



# Council Agenda Report

To: Mayor Grisanti and Honorable Members of the City Council

Prepared by: Richard Mollica, Planning Director

Approved by: Steve McClary, City Manager

Date prepared: June 9, 2021 Meeting date: June 28, 2021

Subject: Local Coastal Program Amendment Pertaining to Citywide Prohibition of Pesticides

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**RECOMMENDED ACTION:** 1) Adopt Resolution No. 21-32 (Attachment 1) amending the Local Coastal Program (LCP) Land Use Plan (LUP) Policy 3.18 pertaining to a citywide prohibition of pesticides, acknowledging receipt of the California Coastal Commission (CCC) Resolution of Certification for Local Coastal Program Amendment No. 14-001 with suggested modifications and adopting revisions incorporating the CCC's suggested modifications, repealing Resolution No. 19-54, and determining the local coastal program amendment exempt from the California Environmental Quality Act (CEQA); and 2) Adopt Resolution No. 21-33 (Attachment 2) initiating an amendment to the LCP Local Implementation Plan (LIP) to add provisions to implement and enforce a citywide prohibition of pesticides.

**FISCAL IMPACT:** There is no fiscal impact associated with the adoption of the CCC's modifications to LUP Policy 3.18. However, it is expected that one to two hours per week of staff time will be needed to answer general questions about the program. If the Council initiates a resolution to amend the LIP to implement and enforce the LUP policy, it is recommended that staff present a work plan along with the draft ordinance for the Council's consideration.

**WORK PLAN:** This item was included as item 5n in the Adopted Work Plan for Fiscal Year 2020-2021 and included as item 5j in the Proposed Work Plan for Fiscal Year 2021-2022.

**DISCUSSION:** The item before the Council is an updated LCPA that reflects the actions taken by the CCC at its meeting on May 13, 2021 to certify the amendments needed to implement a citywide prohibition of pesticides. Staff recommends that Council adopt Resolution No. 21-32 accepting the CCC's suggested modifications to the LCPA (Attachment 3). The adopted Resolution would then be resubmitted to the CCC for final

certification of the LCPA. This new resolution would repeal the previously adopted resolution and supersede it with the updated provisions.

## Background

Since 2014, the City has strived to eliminate environmentally harmful poisons from City limits, and has taken numerous measures to restrict their use. Despite regulatory obstacles, in 2019, the City approved an Earth Friendly Management Policy which governs pest management on City-owned, managed or leased property and bans the use of rodenticides on City property and prohibits their use in connection with any contract with the City. To further advance the City's goals, the City currently adds a condition of approval on newly approved coastal development permits (CDPs) that prohibit the use of pesticides, rodenticides, and insecticides. Also, in 2019, the City Council adopted Resolution No. 19-54 (Attachment 4) amending LUP Policy 3.18. The LCPA aimed to accomplish the following:

- Explicitly include rodenticides as a type of restricted pesticide.
- Expanding the policy's scope by making its restrictions on the use of harmful pesticides apply citywide, rather than only in and adjacent to ESHA.
- Narrowing the circumstances under which pesticides may be used for habitat restoration or control of invasive species by, among other things, requiring applicants to first consider using non-chemical methods.
- Deleting language that disallows application of such chemical substances during the winter season or when rain is predicted.

It is important to note after the submittal of the LCPA to the CCC, the State Legislature enacted AB 1788, which is a law that generally prohibits the use of second-generation anticoagulant rodenticides, except in certain instances, such as when used for eradication of invasive species on offshore islands. Although this law already restricts the use of rodenticides in Malibu, the subject LCP policy would go further than these restrictions because it would apply to all rodenticides and pesticides rather than just second-generation anticoagulant rodenticides.

## Amendment

Currently, LUP Policy 3.18 policy generally prohibits the use of insecticides, herbicides, or any toxic chemical substance within or adjacent to environmentally sensitive habitat areas (ESHA) if it would impact the ESHA. However, in order to accomplish the goals outlined above, the City Council amended LUP Policy 3.18 as shown below (The City's proposed amendment language to the certified LUP is shown in ~~strike through~~ and underline):

The use of pesticides, including insecticides, herbicides, rodenticides or any toxic chemical substance which has the potential to significantly degrade ~~Environmental Sensitive Habitat Areas~~ biological resources shall be prohibited ~~within and adjacent to ESHAs, where application of such substances would impact ESHA, except where necessary to protect or enhance the habitat itself, such as throughout the City of Malibu.~~ The eradication of invasive plant species or habitat restoration shall consider first the use of non-chemical methods for prevention and management such as physical, mechanical, cultural, and biological controls. Herbicides may be selected only after all other non-chemical methods have been exhausted. Herbicides shall be restricted to the least toxic product and method, and to the maximum extent feasible, shall be biodegradable, derived from natural sources, and use for a limited time. Application of such chemical substances shall not take place during the winter season or when rain is predicted within a week of application.

### CCC Modifications

After numerous meetings with City staff, State agencies, and Poison Free Malibu, on May 13, 2021, the CCC suggested the following modifications to LUP Policy 3.18. Existing language of the certified LUP is shown in straight type. The City's proposed amendment language to the certified LUP is shown in ~~strike through~~ and underline. Language approved by the Commission to be modified is shown in ~~strike through~~ and double underline.

Except as permitted pursuant to this provision or Policy 3.20, through the City of Malibu, development that involves ~~The use of pesticides, including insecticides, herbicides, rodenticides or any other similar toxic chemical substances, shall be prohibited in cases where the application of such substances would~~ which has the potential to significantly degrade ~~Environmental Sensitive Habitat Areas biological resources shall be prohibited throughout the City of Malibu or coastal water quality or harm wildlife.~~ Herbicides may be used for within and adjacent to ESHAs, where application of such substances would impact the ESHA, except where necessary to protect or enhance the habitat itself, such as ~~The eradication of invasive plant species, or habitat restoration, but only if shall consider first~~ the use of non-chemical methods for prevention and management such as physical, mechanical, cultural, and biological controls are infeasible. Herbicides may be selected only after all other non-chemical methods have been exhausted. Herbicides shall be restricted to the least toxic product and method, and to the maximum extent feasible, shall be biodegradable, derived from natural sources, and used for a limited time. Application of such chemical substances shall not take place during the winter season or when rain is predicted within a week of application. The City will identify non-toxic and earth-friendly management techniques for controlling pests and will conduct public outreach to promote the use of such techniques on property with the City.

Pursuant to the CCC report<sup>1</sup>, the suggested modifications accomplish the following:

- Add language to the beginning of LUP Policy 3.18 to clarify that the policy's prohibition of pesticides does not apply to mosquito abatement, as currently allowed under LUP Policy 3.20. This revision is necessary to ensure consistency within the LUP.
- Add language "other similar" to the first sentence of LUP Policy 3.18 in order to clarify that the policy only applies to toxic chemical substances and products that are similar to act to deter unwanted biological pests.
- Add language stating that "development that involves" the use of pesticides "shall be prohibited in cases where the application of such substances would have the potential to significantly degrade or coastal water quality or harm wildlife." Per the CCC staff report, this modification is required to clarify that the pesticide limitations proposed by the City only apply in connection with proposed development that consists of or may involve the use of pesticides, and where the application of such substances would have the potential to significantly degrade ESHA or coastal water quality or harm wildlife, is warranted to help ensure that the LCP policy is closely tied to the Coastal Act, is not preempted, and can be successfully carried out in order to protect important coastal resources.
- Remove suggested term "biological resources" at it may be overly broad and does not serve to tie the restriction to specific Coastal Act goals/resources. In addition, it may have unintended consequences of prohibiting activities that may be necessary to protect biological resources.
- Add language "Herbicides may be used for..." to clarify that the use of herbicides is permitted for restoration purposes if other control methods have been found to be infeasible. The feasibility standard is a well-known legal standard that will be more clear and enforceable than requiring that other control methods have first been "exhausted."
- Since the City's proposed pesticide limitations will only be effective if they are complied with, add "City to identify non-toxic and earth-friendly management techniques for controlling pests and to conduct public outreach to promote the use of such techniques on property throughout the City of Malibu." In addition, this language is consistent with the City's Earth Friendly Management Policy.

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<sup>1</sup> The CCC May 13, 2021 staff report can be found at <https://www.coastal.ca.gov/meetings/agenda/#/2021/5>

In addition, the CCC also requested that in three years the City provide a report to the CCC that discusses what impacts, if any the amended policy has had on the City. In addition, the City would also report back how Policy 3.18 has been implemented. City staff is in agreement with the suggested modifications and recommend the City Council approved the modifications.

## Next Steps

The City of Malibu Local Coastal Program is comprised of two sections – the LUP and LIP. Like the General Plan, the LUP is a policy document, whereas the LIP is similar to the City’s Zoning Ordinance, where it outlines how to implement the City’s policies. The adoption of amendments to LUP Policy 3.18 is the policy mechanism that allows the City to create a regulatory framework to address the use of pesticides, rodenticides, and insecticides throughout the City. If the City Council wishes to create an ordinance to implement and enforce a citywide prohibition of pesticides, staff recommends the City Council initiate an amendment to the LIP. Furthermore, the purpose of the amendment to the LIP would be to create an ordinance to define “development” as it relates to the application of pesticides, rodenticides, and insecticides and expand the goals of the LUP Policy 3.18.

In addition to directing staff to present the LIP amendment to the Zoning Revisions and Code Enforcement City Council Subcommittee and Planning Commission, it is recommended the Administration and Finance City Council Subcommittee (A&F) review the potential fiscal impacts of a draft ordinance. Staff would present a workplan to implement components of a draft ordinance and anticipated costs associated with adopting an ordinance.

ENVIRONMENTAL REVIEW: Pursuant to Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCPA and therefore, does not apply to this project. This project is an amendment to the LCP, which must be certified by the CCC before it takes effect.

CORRESPONDENCE: Since the date of this report, staff has not received correspondence on this item.

SUMMARY: Staff recommends the City Council adopt Resolution No. 21-32 amending the LUP Policy 3.18 pertaining to a citywide prohibition of pesticides and other actions required; and 2) Adopt Resolution No. 21-33 initiating an amendment to the LIP.

ATTACHMENTS:

1. Resolution No. 21-32
2. Resolution No. 21-33
3. CCC Suggested Modifications letter dated May 19, 2021
4. Resolution No. 19-54
5. Notice of Public Hearing

RESOLUTION NO. 21-32

A RESOLUTION OF THE CITY OF MALIBU AMENDING THE LOCAL COASTAL PROGRAM LAND USE PLAN POLICY 3.18 PERTAINING TO A CITYWIDE PROHIBITION OF PESTICIDES, ACKNOWLEDGING RECEIPT OF THE CALIFORNIA COASTAL COMMISSION RESOLUTION OF CERTIFICATION FOR LOCAL COASTAL PROGRAM AMENDMENT NO. 14-001 WITH SUGGESTED MODIFICATIONS AND ADOPTING REVISIONS INCORPORATING THE CALIFORNIA COASTAL COMMISSION'S SUGGESTED MODIFICATIONS, REPEALING RESOLUTION NO. 19-54, AND DETERMINING THE LOCAL COASTAL PROGRAM AMENDMENT EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

The City Council of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. Recitals.

A. On July 8, 2013, the City Council adopted Resolution No. 13-28 urging businesses in Malibu to no longer use or sell anticoagulant rodenticides and all property owners to cease the purchase of and use of these products, and committing the City of Malibu not to use them in City-owned parks and facilities.

B. On December 8, 2014, in compliance with Local Coastal Program (LCP) Local Implementation Plan (LIP) Section 19.2.1, the City Council adopted Resolution No. 14-73 initiating Local Coastal Program Amendment (LCPA) No. 14-001 to consider changes to the LCP pertaining to a citywide prohibition on anticoagulant rodenticides for development subject to a coastal development permit.

C. The Malibu Zoning Ordinance Revisions and Code Enforcement Subcommittee met on August 11, 2015, and on September 21, 2015 to discuss the regulatory context in which the use of anticoagulant rodenticides may be regulated.

D. On November 4, 2015, a Notice of Planning Commission Public Hearing and Notice of Availability was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties.

E. On January 19, 2016 and February 16, 2016, the Planning Commission held public hearings and adopted Resolution No. 16-23 recommending the City Council approve LCPA No. 14-001, amending the LCP with provisions to prohibit the use of anticoagulant rodenticides, take additional actions to promote rodent control methods that do not involve the use of poisons, and lobby the California Legislature to either eliminate local preemption or ban use of anticoagulant rodenticides statewide.

F. On May 29, 2018, the City Council authorized Councilmember Rosenthal to request that the League of California Cities Environmental Quality Policy Committee consider adding the potential banning of pesticides, herbicides, rodenticides and insecticides throughout California as a priority issue and directed staff to proceed with a LCPA regarding the use of pesticides, herbicides, rodenticides and insecticides.

G. On March 25, 2019, the City Council authorized the Mayor to send a letter in support of AB 1788, a bill that would expand current regulations prohibiting the use of pesticides containing one or more anticoagulants to the entire State, including State-owned property, unless the Department of Public Health determines there is a public health emergency or California Environmental Protection Agency determines there is an environmental emergency.

H. On June 24, 2019 the City Council approved an update to the City's Earth Friendly Management Policy. The policy governs pest management on City-owned, managed or leased property and prohibits all poisons, including anticoagulant rodenticides.

I. On November 14, 2019, a Notice of Public Hearing and Notice of Availability of LCP Documents for LCPA No. 14-001 was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties.

J. On December 9, 2019, the City Council held a duly noticed public hearing on LCPA No. 14-001, considered the recommendation by the Planning Commission, reviewed and considered written reports, public testimony, and related information in the record.

K. On December 26, 2019, the LCPA was submitted.

L. On June 19, 2020, the CCC staff deemed the LCPA submittal complete.

M. At its September 2020 CCC meeting, the CCC extended the 90-day time limit to act on the LCPA for a period not to exceed one year.

N. On May 13, 2021, the CCC conditionally certified LCP-4-MAL-19-0164-3 subject to modifications as set forth in the Resolution of Certification contained in the CCC letter dated May 19, 2021.

O. On June 17, 2021, a Notice of City Council Public Hearing to be held on June 28, 2021 was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties; regional, state, and federal agencies affected by the amendment; local library and media; and the CCC.

SECTION 2. Environmental Review.

Pursuant to Public Resources Code Section 21080.9, the California Environmental Quality Act (CEQA) does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCPA and therefore, does not apply to this application. This application is for an amendment to the LCP, which must be certified by the CCC before it takes effect

SECTION 3. Local Coastal Program Amendment No. 14-001 as Modified by the California Coastal Commission.

Consistent with the CCC's May 13, 2021, conditional certification of LCP-4-MAL-19-0164-3, the City Council hereby amends Land Use Plan (LUP) Chapter 3, Section C (Land Use Policies), Policy 3.18 to read as follows:

Except as permitted pursuant to this provision or Policy 3.20, throughout the City of Malibu, development that involves the use of pesticides, including insecticides, herbicides, rodenticides or any other similar toxic chemical substances, shall be prohibited in cases where the application of such substances would have the potential to significantly degrade Environmental Sensitive Habitat Areas or coastal water quality or harm wildlife. Herbicides may be used for the eradication of invasive plant species or habitat restoration, but only if the use of non-chemical methods for prevention and management such as physical, mechanical, cultural, and biological controls are infeasible. Herbicides shall be restricted to the least toxic product and method, and to the maximum extent feasible, shall be biodegradable, derived from natural sources, and used for a limited time. The City will identify non-toxic and earth-friendly management techniques for controlling pests and will conduct public outreach to promote the use of such techniques on property with the City.

SECTION 4. Local Coastal Program Amendment Findings.

Based on evidence in the whole record, the City Council hereby finds that the proposed LCPA meets the requirements of and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act as follows:

A. One of the main objectives of the Coastal Act is the preservation, protection, and enhancement of coastal resources, including land and marine habitats, and water quality. Chapter 3 of the Coastal Act states that environmentally sensitive habitat areas shall be protected against disruption of habitat values and that development should be designed to prevent impacts and be compatible with the continuance of those habitats. The use of pesticides can have a negative effect on habitat values by impacting the viability of plant and animal species in the City. Preserving and enhancing plant and animal species throughout the City will help ensure ESHA habitats are protected and enhanced.

B. LUP Policy 3.18 currently states that “[t]he use of insecticides, herbicides, or any toxic chemical substance which has the potential to significantly degrade

Environmentally Sensitive Habitat Areas (ESHA), shall be prohibited within and adjacent to ESHAs, where application of such substances would impact the ESHA, except where necessary to protect or enhance the habitat itself, such as eradication of invasive plant species, or habitat restoration.” The LCPA will amend LUP Policy 3.18 to expand the list of poisons that can degraded biological resources by adding rodenticides and making the prohibition against pesticides citywide.

C. The language included in the LCPA fulfills and promotes the objectives of the Coastal Act by ensuring that toxic chemical substances that degrade coastal resources are prohibited within the City of Malibu’s jurisdiction. The LCPA is protective of wildlife and riparian habitat, marine resources, and water quality. Therefore, the LCPA meets the requirements of, and is in conformance with the goals, objectives and purposes of the LCP.

#### SECTION 5. Approval.

A. Subject to the contingency set forth in Section 9, the City Council hereby adopts LCPA No. 14-001, amending the LCP as modified by the CCC. Resolution No. 19-54 is hereby repealed and any amendments to the LUP authorized by Resolution No. 19-54 are superseded by the amendments set forth in Section 4 of this Resolution.

B. Pursuant to the CCC's Administrative Regulations Section 13544.5, the LCPA certification shall not be deemed final and effective until all of the following occur: 1) the City Council: a) acknowledges receipt of the CCC's Resolution of Certification, including any terms or modifications suggested for final certification; b) accepts and agrees to any such terms and modifications and takes whatever formal action is required to satisfy the terms and modifications; and c) agrees to issue coastal development permits for the total area included in the certified LCP; 2) the Executive Director of the CCC determines in writing that the City's action is legally adequate to satisfy any specific requirements set forth in the CCC's certification order and the Director reports the determination to the CCC at its next regularly scheduled meeting; 3) if the Director finds that the City's action does not conform to the CCC's order, the CCC shall review the City action as if it were a resubmittal; and 4) notice of the certification shall be filed with the Secretary of the Resources Agency for posting and inspection.

C. The City Council acknowledges receipt of the CCC's modifications to LCPA No. 14-001. The City Council further accepts and agrees to the modified language suggested by the CCC pertaining to the LUP and approves revisions to LCPA No. 14-001 without further changes.

#### SECTION 6. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit a copy of this ordinance to the CCC per Title 14, Division 5.5, Chapter 8, Subchapter 2, Article 8 and Chapter 6, Article 2 and California Code of Regulations Section 13551, et. seq.

SECTION 7. Report to California Coastal Commission

Staff is hereby directed to report back to the City Council in approximately three years from the date of this Resolution to discuss the implementation of amended LUP Policy 3.18 and its impacts, if any. Once conferred by the City Council, such report shall be made to the California Coastal Commission.

SECTION 8. Severability.

If any section, subsection, sentence, clause, portion, or phrase of this Resolution is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, portions, or phrases of this Resolution. The City Council hereby declares that it would have passed this Resolution and each and every section, subsection, sentence, clause, portion, or phrase without regard to whether any other section, subsection, sentence, clause, portion, or phrase of this Resolution would be subsequently declared invalid or unconstitutional.

SECTION 9. Effectiveness.

The LCPA approved in this Resolution shall become effective only upon its certification by the CCC.

SECTION 10. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, and ADOPTED this 28th day of \_\_\_\_ 2021.

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PAUL GRISANTI, Mayor

ATTEST:

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KELSEY PETTIJOHN, Acting City Clerk  
(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED  
BY THE CITY ATTORNEY'S OFFICE

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JOHN COTTI, Interim City Attorney

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.12.010 of the Malibu Municipal Code and Code of Civil Procedure.

## RESOLUTION NO. 21-33

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU INITIATING AN AMENDMENT TO THE LOCAL COASTAL PROGRAM LOCAL IMPLEMENTATION PLAN TO ADD PROVISIONS TO IMPLEMENT AND ENFORCE A CITYWIDE PROHIBITION OF PESTICIDES

The City Council of the City of Malibu does hereby find, order, and resolve as follows:

#### SECTION 1. Recitals.

A. On June 28, 2021, the City Council adopted the California Coastal Commission's suggested modifications to Local Coastal Program Amendment No. 14-001, specifically amending Land Use Policy (LUP) 3.18 of the Land Use Plan which advances the City's goal to prohibit pesticides citywide.

B. Amended LUP Policy 3.18 is the policy mechanism that allows the City to create a regulatory framework to address the use of pesticides, rodenticides, and insecticides throughout the City. As such, the City Council wishes to amend the Local Coastal Program Local Implementation Plan (LIP) to define "development" as it relates to the application of pesticides, rodenticides, and insecticides and expand the goals of the LUP Policy 3.18. Furthermore, the creation of an ordinance would allow for the City to enforce regulations pertaining to the use or application of pesticides, rodenticides, and insecticides.

#### SECTION 2. Initiation.

Pursuant to LIP Chapter 19, the City Council hereby initiates amendments to the LCP and directs staff to issue a Notice of Availability consistent with LIP section 19.3.1. The amendment shall include provisions to implement and enforce a citywide prohibition of pesticides.

#### SECTION 3. Hearings.

A. The Zoning Ordinance and Code Enforcement Revisions Subcommittee is hereby directed to consider the amendment and provide direction to staff.

B. The Planning Commission is hereby directed to conduct a duly noticed public hearing in accordance with Chapter 19 of the Malibu LIP. Following the public hearing, the Planning Commission shall recommend to the City Council whether it should approve, modify, or deny the proposed amendments. The Planning Commission's recommendation shall be made by resolution carried by the affirmative vote of not less than the majority of the entire Planning Commission.

SECTION 4. Certification.

The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, and ADOPTED this 28th day of \_\_\_\_ 2021.

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PAUL GRISANTI, Mayor

ATTEST:

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KELSEY PETTIJOHN, Acting City Clerk  
(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED  
BY THE CITY ATTORNEY'S OFFICE  
JOHN COTTI, Interim City Attorney

Any action challenging the final decision of the City made as a result of the public hearing on this application must be filed within the time limits set forth in Section 1.12.010 of the Malibu Municipal Code and Code of Civil Procedure.

**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST DISTRICT OFFICE  
89 SOUTH CALIFORNIA STREET, SUITE 200  
VENTURA, CA 93001-2801  
VOICE (805) 585-1800  
FAX (805) 641-1732

**RECEIVED**

MAY 27 2021

**PLANNING DEPT.**

May 19, 2021

Richard Mollica, Planning Director  
City of Malibu  
Planning Department  
23825 Stuart Ranch Road  
Malibu, CA 90265

RE: City of Malibu Local Coastal Program Amendment No. LCP-4-MAL-19-0164-3  
(Prohibit the Use of Pesticides)

Dear Mr. Mollica:

On May 13, 2021, the Coastal Commission approved LCP Amendment LCP-4-MAL-19-0164-3, with one suggested modification. The subject amendment consists of several modifications to Land Use Plan (LUP) Policy 3.18 regarding the use of pesticides. The Commission's resolution of certification is contained in the staff report dated April 29, 2021 and addendums dated May 10, 2021 and May 11, 2021. The suggested modification, as approved by the Commission, is attached to this correspondence.

Section 13544 of the Commission's Administrative Regulations requires that after certification the Executive Director of the Commission shall transmit copies of the resolution of certification and any suggested modifications and findings to the governing authority, and any interested persons or agencies. Further, the certification shall not be deemed final and effective until all of the following occur:

- (a) The local government with jurisdiction over the area governed by the Local Coastal Program, by action of its governing body: (1) acknowledges receipt of the Commission's resolution of certification, including any terms or modifications suggested for final certification; (2) accepts and agrees to any such terms and modifications; and (3) agrees to issue coastal development permits for the total area included in the certified Local Coastal Program. Unless the local government takes the action described above the Commission's certification with suggested modifications shall expire six months from the date of Commission's action.
- (b) The Executive Director of the Commission determines in writing that the local government's action and the notification procedures for appealable development require pursuant to Article 17, Section 2 are legally adequate to satisfy any specific requirements set forth in the Commission's certification order.
- (c) The Executive Director reports the determination to the Commission at its next regularly scheduled public meeting and the Commission does not object

to the Executive Director's determination. If a majority of the Commissioners present object to the Executive Director's determination and find that the local government action does not conform to the provisions of the Commission's action to certify the Local Coastal Program Amendment, the Commission shall review the local government's action and notification procedures pursuant to Articles 9-12 as if it were a resubmittal.

- (d) Notice of the certification of the Local Coastal Program Amendment shall be filed with the Secretary of Resources Agency for posting and inspection as provided in Public Resources Code Section 21080.5(d)(2)(v).

Please feel free to contact me should you have any questions regarding this matter. The Commission and staff greatly appreciate the City's cooperation and assistance in this matter.

Authorize on behalf of the California Coastal Commission by:

John Ainsworth  
Executive Director

DocuSigned by:  
*Denise Venegas*  
EC0C1D43CA0C426..

By: Denise Venegas  
Coastal Program Analyst

# FINAL SUGGESTED MODIFICATIONS TO THE PROPOSED LAND USE PLAN AMENDMENT

## LCP Amendment No. LCP-4-MAL-19-0164-3 (Prohibit the Use of Pesticides)

Existing language of the certified Land Use Plan is shown in straight type. The City's proposed amendment language to the certified Land Use Plan is shown in ~~strike through~~ and underline. Language approved by the Commission to be modified is shown in ~~double strike through~~ and double underline.

### SUGGESTED MODIFICATION 1

Land Use Plan Policy 3.18 shall be modified as follows:

Except as permitted pursuant to this provision or Policy 3.20, throughout the City of Malibu, development that involves ~~the use of pesticides, including insecticides, herbicides, rodenticides or any other similar toxic chemical substances, shall be prohibited in cases where the application of such substances would~~ which have the potential to significantly degrade Environmentally Sensitive Habitat Areas ~~biological resources shall be prohibited throughout the City of Malibu or coastal water quality or harm wildlife.~~ Herbicides may be used for within and adjacent to ESHAs, where application of such substances would impact the ESHA, except where necessary to protect or enhance the habitat itself, such as ~~the eradication of invasive plant species, or habitat restoration, but only if~~ shall consider first the use of non-chemical methods for prevention and management such as physical, mechanical, cultural, and biological controls are infeasible. ~~Herbicides may be selected only after all other non-chemical methods have been exhausted.~~ Herbicides shall be restricted to the least toxic product and method, and to the maximum extent feasible, shall be biodegradable, derived from natural sources, and used for a limited time. Application of such chemical substances shall not take place during the winter season or when rain is predicted within a week of application. The City will identify non-toxic and earth-friendly management techniques for controlling pests and will conduct public outreach to promote the use of such techniques on property within the City.



RESOLUTION NO. 19-54

A RESOLUTION OF THE CITY OF MALIBU DETERMINING LOCAL COASTAL PROGRAM AMENDMENT NO. 14-001 IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND AMENDING THE LOCAL COASTAL PROGRAM LAND USE PLAN TO MODIFY POLICY 3.18 IN CHAPTER 3 PERTAINING TO A CITYWIDE PROHIBITION OF ANTICOAGULANT RODENTICIDES (CITYWIDE)

The City Council of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. Recitals.

A. On July 8, 2013, the City Council adopted Resolution No. 13-28 urging businesses in Malibu to no longer use or sell anticoagulant rodenticides and all property owners to cease the purchase of and use of these products, and committing the City of Malibu not to use them in City-owned parks and facilities.

B. On December 8, 2014, in compliance with Local Coastal Program (LCP) Local Implementation Plan (LIP) Section 19.2.1, the City Council adopted Resolution No. 14-73 to initiate a Local Coastal Program Amendment (LCPA) to consider changes to the LCP pertaining to a citywide prohibition on anticoagulant rodenticides for development subject to a Coastal Development Permit.

C. The Malibu Zoning Ordinance Revisions and Code Enforcement Subcommittee (ZORACES) met on August 11, 2015, and on September 21, 2015 to discuss the regulatory context in which the use of anticoagulant rodenticides may be regulated.

D. On November 4, 2015, a Notice of Planning Commission Public Hearing and Notice of Availability was published in a newspaper of general circulation within the City of Malibu and was mailed to all interested parties.

E. On January 19, 2016 and February 16, 2016, the Planning Commission held public hearings and adopted Resolution No. 16-23 recommending the City Council approve LCPA No. 14-001, amending the LCP with provisions to prohibit the use of anticoagulant rodenticides, take additional actions to promote rodent control methods that do not involve the use of poisons, and lobby the California Legislature to either eliminate local preemption or ban use of anticoagulant rodenticides statewide.

F. On May 29, 2018, the City Council authorized Councilmember Rosenthal to request that the League of California Cities Environmental Quality Policy Committee consider adding the potential banning of pesticides, herbicides, rodenticides and insecticides throughout California as a priority issue and directed staff to proceed with a LCPA regarding the use of pesticides, herbicides, rodenticides and insecticides.

G. On March 25, 2019, the City Council authorized the Mayor to send a letter in support of AB 1788, a bill that would expand current regulations prohibiting the use of pesticides containing one or more anticoagulants to the entire State, including State-owned property, unless the Department of Public Health determines there is a public health emergency or California Environmental Protection Agency determines there is an environmental emergency.

H. On June 24, 2019 the City Council approved an update to the City's Earth Friendly Management Policy. The policy governs pest management on City-owned, managed or leased property and prohibits all poisons, including anticoagulant rodenticides.

I. On November 14, 2019, a Notice of Public Hearing and Notice of Availability of LCP Documents for LCPA No. 14-001 was published in a newspaper of general circulation within the City of Malibu.

J. On December 9, 2019, the City Council held a duly noticed public hearing on LCPA No. 14-001, considered the recommendation by the Planning Commission, reviewed and considered written reports, public testimony, and related information in the record.

## SECTION 2. Environmental Review.

Pursuant to Public Resources Code Section 21080.9, the California Environmental Quality Act (CEQA) does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCPA and therefore, does not apply to this application. This application is for an amendment to the LCP, which must be certified by the California Coastal Commission (CCC) before it takes effect

## SECTION 3. Local Coastal Program Amendment Findings.

Based on evidence in the whole record, the City Council hereby finds that the proposed LCPA No. 14-001 meets the requirements of and is in conformance with the policies and requirements of Chapter 3 of the California Coastal Act as follows:

1. One of the main objectives of the Coastal Act is the preservation, protection, and enhancement of coastal resources, including land and marine habitats, and water quality. Chapter 3 of the Coastal Act states that environmentally sensitive habitat areas shall be protected against disruption of habitat values and that development should be designed to prevent impacts and be compatible with the continuance of those habitats. The use of pesticides can have a negative effect on habitat values by impacting the viability of plant and animal species in the City. Preserving and enhancing plant and animal species throughout the City will help ensure ESHA habitats are protected and enhanced.

2. LCP Land Use Plan (LUP) Policy 3.18 currently states that "[t]he use of insecticides, herbicides, or any toxic chemical substance which has the potential to

significantly degrade Environmentally Sensitive Habitat Areas (ESHA), shall be prohibited within and adjacent to ESHAs, where application of such substances would impact the ESHA, except where necessary to protect or enhance the habitat itself, such as eradication of invasive plant species, or habitat restoration.” The LCPA will amend Policy 3.18 to expand the list of poisons that can degraded biological resources by adding rodenticides and making the prohibition against pesticides citywide.

3. The language included in the LCPA fulfills and promotes the objectives of the Coastal Act by ensuring that toxic chemical substances that degrade coastal resources are prohibited within the City of Malibu’s jurisdiction. The LCPA is protective of wildlife and riparian habitat, marine resources, and water quality. Therefore, the LCPA meets the requirements of, and is in conformance with the goals, objectives and purposes of the LCP.

SECTION 4. Local Coastal Program Amendment No. 14-001.

LCPA No. 14-001 includes the following amendment to Policy 3.18 in LUP Chapter 3 (Marine and Land Resources):

A. Amend LUP Chapter 3, Section C (Land Use Policies), Policy 3.18 to read as follows:

**3.18** The use of pesticides, including insecticides, herbicides, rodenticides or any toxic chemical substance which has the potential to significantly degrade biological resources shall be prohibited throughout the City of Malibu. The eradication of invasive plant species or habitat restoration shall consider first the use of non-chemical methods for prevention and management such as physical, mechanical, cultural, and biological controls. Herbicides may be selected only after all other non-chemical methods have been exhausted. Herbicides shall be restricted to the least toxic product and method, and to the maximum extent feasible, shall be biodegradable, derived from natural sources, and use for a limited time.

SECTION 5. Approval.

Subject to the contingency set forth in Section 8, the City Council hereby adopts LCPA No. 14-001, amending the LCP.

SECTION 6. Submittal to California Coastal Commission.

The City Council hereby directs staff to submit LCPA No. 14-001 to the CCC for certification, in conformance with the submittal requirements specified in California Code of Regulations, Title 14, Division 5.5., Chapter 8, Subchapter 2, Article 7 and Chapter 6, Article 2 and Code of Regulations section 13551, et. seq.

SECTION 7. Effectiveness.

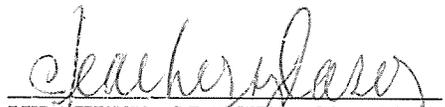
The LCP amendment approved in this Resolution shall become effective only upon its certification by the CCC.

SECTION 8. The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 9<sup>th</sup> day of December 2019.

  
KAREN FARRER, Mayor

ATTEST:

  
HEATHER GLASER, City Clerk  
(seal)

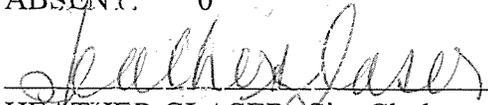
Date: December 9, 2019

APPROVED AS TO FORM:

  
CHRISTI HUGIN, City Attorney

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 19-54 was passed and adopted by the City Council of the City of Malibu at the regular meeting thereof held on the 9<sup>th</sup> day of December 2019 by the following vote:

AYES: 5 Councilmembers: Mullen, Peak, Wagner, Pierson, Farrer  
NOES: 0  
ABSTAIN: 0  
ABSENT: 0

  
\_\_\_\_\_  
HEATHER GLASER, City Clerk  
(seal)

**NOTICE OF PUBLIC HEARING  
CITY OF MALIBU  
CITY COUNCIL**

The Malibu City Council will hold a public hearing on **MONDAY, June 28, 2021** at 6:30 PM on the project identified below. This meeting will be held via teleconference only in order to reduce the risk of spreading COVID-19 and pursuant to the Governor’s Executive Orders N-25-20 and N-29-20 and the County of Los Angeles Public Health Officer’s Safer at Home Order. All votes taken during this teleconference meeting will be by roll call vote, and the vote will be publicly reported.

**How to View the Meeting:** No physical location from which members of the public may observe the meeting and offer public comment will be provided. Please view the meeting, which will be live streamed at <https://malibucity.org/video> and <https://malibucity.org/VirtualMeeting>.

**How to Participate Before the Meeting:** Members of the public are encouraged to submit email correspondence to [citycouncil@malibucity.org](mailto:citycouncil@malibucity.org) before the meeting begins.

**How To Participate During The Meeting:** Members of the public may also speak during the meeting through the Zoom application. You must first sign up to speak before the item you would like to speak on has been called by the Mayor and then you must be present in the Zoom conference to be recognized.

Please visit <https://malibucity.org/VirtualMeeting> and follow the directions for signing up to speak and downloading the Zoom application.

**CITYWIDE PESTICIDE BAN**

LOCAL COASTAL PROGRAM AMENDMENT NO. 14-001 – On May 13, 2021, the California Coastal Commission approved the City’s proposed amendment to the Local Coastal Program Land Use Plan Policy 3.18 with regard to a citywide prohibition of pesticides. At this hearing, the City Council will consider adopting the Coastal Commission’s suggested modifications to the Local Coastal Program amendment.

Location:	Citywide
Applicant:	City of Malibu
Case Planner:	Richard Mollica, Associate Planner, <a href="mailto:rmollica@malibucity.org">rmollica@malibucity.org</a> (310) 456-2489, ext. 346

In accordance with the California Environmental Quality Act (CEQA), Public Resources Code Section 21080.9, CEQA does not apply to activities and approvals by the City as necessary for the preparation and adoption of an LCP amendment. This application is for an LCP amendment which must be certified by the California Coastal Commission before it takes effect.

Copies of all related documents are available for review by contacting the Case Planner during regular business hours. For more information, visit the project web page at <https://www.malibucity.org/1015/Pesticide-Ban>.

A written staff report will be available at or before the hearing. All persons wishing to address the City Council will be afforded an opportunity in accordance with the Council's procedures. Oral and written comments may be presented to the City Council on, or before, the date of the meeting.

If there are any questions regarding this notice, please contact Richard Mollica, at (310) 456-2489, extension 346.

Richard Mollica, Planning Director

Publish Date: June 17, 2021