE UNDERGROUNDING OF ELECTRIC AND COMMUNICATION LINES IN AN AMOUNT OF \$383,338.18; AND AUTHORIZING THE ADMINISTRATIVE SERVICES DIRECTOR TO TRANSFER \$190,000 FROM WITHIN THE CURRENT ADOPTED 2019-2020 CAPITAL BUDGET TO COVER THE NEGOTIATED FINAL ESTIMATE OF COSTS FOR UTILITY UNDERGROUNDING

WHEREAS, on May 24, 2012, the San Mateo County Transportation Authority (SMCTA) issued a call for projects for the Measure A Highway Program; and

WHEREAS, in response to the call for projects, the City of Half Moon Bay requested that SMCTA provide \$3,500,000 in Measure A funds for Highway 1 Safety and Operational Improvements Project South; and

WHEREAS, on October 4, 2012, the SMCTA Board of Directors programmed up to \$300,000 for the design phase and \$3,200,000 for the construction phase of the Project; and

WHEREAS, the allocation of the Measure A funds for Design phase was conditioned on approval of Permit Engineering Evaluation Report (PEER) and environmental clearance and the allocation for Construction is conditioned on completion of the Design phase; and

WHEREAS, on December 3, 2019, SMCTA Board of Directors allocated the funds that were programmed through SMCTA Resolution 2012-17 for the Construction Phase of the Project; and

WHEREAS, on October 3, 2019, following Caltrans' final approval of the project plans and specifications, the SMCTA Board allocated \$3,200,000 of previously- programmed Measure A funds to the construction phase of the Highway 1 South Project; and

WHEREAS, SMCTA and the City desire to enter into an agreement to establish the process, terms and conditions governing the allocation and expenditure of Measure A funds for the Construction Phase of the Project; and

WHEREAS, the initial cost estimates for utility undergrounding was \$200,000;

WHEREAS, PG&E provided a cost estimate of over \$450,000 which City staff was able to negotiate down to \$383,338.18; and

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Half Moon Bay hereby authorizes the City Manager to:

- 1) Execute an agreement with SMCTA to accept Measure A funding in the amount of \$3,200,000 for the Construction Phase of the Project, and;
- 2) Execute an agreement with PG&E for the undergrounding of overhead electric and communication lines for the Project in an amount of \$383,338.18, and;
- 3) Authorize the Administrative Services Director to transfer \$190,000 from within the current adopted 2019-2020 Capital Budget to cover the negotiated final estimate of costs for utility undergrounding.

I, the undersigned, hereby certify that the foregoing Resolution was duly passed and adopted on the 5th day of November 2019 by the City Council of Half Moon Bay by the following vote:

AYES, Councilmembers:
 NOES, Councilmembers:
 ABSENT, Councilmembers:
 ABSTAIN, Councilmembers:

ATTEST:

APPROVED:

 Jessica Blair, City Clerk

 Harvey Rarback, Mayor

BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: **November 5, 2019**

TO: Honorable Mayor and City Council

VIA: Bob Nisbet, City Manager

FROM: John Doughty, Public Works Director
Jennifer Chong, Public Works Program Manager

TITLE: **SUSTAINABILITY PROGRAM UPDATE**

RECOMMENDATION:

Receive and accept report on the sustainability program.

FISCAL IMPACT:

There is no fiscal impact associated with receiving this report.

STRATEGIC ELEMENT:

This action supports the Infrastructure and Environment, Healthy Communities and Public Safety, and Inclusive Governance Elements of the Strategic Plan.

BACKGROUND:

During the priority setting workshop in March 2019, the City Council identified Sustainability and Transportation Demand Management (TDM) as two of their top five priorities for FY 2019-20. The following staff report summarizes past, current, and future efforts in sustainability. A similar update on the TDM, renamed Transportation Action and Adaptation Program (TAAP), is being provided as a separate item.

As part of the budget approval for FY 2019-20, the City Council approved the creation of a new Senior Management Analyst position in the Public Works Department to oversee the sustainability program, as well as other programs. To date, the Senior Management Analyst position (Public Works Program Manager) has been filled and the now-vacant Public Works Management Analyst (Sustainability Analyst) position is under recruitment. Staff is also in the process of putting together an offer letter for a limited-term, sustainability intern.

The City of Half Moon Bay is one of four cities in San Mateo County to not have an adopted Climate Action Plan (CAP). Development of a CAP, or more importantly a Climate Action and Adaptation Plan (CAAP), has always been planned as a follow-on to the Local Coastal Plan and General Plan Update processes. The work completed to date by the Community Development

Department and the Planning Commission provides a framework and technical information that enables work on the CAAP to begin.

In anticipation of work on the CAAP, the City submitted a grant application with San Mateo County. In July, we learned that Half Moon Bay was one of two applicants to be awarded a \$60k grant to support the City's Climate Action and Adaptation Plan (CAAP) Outreach Pilot Project. Recognizing the City Council's commitment to working with the most vulnerable populations (senior, youth, and Latino population), staff collaborated and partnered with three local non-government organizations (NGO) for the pilot project: Senior Coastsiders, Youth Leadership Institute (YLI), and Ayudando Latinos A Soñar (ALAS) (collectively referred to as the Partners). Each partner will be providing a series of outreach programs and have either hosted or scheduled their kick-off events. One of staff's priorities will be providing technical and administrative support to the partners over the coming months, culminating in a final presentation by the Partners to the City Council in January 2020.

In September, the City learned that the Half Moon Bay Library was certified Leadership in Energy and Environmental Design (LEED) Platinum. The City Council also adopted the City's first Green Infrastructure (GI) Plan and the Bicycle/Pedestrian Master Plan. The GI Plan prioritizes use of green (primarily above ground) improvements to address storm water management. The GI Plan has been submitted to the Water Board for review and approval.

In addition to the work on the CAAP and the GI Plan, staff has continued to manage the 10-year Solid Waste Franchise Agreement that was implemented on April 1, 2018. Republic Services (Republic), the City's solid waste service provider, has continued to meet contract obligations and work with staff to increase diversion throughout the city. Republic supported Coastal Clean-Up Day on September 21, 2019 by providing volunteers and donating trash collection services. Republic also partnered with the City to host the Summer Clean Out Recycling Event on Saturday, October 5, 2019. The event offered free paper shredding, electronic waste recycling, and compost for Half Moon Bay residents and approximately 80 households participated. The next recycling event will be held in the spring as part of the City's annual Earth Day celebration.

Staff continues to pursue partnership opportunities with the County of San Mateo (County) and neighboring organizations on various initiatives. Staff partnered with San Mateo County Environmental Health Services to host the first county-sponsored Household Hazardous Waste (HHW) event in Half Moon Bay in over 5 years. The event was held on June 29, 2019 in the parking lot of Half Moon Bay High School and serviced 173 households, 93 of which were from Half Moon Bay. The City is already in the process of arranging another HHW event with the County in June 2020. Other initiatives staff continue to support include the Regionally Integrated Climate Action Planning Suite (RICAPS), Climate Ready San Mateo County (and the future subsequent task forces), and the Countywide Recycling Committee Meetings.

Another organization staff is actively working with is Peninsula Clean Energy (PCE). PCE is spearheading "REACH" code adoption efforts throughout the County, in addition to providing

incentives for the purchase of electric vehicles (EV). Staff had two separate calls with PCE representatives on October 4, 2019 to discuss both initiatives and have tentatively scheduled PCE to host a “DriveForward Electric Program” workshop at the Ted Adcock Community Center on Saturday, December 14, 2019. See the Discussion section for more details on REACH Codes.

Additional sustainability efforts include the City’s participation in #NationalRideshareMonth, a campaign by Commute.org to reduce single-user trips. Staff and the community have been encouraged to participate in Commute.org’s Carpool 2.0 program (<https://commute.org/get-rewarded/apply-for-carpool-incentives>) and the Mid-Week Carpool Challenge (<https://commute.org/mwc-challenge>).

DISCUSSION:

Staff continues to dedicate significant time and resources to expanding the City’s sustainability influence. Unlike some other Council priorities, sustainability is a new priority, which may include many deliverables over the coming years; many of which will build on the efforts of the prior year.

As discussed previously, the first quarter of the fiscal year has been focused on prioritizing efforts, recruiting staff for the sustainability program and seizing a one-time opportunity for pilot grant funds to assist in the development of the City’s CAAP. We have filled the Senior Management Analyst position, are recruiting for a Sustainability Analyst, and will be bringing on a local college student for a limited-term sustainability internship in November 2019.

The priorities in sustainability and climate action for the next quarter include hiring of the Sustainability Analyst, building local capacity by providing growth opportunities and sustainability education for the intern, completing the CAAP outreach pilot project, issuing the Request for Proposals (RFP) for a consultant to assist in the preparation of the City’s CAAP, and bringing City-specific sustainability policies to the City Council for consideration. All of these efforts will be in addition to typical programs and capital projects undertaken by the Public Works Department.

Developing a CAAP is one of staff’s top sustainability priorities. In order for the CAAP to truly reflect the needs of the whole community, extensive and targeted outreach efforts are needed. While the Pilot Project Partners are responsible for conceptualizing and delivering the CAAP outreach events, City staff are heavily involved in the planning process and provide overall project coordination. As the Partners finalize their CAAP outreach plans over the next couple weeks, the need for administrative support from City staff should decrease allowing staff to shift resources to other projects, such as writing and issuing the RFP for the CAAP consultant. We anticipate issuing the RFP in December 2019. This timeline is dependent on a number of things including the successful hire of a Sustainability Analyst.

Staff believes that leading by example will be critical to success of the City’s overall sustainability efforts. The City has an opportunity to establish itself as a community leader in sustainability with sustainable policy directions and initiatives. Policies that staff are exploring

include: a sustainable purchasing policy that includes opportunities to electrify the City's car fleet; a chemical purchase/use policy, plastic foodware or single-use plastic regulations, and REACH building codes. Staff is targeting fiscal year Q3 and Q4 to present the City Council with the first drafts of the sustainable purchasing policy and chemical purchase/use policy, respectively. Staff is also closely monitoring San Mateo County's efforts to adopt a Disposable Food Service Ware Ordinance, which is scheduled to go before the County's Board of Supervisors in January 2020 at the earliest. Staff plans to assess the feasibility of a similar ordinance for Half Moon Bay once the County has successfully implemented their ordinance and developed a structure to enforce it.

REACH building codes are intended to expand energy efficiency requirements beyond those now written into the 2019 California Building Code (CBC), which is scheduled for consideration by the City Council as a separate item. The new CBC includes substantially higher standards than the current (2016) version. Thus, staff is recommending the City Council defer on REACH codes at present. This temporary deferral will allow the adoption of statutorily required codes while providing staff the opportunity to better evaluate the options that will best serve the Half Moon Bay community, taking into consideration the recent PG&E Public Safety Power Shutoff (PSPS) events. This will also provide adequate time for outreach to those most affected.

While the projects above represent a significant workload, staff remains eager and willing to explore additional opportunities to expand the City's sustainability impact. Future opportunities include greater participation in Clean Air Day and Bike to Work Day; progress towards platinum level Beacon Awards from the Institute for Local Government; partnership with the County's Green Business Program; and a further expanded Earth Day celebration. Sustainability continues to be an exciting and growing field in government and staff welcomes direction and feedback to help prioritize future efforts. Any input received will be incorporated in the Sustainability Implementation Plan (SIP), as applicable, that staff is finalizing. The draft Sustainability Implementation Plan is scheduled for City Council consideration on November 19, 2019.

0020BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: **November 5, 2019**

TO: Honorable Mayor and City Council

VIA: Bob Nisbet, City Manager

FROM: John Doughty, Public Works Director
Maziar Bozorginia, City Engineer
Jennifer Chong, Public Works Program Manager

TITLE: TRANSPORTATION ACTION AND ADAPTATION PROGRAM (TAAP)

RECOMMENDATION:

Receive and accept report on the Transportation Action and Adaptation Program (TAAP).

FISCAL IMPACT:

There is no fiscal impact associated with receiving this report.

STRATEGIC ELEMENT:

This action supports the Infrastructure and Environment, Healthy Communities and Public Safety, and Inclusive Governance Elements of the Strategic Plan.

BACKGROUND:

During the priority setting workshop in March 2019, the City Council identified Sustainability and Transportation Demand Management (TDM) as two of their top five priorities for FY 2019-20. Recently, the City Council received a status update on the Strategic Plan and Strategic Priorities. This staff report provides additional detail on past, current, and future efforts to be undertaken by City staff to implement elements of TDM and congestion reduction. You will also note that staff is recommending that TDM is re-named Traffic Action and Adaptation Program (TAAP) to better reflect the nature of the program and City efforts. A similar update on the sustainability program is being provided as a separate item.

Staff has continued to complete previously identified projects that support the City's TAAP. On September 17, 2019, the City Council adopted the Bicycle and Pedestrian Master Plan (BPMP), which provides a roadmap for multimodal (bicycle and pedestrian) transportation improvements throughout Half Moon Bay. The BPMP identifies needs and prioritizes improvements to the City's bicycle and pedestrian facilities and programs. The plan recommends improvements to address current and future needs based on current conditions and anticipated infill projects. The master plan also provides the City with the necessary tools to

apply for grant funding for implementation of multimodal improvements and programs aimed to reduce vehicular congestion. A number of studies are also included for potential future improvements for cases where alignments or other details are not well defined. The BPMP is further supported by a robust set of guidelines to provide options for how to implement plan components in different settings. This plan has already assisted the City in obtaining grant funds for Highway 1 bicycle path improvements.

Other TAAP-related projects that are progressing in the current fiscal year include the Highway 1 Safety projects (#0523 and 0538) and the Poplar Street Traffic Calming, Safety, and Greening project (Poplar Street) (#0593); and the Pacific Coast Bicycle Pedestrian Connectivity project (#0619). Design for the Highway 1 Safety – South project was completed in October 2019 and is scheduled to go out for bids in January 2020 while design on the Highway 1 Safety and Operational Improvements – North project entered the final design phase over the summer. The Poplar Street Project entered into contract with design firm, CSW and is currently soliciting public input on the project via an online survey that can be completed at https://www.opentownhall.com/portals/345/Issue_7816. Additional project updates on these projects and more can be found on the City’s Projects website (<https://www.half-moon-bay.ca.us/363/City-Projects>) or in the City’s 5-Year Capital Improvement Plan.

Staff have also reached out to external traffic and transportation organizations, including Commute.org and the San Mateo County Transit District (SMCTD), to explore collaboration opportunities that could improve the City’s traffic conditions. Most recently, the City promoted Commute.org’s #NationalRideshareMonth and encouraged staff and the community to participate in the Carpool 2.0 program (<https://commute.org/get-rewarded/apply-for-carpool-incentives>) and the Mid-Week Carpool Challenge (<https://commute.org/mwc-challenge>).

DISCUSSION:

This report represents staff’s initial work to formalize the elements of the Transportation Action and Adaptation Program (TAAP). We envision the goal of the TAAP is to identify and implement strategies that provide current single occupant drivers incentives to consider and embrace alternate means of getting to work, school and other destinations. These methods might include carpooling, employee van pooling, bicycling, walking, and mass transit (including micro-transit and dial-a-ride), in addition to collaborating with other agencies on “last mile” connections within and outside the coastside.

Staff is recommending that TAAP efforts be divided into three distinct categories: policies, programs, and projects. Policy initiatives would focus on exploring private development policies that include TAAP elements (such as bike, lock, and shower availability) and partnership opportunities to help leverage the City’s resources. Some of the organizations staff are interested in partnering with include the Cabrillo Unified School District (CUSD), the Half Moon Bay Chamber of Commerce, the City/County Association of Governments (C/CAG), and the San Mateo County Transit District (SMCTD).

Program efforts can include any combination of rideshare partnerships, partnerships with large employers for shuttle busses, microtransit (mini-bus) options, bike share programs, and more. Staff is proposing to focus initial efforts this fiscal year on existing programs offered by partner agencies such as Commute.org. We also envision partnering with CUSD to discuss means to incentivize alternative transportation options for students and parents with initial emphasis on Half Moon Bay High School.

The third proposed category for the TAAP is projects which focus on the various transportation improvement projects found in the City's annual Capital Improvement Program (CIP). As explained above, staff is already actively working to implement many transportation improvement projects and will continue to identify future improvements as part of the CIP development process. Bicycle and pedestrian projects will continue to include input from the Council appointed Bicycle Pedestrian Advisory Committee.

It is important to note that success of the TAAP requires the use of a variety of strategies and techniques to address the three types of commuters in Half Moon Bay: local commuters, weekday professionals, and weekend visitors. Similar to the Sustainability Implementation Plan (SIP), feedback from the City Council will be incorporated, as applicable, into the Transportation Strategies Implementation Plan (TSIP) that is scheduled for City Council consideration on November 19, 2019. It is also important to acknowledge the challenge of changing human behavior and habits; this is a long-term strategy and effort.