

Following are modifications that are recommended to the text of the Draft City of Malibu LCP Local Implementation Plan (dated June 2002). Only those text sections with recommended modifications are contained in this document. Text additions are shown using underline and deletions are shown using ~~striketrough~~.

## **Recommended Modifications to Chapter 1 (Title and Purpose)**

No modifications are recommended to this chapter at this time.

## **Recommended Modifications to Chapter2 (Definitions)**

### **Section 2.1 (Page 16)**

LOT - a designated parcel, tract or area of land consisting of a contiguous quantity of land in one ownership established by plot, subdivision, or as otherwise permitted by law.

## **Recommended Modifications to Chapter3 (Zoning & Dev. Standards)**

### **Section 3.11.2 (B) (Page 83)**

B. Accessory structures used for confined animal facilities and corrals may be permitted in conjunction with an existing or new single family residence within the approved development area. Confined animal facilities and corrals may also be permitted within the irrigated fuel modification area (Zones A and/or B if required) for the approved structure(s) if such use is not located on a slope greater than 4:1, does not require additional grading, is constructed of non-flammable materials, does not result in any expansion to the required fuel modification area, and does not increase the possibility of in-stream siltation or pollution from herbicides or pesticides.

## **Recommended Modifications to Chapter 4 (ESHA Overlay Ordinance)**

### **Section 4.3 (B) and (C) (Page 122-123)**

B. Unless there is site-specific evidence that establishes otherwise, the following habitat areas shall be considered to be ESHA:

1. Any habitat area that is rare or especially valuable from a local, regional, or statewide basis
2. Any habitat area that supports plant or animal species that are designated or are candidates for listing as rare, threatened, or endangered under State or Federal law
3. Any habitat area that supports significant populations designated 1b (Rare or endangered) by the California Native Plant Society.

4. Any designated Area of Special Biological Significance, or Marine Protected Area.
5. Streams.

C. If the applicant's site-specific biological study or other independent information contains substantial evidence that an area previously shown on the ESHA overlay does not contain habitat that meets the definition of "environmentally sensitive area", the City shall determine the physical extent of habitat that does meet the definition of "environmentally sensitive area" on the project site.

1. Any area mapped as ESHA shall not be deprived of protection as ESHA, as required by the policies and provisions of the LCP, on the basis that habitat has been illegally removed, degraded, or species of concern have been eliminated.
2. If the City finds that an area previously mapped as ESHA does not meet the definition of ESHA, a modification shall be made to the LUP ESHA Map and the ESHA overlay map. Such a modification shall be considered an LCP amendment, subject to approval by the Coastal Commission.
3. If an area is not ESHA or ESHA buffer, LCP policies and standards for protection of ESHA and ESHA buffer shall not apply and development may be permitted (consistent with all other LCP requirements) even if the LUP ESHA Map and the ESHA Overlay Map have not yet been amended.

#### **Section 4.7.1. (Page 128)**

No development shall be allowed in wetlands unless it is a permitted use identified in Section 4.5.1. In other ESHA areas, the allowable development area (including the building pad and all graded slopes, if any, as well any permitted structures) on parcels where all feasible building sites are ESHA or ESHA buffer shall be 10,000 square feet or 25 percent of the parcel size, whichever is less. For parcels over 40 acres in size, the maximum development area may be increased by 500 sq. ft. for each additional acre in parcel size to a maximum of 43,560-sq. ft. (1-acre) in size. The development must be sited to avoid destruction of riparian habitat to the maximum extent feasible. The development area shall be reduced, or no development shall be allowed, if necessary to avoid a nuisance.

#### **Section 4.7.4. (Page 129)**

Development permitted within coastal sage scrub or chaparral ESHA may include accessory confined animal structures such as stables, barns, or tack rooms, as well as corrals within the approved development area. Confined animal facilities or corrals may be included within the irrigated fuel modification area (Zones A and/or B if required) for the approved structure(s) only if such use is not located on slopes greater than 4:1, does not require additional grading, is constructed of non-flammable materials, and does not result in any expansion to the required fuel modification area.

#### **Recommended Modifications to Chapter 5 (Native Tree Protection)**

No modifications are recommended to this chapter at this time.

#### **Recommended Modifications to Chapter 6 (Scenic, Visual, & Hillside)**

##### **Section 6.5 (A.2.) (Page 142)**

2. Where there is no feasible alternative that is not visible from scenic highways or public viewing areas, the development area shall be restricted to minimize adverse impacts on views from scenic highways or public viewing areas and in no case shall the maximum development area (including the building pad and all graded slopes, if any, as well as any permitted structures) for residential development exceed 10,000 sq. ft. or 25 percent of the parcel size, whichever is less. All permitted structures shall be located within the approved development area. The maximum allowable development area for commercial development shall be restricted by the maximum floor area ratio. This policy shall not apply to new development on parcels located on the ocean side of Pacific Coast Highway as provided in Section 6.5.E. (Ocean Views).

##### **Section 6.5 ((B.5.b.) (Page 143)**

5. New development in areas visible from scenic roads or public viewing areas shall incorporate colors and exterior materials that are compatible with the surrounding landscape.

a. Acceptable colors shall be limited to colors compatible with the surrounding environment (earth tones) including shades of green, brown and gray with no white or light shades and no bright tones.

b. The use of highly reflective materials shall be prohibited except for solar energy panels or cells which shall be placed to minimize significant adverse impacts to public views to the maximum feasible extent.

**Section 6.5 (G) (1<sup>st</sup> paragraph) (Page 146)**

G. Lighting

The quality of the night skies and visibility of stars shall be preserved by controlling outdoor lighting, thereby reducing visual intrusion. Exterior lighting (except traffic lights, navigational lights, and other similar safety lighting) shall be concealed so that no light source is directly visible from public viewing areas. Night lighting for sports courts or other private recreational facilities in areas designated for residential use shall be prohibited. Permitted lighting shall conform to the following standards:

**Recommended Modifications to Chapter 7 (TDC)**

**Section 7.2 (C) (Page 150)**

C. TDC Credits may be obtained through purchase of development rights on donor sites throughout the Santa Monica Mountains Area coastal zone as defined herein from private property owners.

**Section 7.8.4 (D)(1-2) (Page 157)**

1. Voluntary merger of lots pursuant to the Subdivision Ordinance Chapter 15;

**Recommended Modifications to Chapter 8 (Grading Ordinance)**

**Section 8.4 (A) and (C) (Page 161)**

A. Earthmoving during the wet season (extending from November 1 to March 31) shall be prohibited for development that is included in one or both of the following categories.

1. The project site is within or adjacent to an Environmentally Sensitive Habitat Area.
2. The project includes grading on slopes greater than 4:1.

C. If grading operations are not completed before the wet season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 31, unless the Planning Director determines that completion of grading would be more protective of resources.

**Recommended Modifications to Chapter 9 (Hazards)**

No modifications are recommended to this chapter at this time.

## **Recommended Modifications to Chapter 10 (Shoreline & Bluff Dev.)**

### **Section 10.4 (L) and (M) (Page 178)**

L. Shoreline and bluff protection structures shall not be permitted to protect new development. Shoreline and bluff protection structures may be permitted to protect existing structures that were legally constructed prior to the effective date of the Coastal Act, or that were permitted prior to certification of the LCP only when it can be demonstrated that existing structures are at risk from identified hazards, that the proposed protective device is the least environmentally damaging alternative and is designed to eliminate or mitigate adverse impacts to local shoreline sand supply and public access. Alternatives analysis shall include the relocation of existing development landward as well as the removal of portions of existing development. "Existing structures" for purposes of this policy shall consist only of enclosed buildings used for living space or required parking, e.g. residential dwelling, guesthouse, or garage, and shall not include accessory or ancillary structures such as decks, patios, pools, tennis courts, cabanas, stairs, landscaping etc.

M. No shoreline protection structure shall be permitted for the sole purpose of protecting an ancillary or accessory structure. Such accessory structures shall be removed if it is determined that the structure is in danger from erosion, flooding or wave run-up. Such structures shall be considered threatened if the bluff edge encroaches to within 10 feet of the structure as a result of erosion, landslide or other form of bluff collapse. Accessory structures, including but not limited to, patios, pools, stairs, recreational facilities, landscaping features, and similar design elements shall be constructed and designed to be removed or relocated in the event of threat from erosion, bluff failure or wave hazards.

## **Recommended Modifications to Chapter 11 (Archaeology)**

No modifications are recommended to this chapter at this time.

## **Recommended Modifications to Chapter 12 (Public Access Ordinance)**

All **Section** cross-references in this chapter shall be changed from 13 to 12.

### **Section 12.10 (I) and (J) (Page 203)**

#### **12.11. New Luxury Overnight Accommodations**

- A. The City may approve new luxury overnight visitor accommodations if the evidence shows and the City finds, that the project provides a component of lower cost overnight visitor accommodations, such as a campground, RV park, hostel, or lower cost hotel or motel rooms. The lower cost overnight accommodations

may be provided, either on-site, offsite, or through payment of an in-lieu fee to the City for deposit into a fund to subsidize the construction of lower cost overnight facilities in the Malibu-Santa Monica Mountains Coastal Zone area of Los Angeles County or Ventura County. The applicant shall be required to provide lower cost overnight accommodations consisting of fifteen (15) percent of the number of luxury overnight accommodations that are approved.

- B. If the applicant chooses the in-lieu fee option, the project approval shall be conditioned to require that, prior to issuance of the coastal development permit, the applicant shall pay the required in-lieu fee to the City. The amount of the in-lieu fee shall be \$10,419 per required unit of lower cost overnight accommodations, plus an additional amount for inflation from January 2000 to the date of approval of the coastal development permit.
- C. The City may transfer any funds paid as an in-lieu fee under this section to a public agency, non-profit organization or private entity after entering a Memorandum of Understanding or other contractual agreement that requires use of the funds for construction of lower cost overnight visitor accommodations in the Malibu-Santa Monica Mountains Coastal Zone area of Los Angeles County or Ventura County and requires that the accommodations remain lower cost, unless an LCP amendment is certified that allows modification.

## **Recommended Modifications to Chapter 13 (Coastal Development Permits)**

### **Section 13.3 (B) (Page 205)**

B. A person undertaking development included in a public works plan or long range development plan approved by the Coastal Commission is not required to obtain a coastal development permit from the City. Other City permits may be required.

### **Section 13.4.6 (Page 210)**

The replacement of any structure, other than a public works facility, destroyed by a disaster provided that the replacement structure meets all the of the following criteria:

- A. It conforms to applicable existing zoning requirements;
- B. It is for the same use as the destroyed structure;
- C. It does not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and
- D. It is sited in the same location on the affected property as the destroyed structure.

As used in this section, "Structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.

**Section 13.6.4 (B) (Page 215)**

B. For development on a vacant lot(s), a complete title history, including evidence that the lot proposed for development is a legally created lot, and information on the date and method by which the lot was created. Where the City determines that the lot(s) was created after the effective date of the Coastal Act, or was created prior to the effective date of the Coastal Act but without complying with applicable state or local requirements, either evidence of a valid coastal development permit authorizing the subdivision or other form of lot creation must be submitted prior to filing of any application for proposed development on the lot, or the subdivision or other form of lot creation must be included as part of the application request in order to be deemed filed.

**Section 13.7 (B) (Page 219)**

B. All other coastal development permits shall be decided upon by the Planning Commission subject to appeal provisions in Section 13.20(Appeals). Minor changes to the permit may be subsequently decided upon by the Director consistent with Administrative Permit procedures; significant changes from the original approval of the permit must be approved through a permit amendment approved by the Planning Commission.

**Section 13.13.3 (first paragraph) (Page 226)**

At the time the application is submitted for filing, the applicant must post, at a conspicuous place, easily read by the public which is also as close as possible to the site of the proposed development, notice that an application for a permit for the proposed administrative coastal development permit has been submitted to the City. Such notice shall contain a general description of the nature of the proposed development. The City shall furnish the applicant with a standardized form to be used for such posting. If the applicant fails to sign the declaration of posting, the Planning director of the commission shall refuse to file the application.

**Section 13.13.6 (Page 227)**

**Section 13.26.5 (G) (Page 238)**

G. The variance complies with all requirements of state and local law.

**Recommended Modifications to Chapter 14 (Enforcement Program)**

No modifications are recommended to this chapter at this time.



## **Recommended Modifications to Chapter 15 (Land Divisions)**

### **Sections 15.1, 15.1A, 15.2 (Page 245)**

#### **15.1 DEFINITION OF LAND DIVISION**

“Land division” that are subject to the requirements of Sections 15.2 and 15.3 shall include subdivisions through a parcel map, tract map, grant deed, or any other method; lot line adjustments; lot splits; or redivisions of land, but shall not include mergers or reversions to acreage.

#### **15.1A PROCESSING OF PROPOSED LAND DIVISIONS (NEW SECTION)**

Proposed land divisions shall be processed in accordance with all other applicable City ordinances that do not conflict with the requirements of this Chapter and shall, in addition, be evaluated and approved only if in compliance with the requirements of this Chapter.

#### **15.2 FINDINGS REQUIRED FOR APPROVAL OF LAND DIVISION**

A. A land division shall not be authorized unless it is approved in a coastal development permit. A coastal development permit authorizing a land division shall not be approved unless the evidence shows, and the City makes findings, that the proposed land division complies with the requirements of this Section (15.2). Such findings shall address the specific project impacts relative to the applicable standards identified below. The findings shall explain the basis for the conclusions and decisions of the City and shall be supported by substantial evidence in the record.

#### **Sections 15.3 (B), (C), and (D) (Pages 247-248)**

B. To determine whether parcels were created in compliance with state law and local ordinances in effect at the time of its creation, and whether they were subsequently merged or otherwise altered, the applicant shall submit a complete title history, including all documentation necessary to determine how the parcels were created; what additional parcels were created from the same parent parcel either at the same time, prior to and/or after creation of the parcel; and what other grants, land divisions, mergers or transactions occurred involving the parcel after the initial creation of the parcel.

C. For issuance of a certificate of compliance pursuant to Government Code Sec. 66499.35 for a land division that occurred prior to the effective date of the Coastal Act, where the parcel(s) was not created in compliance with state law and local ordinances in effect at the time of its creation, or the parcel has subsequently been merged or otherwise altered, the certificate of compliance shall not be issued unless a coastal development permit that authorizes the land division is approved. In such a situation, the City shall

only approve a coastal development permit if the land division (1) complies with all policies and standards of the LCP, including the above requirements for approval of land divisions, or (2) the permit is conditioned to prohibit development on the affected parcels, unless and until compliance with all policies and standards of the LCP, including the above requirements for approval of land divisions, has been achieved. The permit shall also require transfer of development credits pursuant to Chapter 7 of the Local Implementation Plan.

D. For issuance of a certificate of compliance pursuant to Government Code Sec. 66499.35 for a land division that occurred after the effective date of the Coastal Act, the certificate of compliance shall not be issued unless a coastal development permit that authorizes the land division is approved.

1. The City shall only approve a coastal development permit if the land division, complies with all policies and standards of the LCP, including the above requirements for approval of land divisions,
2. In addition, the City may approve a coastal development permit in the following situations:
  - a. If (1) prior to certification of the LCP, the Coastal Commission approved a coastal development permit authorizing construction of a residence on one or more of the parcels that were created from the same parent parcel as the parcel for which the COC is requested and (2) the owner of the parcel for which the COC is requested does not also own the parcel referred to above on which the Coastal Commission authorized construction of a residence, and (3) the owner of the parcel for which the COC is requested acquired it prior to certification of the LCP and is a good-faith, bonafide purchaser for value. In such a case, a coastal development permit authorizing the land division may be issued if: it is conditioned to prohibit construction on the subject parcel unless it complies with all policies and standards of the LCP, including the above requirements for approval of land divisions, except compliance with the minimum parcel size; and transfer of development credits are required pursuant to Chapter 7 of the Implementation Plan.
  - b. If (1) the parcel that is the subject of the request for a COC is not in common ownership with any other contiguous parcels that were created from the same parent parcel and (2) the current owner of the subject parcel acquired it prior to certification of the LCP and is a good-faith, bonafide purchaser for value. In such a case, a coastal development permit authorizing the land division may be issued if: it is conditioned to prohibit construction on the subject parcel unless it complies with all policies and standards of the LCP, including the above requirements for approval of land divisions, except the minimum parcel size; and transfer of development credits are required in accordance with Chapter 7 of the Implementation Plan.

If the requirements of (D)(1), (D)(2)(a) or (D)(2)(b) are not met, the proposed land division shall be denied.

## **Section 15.4 (Page 248)**

### **15.4.1 Voluntary Merger (New Section)**

A. Contiguous parcels under common ownership may be voluntarily merged if:

1. either a merger or lot tie is authorized or required pursuant to a term or condition of a coastal development permit; or
2. the City determines that the merger is not inconsistent with any policy or standard of the LCP that protects environmentally sensitive habitat areas and/or visual resources of the coastal zone. In this case, an administrative coastal development permit shall be approved for the merger if the requirements of Section 13.13 are met.

B. An instrument evidencing the merger shall be recorded. The recorded instrument shall contain a legal description of the contiguous parcels prior to the merger, and the new parcel that results after the merger. The instrument must be reviewed and approved by the City prior to recording. A copy of the recorded instrument shall be provided to the Los Angeles County Assessor's Office.

C. The fee for processing a voluntary merger of parcels shall not exceed \$50 (fifty dollars).

#### **15.4.1A Merger Initiated by City**

A parcel may be merged with a contiguous parcel held by the same owner if the following requirements are satisfied:

- A. At least one (1) of the affected parcels is undeveloped with any structure for which a building permit was issued, or for which a building permit was not required at the time of construction, or is developed only with an accessory structure or accessory structures, or is developed with a single structure, other than an accessory structure, that is also partially sited on a contiguous parcel or unit.
- B. With respect to any affected parcel, the existing subject lots must each have been legally created parcels as specified in the Subdivision Map Act.
- C. A merger of parcels shall also conform to the procedural requirements of the Subdivision Map Act.

For a merger initiated by the City, the procedural requirements for merger of parcels set forth in the Subdivision Map Act shall be complied with. A merger of parcels shall become effective when the City records with the County recorder, a notice of merger, specifying the name of the record owner and particularly describing the property merged.

## **Recommended Modifications to Chapter 16 (Planned Development)**

No modifications are recommended to this chapter at this time.

## **Recommended Modifications to Chapter 17 (Water Quality Protection)**

### **Section 17.1 (Page 261)**

The purpose of this Chapter is to protect and enhance coastal waters within the City of Malibu in accordance with the policies of the City's Local Coastal Plan and Sections 30230, 30231, 30232 and 30240 of the California Coastal Act. To implement the certified Land Use Plan, application submittal requirements, development standards, and other measures are provided to ensure that permitted development shall be sited and designed to conserve natural drainage features and vegetation, prevent the introduction of pollutants into coastal waters, and protect the overall quality of coastal waters and resources.

The intent of this Chapter is to address the following principles:

All development should be evaluated for potential adverse impacts to water quality and applicants should consider Site Design, Source Control and Treatment Control BMPs in order to minimize polluted runoff and water quality impacts resulting from the development. Site Design BMPs reduce the need for Source and/or Treatment Control BMPs, and Source Control BMPs may reduce the amount of Treatment Control BMPs needed for a development. Therefore BMPs should be incorporated into the project design in the following progression:

- Site Design BMPs
- Source Control BMPs
- Treatment Control BMPs

All development should be designed to minimize the introduction of pollutants that may result in water quality impacts. Projects should be designed to control post-development peak runoff rates and average volumes to maintain or reduce pre-development downstream erosion rates. These objectives can be accomplished through the creation of a hydrologically functional project design that strives to mimic the natural hydrologic regime and by achieving the following goals:

- Maintain and use natural drainage courses and vegetation
- Conserve natural resources and areas by clustering development on the least environmentally sensitive portions of a site while leaving the remaining land in a natural, undisturbed condition

- Reduce the amount of directly connected impervious surface and total area of impervious surface
- Incorporate on-site retention and infiltration measures
- Direct rooftop runoff to permeable areas rather than driveways or impervious surfaces to reduce the amount of storm water leaving the site
- Minimize clearing and grading

Incorporating these goals and principles into the project design will help to minimize the introduction of pollutants to the site and decrease the amount of polluted runoff leaving the site, resulting in the overall objective of water quality protection. Sections 17.4, 17.5 and 17.6 describe the requirements and process for implementing BMPs into development and provide examples of types of BMPs to incorporate.

### **Section 17.3 (Pages 262-267)**

Except as specifically provided herein, any term used in this Chapter shall be defined as that term is defined in the City's certified LCP, the current Municipal NPDES Permit, or in the current version of the Standard Urban Storm Water Mitigation Plan ("SUSMP") approved by the Regional Water Quality Control Board-Los Angeles Region, or if it is not specifically defined in either the Municipal NPDES Permit or the SUSMP, then as such term is defined in the Federal Clean Water Act, as amended, and/or the regulations promulgated thereunder. The following words and phrases shall have the following meanings when used in this Chapter:

...

"AUTOMOTIVE SERVICE FACILITY" means a facility that is categorized in any one of the following Standard Industrial Classification (SIC) codes: 5013, 5014, 5511, 5541, 7532-7534, or 7536-7539.

...

"BEST MANAGEMENT PRACTICES (BMP's)" means activities, practices, facilities, and/or procedures that when implemented to their maximum efficiency will prevent or reduce pollutants in discharges and any program, technology, process, siting criteria, operational methods or measures, or engineered systems, which when implemented prevent, control, remove, or reduce pollution. Examples of BMP's may include public education and outreach, proper planning of development projects, proper cleaning of catch basin inlets, and proper sludge- or waste-handling and disposal, as well as storm water treatment and detention facilities (see Structural BMP's), among others.

...

"CRITICAL AREA PLANTING" means planting vegetation, such as trees, shrubs, vines, grasses, or legumes, on highly erodible or critically eroding areas. Critical Area Planting does not include tree planting mainly for wood products.

...

"DISCRETIONARY PROJECT" is defined in the same manner as Section 15357 of the Guidelines for Implementation of the California Environmental Quality Act contained in Title 14 of the California Code of Regulations, as amended, and means a project which

requires the exercise of judgment or deliberation when the City decides to approve or disapprove a particular activity, as distinguished from situations where the City merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations.

...

"GREATER THAN 9 UNIT HOME SUBDIVISION" means any subdivision being developed for 10 or more single-family or multi-family dwelling units. -

...

"ONE HUNDRED THOUSAND (100,000) SQUARE FOOT COMMERCIAL DEVELOPMENT" means any Commercial Development that creates at least one hundred thousand (100,000) square feet of impervious area, including parking areas.

...

"PARKING LOT" means land area or a facility for the temporary parking or storage of motor vehicles used personally, for business or for commerce with a lot size of five thousand (5,000) square feet or more, or with twenty-five (25) or more parking spaces.

...

"RAINY SEASON" means the calendar period beginning November 1 through March 31.

...

"REDEVELOPMENT" - For the purpose of this Chapter, the term "Redevelopment means, land-disturbing activity that results in the creation, addition, or replacement of 5,000 square feet or more of impervious surface area on an already developed site. Redevelopment includes, but is not limited to: the expansion of a building footprint; addition or replacement of a structure; replacement of impervious surface area that is not part of a routine maintenance activity; and land disturbing activities related to structural or impervious surfaces. It does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of facility, nor does it include emergency construction activities required to immediately protect public health and safety.

...

"STANDARD URBAN STORM WATER MITIGATION PLAN" or "SUSMP" means the current version of the Standard Urban Storm Water Mitigation Plan approved by the Los Angeles Regional Water Quality Control Board, and on file in the office of the City Clerk of this City, and the NPDES Permit models that have been approved by the Executive Officer of the Regional Board for implementation to control storm water pollution from New Development and Redevelopment.

...

#### **Section 17.4.1 (Page 267)**

A Construction Phase Erosion Control and Polluted Runoff Control Plan shall be required for all development that requires a Coastal Development Permit and a grading or building

permit, and it shall apply to the construction phase of the project. The plan shall include:

- Property limits, prior-to-grading contours, and details of terrain and area drainage
- Locations of any buildings or structures on the property where the work is to be performed and the location of any building or structures of adjacent owners that are within 15 ft of the property or that may be affected by the proposed grading operations
- Locations and cross sections of all proposed temporary and permanent cut-and-fill slopes, retaining structures, buttresses, etc., that will result in an alteration to existing site topography (identify benches, surface/subsurface drainage, etc.)
- Area (square feet) and volume (cubic yards) of all grading (identify cut, fill, import, export volumes separately), and the locations where sediment will be stockpiled or disposed
- Elevation of finished contours to be achieved by the grading, proposed drainage channels, and related construction
- Details pertaining to the protection of existing vegetation from damage from construction equipment, for example: (a) grading areas should be minimized to protect vegetation; (b) areas with sensitive or endangered species should be demarcated and fenced off; and (c) native trees that are located close to the construction site should be protected by wrapping trunks with protective materials, avoiding placing fill of any type against the base of trunks, and avoiding an increase in soil depth at the feeding zone or drip line of the retained trees)
- 
- Clearing and grading during the rainy season (extending from November 1 to March 31) shall be prohibited for development that:
  - Is located within or adjacent to ESHA, or
  - Includes grading on slopes greater than 4:1
- - 
  -
- Approved grading for development that is located within or adjacent to ESHA or on slopes greater than 4:1 shall not be undertaken unless there is sufficient time to complete grading operations before the rainy season. If grading operations are not completed before the rainy season begins, grading shall be halted and temporary erosion control measures shall be put into place to minimize erosion until grading resumes after March 31, unless the City determines that completion of grading would be more protective of resources.
- Information on potential flow paths where erosion may occur during construction
- Proposed erosion and sediment prevention and control BMPs, both structural and non-structural, for implementation during construction, such as:

- Stabilize disturbed areas with vegetation, mulch, geotextiles, or similar method
  - Trap sediment on site using fiber rolls, silt fencing, sediment basin, or similar method
  - Ensure vehicles on site are parked on areas free from mud; monitor site entrance for mud tracked off-site
  - Prevent blowing dust from exposed soils
- Proposed BMPs to provide adequate sanitary and waste disposal facilities and prevent contamination of runoff by construction chemicals and materials, such as:
    - Control the storage, application and disposal of pesticides, petroleum and other construction and chemical materials
    - Site washout areas more than fifty feet from a storm drain, open ditch or surface water and ensure that runoff flows from such activities do not enter receiving water bodies
    - Provide sanitary facilities for construction workers
    - Provide adequate disposal facilities for solid waste produced during construction and recycle where possible

#### **Section 17.4.2 (A) (Page 268)**

A Storm Water Management Plan (SWMP) shall be required for all development that requires a Coastal Development Permit and shall require the implementation of appropriate Site Design and Source Control BMPs from Section 17.6 and Appendix A to minimize post-construction polluted runoff. The SWMP shall also specify any Treatment Control or Structural BMPs that the applicant chooses to include in the development to minimize post-construction polluted runoff, and shall include the operation and maintenance plans for these BMPs.

#### **Section 17.4.2 (B)(2)(a) (Page 269)**

a. Mitigating increased runoff rate due to new impervious surfaces through on-site detention such that peak runoff rate after development does not exceed the peak runoff of the site before development for the 100 year clear flow storm event (note;  $Q/100$  is calculated using the Caltrans Nomograph for converting to any frequency, from the Caltrans "Hydraulic Design and Procedures Manual"). The detention basin/facility is to be designed to provide attenuation and released in stages through orifices for 2-year, 10-year and 100-year flow rates, and the required storage volume of the basin/facility is to be based upon 1-inch of rainfall over the proposed impervious surfaces plus 1/2-inch of rainfall over the permeable surfaces. All on-site drainage devices, including pipe, channel, and/or street & gutter, shall be sized to cumulatively convey a 100 year clear flow storm event to the detention facility, or;

#### **Section 17.4.2 (C) (Page 270)**



The City of Malibu will review a SWMP according to the following requirements, found in the City of Malibu Storm Water Code, Section 5.4.09:

**Section 17.4.3 (A) (Page 270)**

A Water Quality Mitigation Plan (WQMP), requiring specific Site Design and Source Control BMPs, consistent with the most recent Standard Urban Storm Water Mitigation Plan (SUSMP), shall be required for all development that requires a Coastal Development Permit and falls into one or more of the following categories:

- Single family hillside residential developments (one unit or more)
- Housing developments (includes single family homes, multifamily homes, condominiums, and apartments) of ten units or more
- Industrial/commercial development (100,000 square feet or more of impervious surface area)
- Automotive service facilities
- Retail gasoline outlets
- Restaurants
- Parking lots (5,000 square feet or more of surface area or with 25 or more parking spaces)
- Projects discharging directly to an ESHA
- Redevelopment projects that result in the creation or addition or replacement of 5,000 square feet or more of impervious surface area on an already developed site

**Section 17.4.3 (Add New Section after A.) (Page 271)**

Treatment Control BMPs shall also be required as part of the WQMP for the following categories of development:

- Single family hillside residential developments (one unit or more)
- Housing developments (includes single family homes, multifamily homes, condominiums, and apartments) of ten units or more
- Industrial/commercial development (100,000 square feet or more of impervious surface area)
- Automotive service facilities (5,000 square feet or more of impervious surface area)
- Retail gasoline outlets (5,000 square feet or more of impervious surface area)
- Restaurants (5,000 square feet or more of impervious surface area)
- Parking lots (5,000 square feet or more of impervious surface area or with 25 or more parking spaces)
- Projects discharging directly to an ESHA
- Redevelopment projects that result in the creation or addition or replacement of 5,000 square feet or more of impervious surface area on an already developed site

**Section 17.4.3 (B) (first paragraph) (Page 271)**

B. The WQMP shall be certified by a California Registered Civil Engineer or Licensed Architect and approved by the City's Department of Public Works and the City's Department of Environmental and Building Safety. The following information shall be included in a WQMP:

**Section 17.4.3 (B) (Last Bullet) (Page 271)**

- A long-term plan and schedule for the monitoring and maintenance of all drainage-control devices. All structural BMPs shall be inspected, cleaned, and repaired when necessary prior to September 30th of each year. Owners of these devices will be responsible for insuring that they continue to function properly and additional inspections should occur after storms as needed throughout the rainy season. Repairs, modifications, or installation of additional BMPs, as needed, should be carried out prior to the next rainy season..

**Section 17.4.3 (C) (first paragraph) (Page 271)**

In addition to implementing the requirements in A. and B. above for a WQMP, the City will implement the following measures, consistent with SUSMP requirements, as described in the Malibu Storm Water Code, Section 5.4.09.5:

**Section 17.4.3 (C)(2) (Page 272)**

2. Issuance of Certificates of Occupancy. As a condition for issuing a Certificate of Occupancy for New Development or Redevelopment Project identified in Section 17.4.3(A) of this Section, the Authorized Enforcement Officer shall require facility operators and/or owners to build all the storm water pollution control Best Management Practices and Structural or Treatment Control BMP's that are shown on the approved project plans and to submit a signed Certification Statement stating that the site and all Structural or Treatment Control BMP's will be maintained in compliance with the SUSMP, the WQMP and other applicable regulatory requirements.

**Section 17.4.4 (first paragraph) (Page 273)**

All applicants shall provide verification of maintenance provisions for Structural and Treatment Control BMPs, including but not limited to legal agreements, covenants, CEQA mitigation requirements, and conditional use permits. Verification at a minimum shall include:

**Section 17.4.5 (A)(5)(c) (Page 275)**

c. Paddocks, stalls and bedding shall be cleaned on a regular basis and waste stored at least 100 feet away from streams or other surface waters. Wastes shall be covered with impermeable materials during the rainy season (November 1-March 31), at a minimum.

**Section 17.5.1 (A) (Page 276)**

A. All development shall be evaluated for potential adverse impacts to water quality and the applicant shall consider Site Design, Source Control and Treatment Control BMPs in order to minimize polluted runoff and water quality impacts resulting from the development. A SWMP requires the implementation of Site Design and Source Control BMPs, as specified in 17.4.2, and a WQMP requires the implementation of Site Design, Source Control and, in certain cases, Treatment Control BMPs, as specified in 17.4.3. In order to maximize the reduction of water quality impacts, BMPs should be incorporated into the project design in the following progression: (1) Site Design BMPs, (2) Source Control BMPs, and (3) Treatment Control BMPs. Examples of these BMPs can be found in Appendix A.

**Section 17.5.1 (B)(1) (Page 276)**

1. In selecting BMPs to incorporate into the project design, the applicant should first identify the pollutants of concern that are anticipated to be generated as a result of the development. Table 1 in Appendix B should be used as a guide in identifying these pollutants of concern. These pollutants of concern should then be prioritized, identifying primary pollutants of concern using the following process:

**Section 17.5.1 (B)(1)(d) (Page 277)**

d. Pollutants generated by the development that exhibit one or more of the following characteristics shall also be considered primary pollutants of concern:

**Section 17.5.1 (B)(2) and (3) (Page 277)**

2. Site Design and Source Control BMPs are required based on pollutants commonly associated with the project type, as identified in Table 1. Table 2 in Appendix B should be used as guidance to determine the specific areas for each project where Site Design and Source Control BMPs are required to be implemented. BMPs that minimize the identified pollutants of concern may be selected from the examples in Appendix A and Section 17.6, targeting primary pollutants of concern first. In the event that the implementation of a BMP listed in Appendix A or Section 17.6 is determined to be infeasible at any site, the implementation of other BMPs that will achieve the equivalent reduction of pollutants shall be required.

3. Treatment Control BMPs should be selected using the matrix in Table 3 in Appendix B as guidance to determine the removal efficiency of the BMP for the pollutants of concern for that project. Treatment Control BMPs that maximize pollutant removal for the identified primary pollutants of concern should receive priority for BMP selection, followed by BMPs that maximize pollutant removal for all other pollutants of concern identified for the project. The most effective combination of BMPs for polluted runoff control that results in the most efficient reduction of pollutants shall be implemented. The applicant may select from the list of BMPs in Appendix A. In the event that the implementation of a BMP listed in Appendix A is determined to be infeasible at any site, the implementation of other BMPs that will achieve the equivalent reduction of pollutants shall be required.

**Section 17.5.2 (Page 277)**

For design purposes, with case-by-case considerations, post-construction Treatment Control BMPs (or suites of BMPs) shall be designed to treat, infiltrate, or filter the amount of stormwater runoff produced by all storms up to and including the 85<sup>th</sup> percentile, 24-hour storm event for volume-based BMPs and/or the 85<sup>th</sup> percentile, 1-hour storm event (with an appropriate safety factor, i.e. 2 or greater) for flow-based BMPs.

- Single family hillside residential developments (one unit or more)
- Housing developments (includes single family homes, multifamily homes,

- condominiums, and apartments) of ten units or more
- Industrial/commercial development (100,000 square feet or more of impervious surface area)
  - Automotive service facilities (5,000 square feet or more of impervious surface area)
  - Retail gasoline outlets (5,000 square feet or more of impervious surface area)
  - Restaurants (5,000 square feet or more of impervious surface area)
  - Parking lots (5,000 square feet or more of impervious surface area or with 25 or more parking spaces)
  - Projects discharging directly to an ESHA
  - Redevelopment projects that result in the creation or addition or replacement of 5,000 square feet or more of impervious surface area on an already developed site

**Section 17.6.6 (Add new 3<sup>rd</sup> Bullet) (Page 282)**

- Prohibit discharge of non-chlorinated pool water into a street, storm drain, creek, canyon, drainage channel, or other location where it could enter receiving waters.

**Section 17.7 (Page 282)**

Design, construction and implementation of development in the City of Malibu shall take into consideration the prohibitions on discharges to the Municipal Separate Storm Sewer System (MS4) from the Malibu Storm Water Code (Section 5.4.05). Development in the City of Malibu shall also be designed, constructed and implemented in a manner that minimizes or eliminates these types of discharges to other watercourses, water bodies, potable groundwater and wetlands within the City.

**Section 17.8 (Page 283)**

Design, construction and implementation of development in the City of Malibu shall take into consideration the good housekeeping provisions from the Malibu Storm Water Code (Section 5.4.07). Development in the City of Malibu shall also be designed, constructed and implemented in a manner that encourages these types of practices.

**Section 17.9 (Pages 283-284)**

A. Alterations or disturbance of streams or natural drainage courses or human-made or altered drainage courses that have replaced natural streams or drainages and serve the same function, shall be prohibited, except for:

- Necessary water supply projects where no feasible alternative exists
- Flood protection for existing development where there is no other feasible alternative
- The improvement of fish and wildlife habitat

B. Any channelization or stream alteration permitted for one of these three purposes shall minimize impacts to coastal resources, including the depletion of groundwater, and shall include maximum feasible mitigation measures to mitigate unavoidable impacts. Bioengineering alternatives shall be preferred for flood protection over “hard” solutions such as concrete or riprap channels. Any permitted stream alterations shall include BMPs such as incorporating vegetation in structure design, deflecting flow from eroding stream banks, and reshaping the eroding bank and establishing vegetation.

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C. Any channelization or dam proposals shall be evaluated as part of a watershed planning process, evaluating potential benefits and/or adverse impacts. Potential adverse impacts of such projects include effects on wildlife migration, downstream erosion, dam maintenance (to remove silt and trash) and interruption of sand supplies to beaches.

### **Appendix B (BMP Implementation Tables) (Table 1, Table 2) (Pages 290-291)**

Reference in each table to “Automotive Repair Shop” is revised to “Automotive Service Facilities”

## **Recommended Modifications to Chapter 18 (Wastewater Disposal)**

### **Section 18.1 (Page 291)**

The purpose and intent of this Chapter is to protect coastal waters within the City of Malibu from impacts resulting from the design, siting, installation, operation, and maintenance of On-site Wastewater Disposal Systems (OSDS), in accordance with the policies of the City’s Local Coastal Plan. To implement the certified Land Use Plan, permit application requirements; siting, design and performance standards; maintenance, operation and monitoring requirements; and other measures are provided to ensure that permitted OSDSs shall be designed, sited, installed, operated and maintained to prevent the introduction of pollutants into coastal waters and protect the overall quality of coastal waters and resources.

### **Section 18.3 (first paragraph, first and third definitions) (Pages 291-292)**

Except as specifically provided herein, any term used in this Chapter shall be defined as that term is defined in the City’s certified LCP. The following words and phrases shall have the following meanings when used in this Chapter:

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“GRAYWATER” means domestic wastewater. Graywater does not include, water from a toilet, kitchen sink, or dishwasher.

**Section 18.5 (1)(a) (Page 296)**

a. Depth to groundwater on each proposed lot with an OSDS or, where allowed, lot(s) used for a community OSDS;

**Section 18.5 (C) (Page 297)**

C. The creation of parcels for commercial use shall conform to the above criteria established for single and multi-family residential parcels except that the designated soil treatment area shall be sized according to the estimated strength and volume of waste flow generated by the commercial facility. The use of OSDS for any waste discharge other than sewage and graywater shall not be allowed without prior approval by the Executive Officer of the Regional Board.

**Section 18.6 (A) (Page 297)**

A. The City should develop, adopt and implement a Wastewater Management Plan (WMP) in consultation with the Environmental Review Board and other pertinent City committees, to address future wastewater issues. The WMP should include a set of management objectives, and an accompanying set of associated elements and activities targeted towards the satisfactory achievement of the objectives. The WMP should map out actions for the City to:

**Section 18.6 (B) and (C)**

B. The WMP should provide a flexible framework and guidance to best tailor the City’s programs to the specific needs of the community, and to the institutional capacity of the regulatory authority. As such, the WMP should provide the necessary framework, guidelines and legal authority for:

1. Creation of an OSDS inventory;
2. Establishment of a computer-based record keeping and reporting program to ensure that up-to-date records are kept of location, ownership, site evaluation, design, and compliance reports are maintained, and performance of systems is monitored,
3. Enhancement of system operator/owner's awareness of maintenance needs;
4. Performance monitoring of all new, expanded, or modified OSDSs subject to a CDP issued pursuant to this LCP throughout the jurisdiction or in concentrated areas of special concern, whichever is considered appropriate to protect public health and safety and evaluate the effects on ground and surface water quality;
5. Management of enhanced treatment/alternative systems and/or large, complex systems (e.g., systems for multi-family or commercial developments), on new developments and redevelopments, through maintenance contracts and Renewable Operating Permits;
6. Required performance monitoring for complying with specific water quality criteria where applicable;
- 7.
- 8.



C. The WMP should, to the extent practicable, follow the framework and guidelines provided in the September 26, 2000, *Draft EPA Guidelines for Management of Onsite/Decentralized Wastewater Systems*, or any modifications thereof.

**Section 18.7 (Page 299) (Add new Section after 18.7 (K))**

Where a cumulative impact analysis has been performed as required in this Chapter, OSDS installation or expansion shall be allowed only if all of the following are true:

1. OSDSs will not cause the groundwater nitrate-nitrogen concentration to exceed 10.0 mg/L as N at any current or potential source of drinking water on or off-site; and
2. The maximum acceptable rise of the water table under treatment systems for short periods of time during the wet weather season, as estimated from groundwater mounding analysis, shall be as follows:
  - a. All OSDSs: Groundwater mounding beneath the disposal field shall not result in more than 50% reduction in the minimum depth to seasonably high groundwater as required in this Ordinance; and
  - b. Large Systems: Notwithstanding the above, systems with design flows of 1,500 gpd or more shall have a minimum unsaturated depth of 24 inches beneath the trench bottom (for leachfield or similar systems) or natural grade (for above ground systems).

**Section 18.7 (N) (Page 301)**

N. All systems shall comply with the following application rates according to the different soil textures:

**Section 18.8 (A-C) (Page 304)**

A. Alternative systems are defined as any system other than a standard system. They shall be used on parcels where site and soil conditions will not support a standard system or where increased treatment is needed. They are generally characterized as having increased design and performance criteria.

B. Alternative systems shall be designed by a California Registered Geologist, California Registered Geotechnical Engineer, California Registered Civil Engineer or a California Registered Environmental Health Specialist.

C. Alternative systems shall be reviewed on a case-by-case basis. Their use shall only be considered when combined with a reasonable testing and monitoring protocol subject to approval by the Executive Officer of the Regional Board. Alternative systems shall be tested and evaluated for a minimum of three years. The owner of the system shall be responsible for the performance, operation and evaluation of the system for the first five years. Thereafter, the owner shall assume responsibility for repair and/or replacement should the system fail to perform in accordance with applicable requirements contained in the operating permit, this LCP and any other pertinent regulations.

**Section 18.8 (E) (Page 303)**

E. Package wastewater treatment plants shall be reviewed on a case-by-case basis. Their use shall only be considered when combined with a reasonable testing and monitoring protocol subject to approval by the Executive Officer of the Regional Board. Package wastewater treatment plants shall be tested and evaluated for a minimum of three years. The owner of the system shall be responsible for the performance, operation and evaluation of the system for the first five years. Thereafter, the owner shall obtain a Renewable Operating Permit from the City and assume responsibility for repair and/or replacement should the system fail to perform in accordance with applicable requirements contained in the operating permit, this LCP and any other pertinent regulations.

**Section 18.9 (A), (B), and (C, first paragraph) (Page 304)**

A. Owners and/or operators of new, expanded, or modified septic systems shall submit monitoring and evaluation reports to the City with results of inspection and maintenance work performed every three years, or according to any similar requirements in the operating permit, whichever is more frequent. The septic owners and/or operators shall be responsible for proposing and undertaking all measures necessary to ensure the continuing proper operation and adequate capacity of the septic tank and leach line systems. The first report shall be submitted, at the latest, three years from the date of issuance of the operating permit.

B. The City should have a continuing public education program to provide homeowners with onsite system operation and maintenance guidelines. Information can be distributed by mailing with water bills or another method on an annual basis. Homeowners shall be informed of the routine OSDS inspection and maintenance needs and notified that they should periodically check their septic tank for pumping need. Homeowners shall also be notified of other problems indicative of system failure. Some examples include wet spots in leachfield area, lush grass growths, slowly draining wastewater, and sewage odors.

C. Permit conditions shall be imposed to ensure that all new, expanded, or modified OSDSs subject to a CDP issued pursuant to this LCP are maintained, operated and monitored in accordance with the following requirements:

**Section 18.9 (E, first paragraph) (Page 305)**

Permit conditions shall be imposed to require that: prospective buyers of property with new, expanded, or modified OSDSs authorized in a CDP issued pursuant to this LCP shall be informed of any enforcement action affecting the property ; the seller shall have his/her OSDS(s) inspected at the time of property sale prior to close of escrow; certified staff or representative officer of the City, or a qualified professional, at the expense of the property owner, shall prepare an inspection report; and the report shall be presented to the buyer, and City. The report shall contain the following information:

**Section 18.10 (B-C) (Page 306)**

B. The formation of On-site Wastewater Disposal Zones pursuant to Section 6950 et seq. of the California Health and Safety Code should be investigated and considered .for use as a method to protect water quality in areas where site-specific soil and groundwater conditions may adversely affect the performance of OSDSs. Such areas of special concern may include the Civic Center area, the Point Dume area, the immediate coastal strip and any areas known to have poor percolation rates, a high water table or known to be prone to geologic hazards. These zones could be used to establish site-specific design criteria, inspection and maintenance frequencies, monitoring protocols, performance standards and other water quality protection practices.

C.

**Section 18.10 (E-F)**

E. Any proposed sewer system shall be submitted to and approved by the Coastal Commission as an LCP amendment prior to issuance of local permits and construction. Any assessment district formed to finance construction of a public sewer system shall be considered a public works project pursuant to PRC Section 30114

F.

**Recommended Modifications to Chapter 19 (LCP Amendments)**

**Section 19.2.1 (B)(1)**

1. Except for amendments initiated under Section 19.2.1 (A)(3) or (4), a summary of the measure taken to provide the public and affected agencies and districts maximum opportunity to participate in the LCP amendment process, pursuant to Section 25.3 of this Chapter; a listing of members of the public, organizations, and agencies appearing at any hearing or contacted for comment on the LCP; and copies or summaries of significant comments received and of the City's response to the comments.

